

AGENDA

Planning Committee

Date: **Wednesday 13 July 2016**

Time: **10.00 am**

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

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

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Agenda for the meeting of the Planning Committee

Membership

Chairman	Councillor PGH Cutter
Vice-Chairman	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>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
4.	<p>MINUTES</p> <p>To approve and sign the Minutes of the meetings held on 6 June 2016 and 15 June 2016.</p>	7 - 48
5.	<p>CHAIRMAN'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairman.</p>	
6.	<p>APPEALS</p> <p>To be noted.</p>	49 - 54
7.	<p>152041 - LAND TO THE NORTH OF ASHPERTON VILLAGE HALL, ASHPERTON, HEREFORDSHIRE</p> <p>Proposed residential development of 10 dwellings (amendment to original application).</p>	55 - 88
8.	<p>160014 - LAND ADJACENT TO STOKE LACY VILLAGE HALL, STOKE LACY, HEREFORDSHIRE, HR7 4HG</p> <p>Proposed erection of 12 dwellings, new vehicular access and associated works including new play area/open space.</p>	89 - 106
9.	<p>P143252/F - LAND ADJOINING KINGSLEANE, KINGSLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9SP</p> <p>Proposed development of 12 nos. Dwellings, consisting of 5 nos. Affordable and 7 nos. Open market. Works to include new road and landscaping.</p>	107 - 138
10.	<p>160741 - LAND ADJACENT TO GALEN HOUSE, CHERRY ORCHARD, KINGS ACRE, HEREFORD, HR4 0SG</p> <p>Site for proposed dwelling and garage.</p>	139 - 154
11.	<p>DATE OF NEXT MEETING</p> <p>Date of next site inspection – 2 August 2016</p> <p>Date of next meeting – 3 August 2016</p>	

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at The Council Chamber - The Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Monday 6 June 2016 at 2.00 pm

Present: Councillor PGH Cutter (Chairman)
Councillor J Hardwick (Vice Chairman)

Councillors: CR Butler, PJ Edwards, CA Gandy, EL Holton, JA Hyde, TM James, JLV Kenyon, MN Mansell, FM Norman, RJ Phillips, AJW Powers, A Seldon, WC Skelton and EJ Swinglehurst

In attendance: Councillors JM Bartlett, H Bramer, ACR Chappell, DG Harlow, EPJ Harvey, AW Johnson, MD Lloyd-Hayes, GJ Powell, PD Price, NE Shaw, D Summers and DB Wilcox

1. APOLOGIES FOR ABSENCE

Apologies were received from Councillors BA Baker, DW Greenow, KS Guthrie and LC Tawn.

2. NAMED SUBSTITUTES

Councillor CA Gandy substituted for Councillor KS Guthrie, Councillor MN Mansell for Councillor LC Tawn, RJ Phillips for Councillor DW Greenow and Councillor NE Shaw for Councillor BA Baker.

3. DECLARATIONS OF INTEREST

Legal advice was given that Councillors did not need to declare an interest solely on the basis that the application before the Committee was a council application.

Agenda item 4 – 151314 - Existing Roundabout Junction of the A49(T) and B4399, to a New Roundabout with the A465, then joining the B4349.

Councillor FM Norman declared a non-pecuniary interest because she knew one of the objectors.

Councillor RJ Phillips declared a non-pecuniary interest as a former director and former Chair of the Enterprise Zone.

Councillor AJW Powers declared a non-pecuniary interest as a member of the Council noting that the Committee was considering a Council application.

4. MINUTES

RESOLVED: That the Minutes of the meeting held on 18 May 2016 be approved as a correct record and signed by the Chairman.

5. 151314 - EXISTING ROUNDABOUT JUNCTION OF THE A49(T) AND B4399, TO A NEW ROUNDABOUT WITH THE A465, THEN JOINING THE B4349.

(New single carriageway (southern link road (SLR)) and associated works.)

Before consideration of the application commenced a Member raised a point of order and questioned why a report on appeals had not appeared on the agenda, as was customary, stating that he had wanted to discuss the outcome of a particular appeal as a matter of urgency. It was advised in reply that the purpose of the meeting was to focus on the single application on the agenda and therefore no appeals report had been published. There was no statutory requirement to submit an appeals report. The Chairman commented that as he had previously stated the appeals report would appear on the agenda for the Committee's meeting on 15 June.

Another Member referred to information that had been circulated by the Herefordshire Wildlife Trust reporting the finding of previously unreported species of plant in Grafton Wood. This questioned the accuracy of the survey undertaken by the council's consultants and it was asked whether the Committee could continue to consider the application in the light of this new evidence. The Chairman ruled that this was not a point of order and could be addressed during the debate as the Member saw fit.

The Chairman outlined the procedure that would be followed at the meeting.

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

The Chairman had extended the public speaking time from the customary 9 minutes to 45 minutes, allocating 15 minutes to Parish Councils, 15 minutes to objectors and 15 minutes to supporters. In response to a request he had exercised his discretion and allowed a further 3 minutes speaking time for an objector whose property was directly affected by the proposal.

In accordance with the criteria for public speaking, Ms S Glover of Callow and Haywood Group Parish Council and Mrs C Protherough of Clehonger Parish Council spoke in opposition to the application.

Mr A Priddle, Mrs E Morawiecka, Mr R Palgrave, Mr J Perkins, (local residents) Ms A Martin (Herefordshire Transport Forum), Mr D Thompson (on behalf of Mr Watkins – local resident) and Mrs J Harris (local resident) spoke in objection to the application.

Mrs C Hennessey, (the applicant's agent), Mr P Collins (local businessman) and Mr B Jackson (Chair, Hereford Enterprise Board) spoke in support of the application.

(The meeting adjourned between 4.05pm and 4.20pm.)

Councillor ACR Chappell an adjoining ward member spoke on the application making the following principal comments:

- The Southern Link Road (SLR) represented the second phase of a bypass for the City and that was its principal purpose. The majority of residents wanted a bypass.
- The scheme would allow heavy goods vehicles to be taken off the A465 Belmont Road to the benefit of residents.
- Access to the Rotherwas Industrial Estate needed to be improved. The link was a vital piece of infrastructure that would secure the economic future of the County.

Well paid jobs were needed to lift the South Wye area out of the top quartile of the most deprived areas in the Country.

Councillor D Summers an adjoining ward member spoke on the application. He made the following principal comments:

- There were a significant number of objectors to the scheme including high profile organisations and the local MP.
- Sustainable transport measures had not been explored. It had not been proved that the SLR was the best use of the £27m available.
- An eastern river crossing and improved links to the M50 would be a better option.

Councillor J Johnson the ward member for one of the two wards directly affected spoke also on behalf of the other ward member directly affected. He made the following principal comments:

- The application alone did little to alleviate congestion in the city
- There were traffic issues in the city centre, including air quality and heavy congestion especially in school term times
- The question of a bypass had been ongoing for many years. All market towns in the county had one but the city did not
- The A49 trunk road went through the city centre as did the A465, a main link road to South Wales. Both roads converged on the one river crossing in the city at Greyfriars Bridge. There was increased pressure put on bridges and roads at Holme Lacy and Bridge Sollars as traffic tried to avoid this river crossing
- He supported new infrastructure, mindful of conditions faced by residents in Haywood lane where there was often a constant flow of traffic.
- The increase in rat run traffic using Haywood lane, Knockerhill lane, Tram Inn lane and also Grafton lane as a route to avoid-queues on the A465 Belmont Road, and reach the A49 Ross Road had significantly increased during peak times. Callow and Haywood Parish Council who objected to the application had requested Traffic Regulation Orders (TROs) on these roads to stop HGV traffic using these lanes.
- Health issues in Belmont Road area were deemed to be some of the worst in the county.
- A petition bearing some 2600 signatories called on Highway England to take some action on the A49 where there had been several accidents at Norton Brook lane. Safety issues around the southern part of the A49 were a constant concern
- Heavy traffic affected a number of villages throughout the Wormside Ward.
- With Pontrilas Sawmills and Tram Inn Mill, two of the largest business operators to the south of the application site, many small lanes and B roads through villages were being used as short cuts to access the county's motorway network, creating high risk areas.
- There was evidence of HGVs getting stuck on tight corners, and within villages adding to the safety concerns on rural roads, as vehicle sizes increased.
- The impact on the condition of road surfaces and the edges of highways was evident.
- The core strategy and the LTP identified an aim to provide a bypass around the city and supported a western route.

- The difficulty with the application was not the need for further development of infrastructure but the route, its design and the lack of investigative research undertaken at the time of route selection.
- Many of the issues that had been addressed in the last months could and should have been dealt with much earlier on in the process.
- The County was a beautiful rural county with tourism a huge asset. All road building designs should ensure this was taken into full consideration. The elevation of the road and the depth of the cuttings made it hard to imagine that it was the least damaging design.
- There had been many questions about the route selection and the process, which had been one of local residents' largest concerns. The Committee should consider this and whether the chosen route was the correct option.
- The route selection had been a drawn out process with much confusion, many sudden changes and uncertainty. The Committee had to be sure that the route had been democratically selected on its merits having regard to the NPPF and Core Strategy policies. The report indicated that there were strong questions to be answered about compliance with policy.
- There was frustration that desk top reports had been published that did not reflect reality. He considered that local people had not been fully involved and had been let down during the process, with a lack of communication and failure to consider key important facts
- The late submission of reports, such as that on 25 May 2016 by the conservation officer on the heritage of Haywood lodge, had led to frustration. Such matters should have been reported when the route selection was taking place.
- The heritage of a Grade 2* Listed property had been neglected, and ignored during the research undertaken by the consultants..
- Concerns over architectural surveys and the lack of results had to be considered
- Many of these issues had been raised in the objections submitted by people with local knowledge. In many cases these had not been acknowledged let alone referred to or actioned
- This had been particularly evident in relation to the woodland surveys, where species of plants had not been correctly identified and had been omitted because surveys had not been carried out at the right times of year
- Insufficient regard had been had to the protection of trees and ancient woodland.
- In many cases local residents had put forward ideas, and employed qualified and trained engineers to look at alternatives but there had not been further consultation or amendments to designs or plans. An example of this was the Clehonger Link Road, with Clehonger PC questioning the consultation process, notice and lack of recognition of alternatives.
- The lives of individuals and families had been blighted by the application for years. Health issues and anxiety had increased in the area, and there was a wish for a conclusion to be reached ending the uncertainty.
- The SLR was part of the South Wye Development package which was not part of the application, but aimed to achieve more sustainable transportation in the City, noting the number of short distance car journeys within the city centre.

- Although infrastructure was required there was a high level of responsibility on the council to ensure that alternative transport modes were considered. When there were no school runs in the city the congestion significantly decreased.
- Regard also had to be had to the number of planning applications for large developments in rural villages. The SLR would not alleviate the situation on rural village roads.
- Because of the detail involved, in the interest of fairness, he had sought only to provide an overview of the issues.
- In conclusion it was a tough decision because infrastructure was required, and there would be a huge increase in housing in Hereford. However, approving the wrong development for infrastructure, could see rural assets, heritage, ancient woodland and prime agricultural land, taken away permanently and irreversibly.

The cabinet member – economy and corporate services spoke in support of the application. He made the following principal comments:

- Businesses saw the current transport links as a barrier. Infrastructure was needed to support economic development.
- He emphasised the significance of the Enterprise Zone and how the SLR would contribute to economic growth and demonstrate to employers, housebuilders, the government and the Marches Local Enterprise Partnership (LEP) that the County wanted investment and could deliver growth for the county and the region.
- The Marches LEP considered a bypass for the city to be a priority. It was also supported by the Gloucestershire and Worcestershire LEPs and Highways England. The Government funding that had been set aside could only be used for this specific project.
- The SLR would have social benefits improving conditions for Residents in Belmont Road and the South Wye area.
- The proposal offered the chance to improve prosperity for the South Wye area, one of the most deprived areas in the Country.
- The SLR would support jobs, housing and the new University.

The cabinet member – infrastructure spoke in support of the application. He made the following principal comments:

- There was a demand for a bypass for the City and a southern link was common to whichever route was chosen.
- Provision of the SLR would permit a weight restriction to be introduced on the Belmont road. This would reduce vehicle emissions in the Belmont area, with through traffic using the bypass, and permit a range of active travel measures to be explored. The Director of Public Health and Herefordshire Housing supported the application.
- The delivery of a bypass was incorporated in the adopted Core Strategy and LTP. It would provide jobs, housing education and prosperity.
- Herefordshire needed growth to generate increased revenue from council tax to support the Council's provision of statutory services.
- The development of the University would require support and housing.

- The proposal had some downsides as the significant amount of consultation had revealed, but further consultation had been undertaken in response and mitigation made where possible.
- The SLR was a key priority. £27m of funding was being held by Government for the SLR project. Any alternative proposals for use of that funding would have to be considered through the prioritisation process.
- Several route options had been considered. Highways England had confirmed its support for the proposal, as had adjoining authorities.
- The approval of the project would send out a positive message about the development of the Enterprise Zone and the University.
- Growth would provide opportunities for young people in the county.

(In accordance with the Constitution, having spoken, both cabinet members left the meeting.)

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

Points in favour of the application

- The route would have a significant impact on dwellings and heritage assets. However, mitigation measures had been proposed. The route had been selected through a rigorous process and the application should be supported.
- The current traffic congestion on the A465 Belmont Road had health implications for residents.
- Through traffic was calculated as 15% of the traffic and this should be permitted to flow through.
- The proposal offered an economic future for the County that would enable young people born in the County to live and work in it rather than having to move away.
- There was an impact on woodland, the environment, heritage and landscape. The question was whether this was outweighed by the economic benefits of the proposal. Infrastructure was needed to support growth. The Enterprise Zone was successful. There was a good economic case for the scheme.
- The application was in conflict with parts of the Core Strategy. However, there was mitigation for the loss of woodland and land, providing greater replacement tree and hedgerow planting than was to be lost. The strategic importance of this major application carried the greater weight.

Points against the application

- A Member questioned whether the traffic flows that had been described in the analysis reflected the reality. Infrastructure was important but the proposed route was not the right one.
- It was questioned whether Members had been able to consider all the considerable documentation relating to the application.
- The application had to be considered on its own merits. The absence of sustainable transport measures was in breach of the Local Transport Plan, policy HN1 and the National Planning Policy Framework, in particular paragraphs 29 and 32.
- It was asserted that the £27m provisionally allocated in the LTP for the SLR could be transferred to other projects such as an eastern river crossing as supported by Jesse

Norman MP and Hereford City Council. The SLR was not the best use of the resource.

- The consultants' case in relation to the improved access to the Enterprise Zone as a result of the SLR was misleading.
- The SLR would damage the countryside and the benefits of the scheme did not outweigh the environmental impact.
- It was hard to believe that any other scheme in such conflict with the NPPF and Core Strategy would have been recommended for approval.
- The majority of traffic was local to the City and the proposal would not deliver the desired reduction in congestion and improvements to air quality and residents' health.
- Highways England had stated that new road infrastructure should only be considered when travel plans and other modes of transport had been shown not to work. Paragraph 32 of the NPPF stated that decisions should take account of whether opportunities for sustainable transport modes had been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure. The South Wye Transport Package had been removed and was not part of the Scheme before the Committee. Alternative approaches to road building had not been explored. The Council had not addressed school traffic, active travel, or support for public transport. The SLR could not therefore be justified as a stand alone application.
- The proposal had an adverse impact on the landscape and the setting of the City.
- There were other ways to achieve growth, for example through tourism.
- A concern was expressed that the application was flawed, citing concerns highlighted by the Parish Councils and the local ward member about the consultation process and presentation of documentation.

Additional Points

- A concern was expressed about the environmental impact of the amount of stone that would need to be transported to provide the fill for the proposed embankments. It was suggested design of the scheme should be given further consideration to provide a better balance between cut and fill.
- It was suggested that the route could have avoided Grafton Wood.
- Support was expressed for a bypass to the east of the City. Another member commented on the problems associated with an eastern route crossing the Lugg Meadows
- The need for the Clehonger Link was questioned. It was also suggested that it could have been realigned to avoid the loss of an ancient oak tree.
- Several members complimented the officer report on the balanced way in which it had set out the issues that needed to be weighed in taking a decision.
- It was asked why the report did not refer to the fact that Council owned land at Grafton would be required for the scheme. This was clearly to the benefit of the Council as applicant. The Development Manager replied that the author was not aware of the fact at the time of writing the report and the application did not seek the release of land and the matter was not material to the determination of the application.

- It was requested that it should be prescribed as part of the granting of planning permission that a Traffic Regulation Order should be implemented imposing a weight restriction so directing heavy vehicles off the Belmont Road. The Principal Planning Officer commented that a TRO was not a matter governed by condition and drew attention to the Committee update which stated that the applicant's stated aim was to have the TRO in place in time for the opening of the SLR. The Development Manager further clarified that it would be possible to use a Grampian style condition if the Committee so wished. The Committee indicated its support for this approach.

In response to other questions the Principal Planning Officer commented:

- The possibility of putting the road under the railway had been considered but the idea had not been welcomed by Network Rail for technical reasons and had not been pursued.
- The management of the replacement woodland would be addressed via conditions.

Summing Up

The Development Manager commented in conclusion that the Committee had given proper consideration to the significance of the heritage assets and the impact on woodland. The question was whether the public benefit of the application outweighed that harm. There was harm and there were tensions with policy. If the Committee was satisfied that the benefits outweighed the harm the application could proceed.

The adjoining ward members were invited to make their final comments.

Councillor Summers commented that the focus should be on sustainable transport measures and that aspect should be considered by the relevant overview and scrutiny committee.

Councillor Chappell reiterated his comments on the economic importance of the road.

Councillor J Johnson as local ward member was given the opportunity to close the debate. He commented on the implications of the decision for young people. He noted that a choice of options for the route to be taken by any future infrastructure remained open.

A named vote was requested.

For (12): Councillors CR Butler, PGH Cutter, PJ Edwards, CA Gandy, J Hardwick, EL Holton, JA Hyde, TM James, RJ Phillips, NE Shaw, WC Skelton, and EJ Swinglehurst.

Against (4): Councillors JLV Kenyon, MN Mansell, FM Norman, and AJW Powers.

Abstain (1): Councillor A Seldon.

RESOLVED: That subject to confirmation that the Secretary of State does not wish to request a call in of the application and the completion of the Habitat Regulation Assessment, that 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**

Construction Phase

3. **I16 Restriction of hours during construction**

4. Environmental Co-ordinator:

Prior to the commencement of construction of the development, or within a timeframe as otherwise agreed by the local planning authority, the applicant must appoint a suitably qualified and experienced Environmental Co-ordinator(s) that is independent of the design and construction personnel involved in the development, and has been approved by the local planning authority. The applicant must employ the Environmental Representative(s) for the duration of construction, or as otherwise agreed by the local planning authority. The Environmental Co-ordinator (s) must:

- (i) be the principal point of advice in relation to the environmental performance of the development;
- (ii) monitor the implementation of environmental management plans and monitoring programs required under this permission and advise the applicant upon the achievement of these plans/programs;
- (iii) have responsibility for considering, and advising the applicant on, matters specified in the conditions of this approval, and other licences and approvals related to the environmental performance and impacts of the development;
- (iv) ensure that environmental auditing is undertaken (but not undertake the audit) in accordance with the applicant's Environmental Management System(s);
- (v) be given the authority to approve/reject minor amendments to the Construction Environment Management Plan (what constitutes a "minor" amendment must be clearly explained in the Construction Environment Management Plan);
- (vi) be given the authority and independence to require reasonable steps be taken to avoid or minimise unintended or adverse environmental impacts; and
- (vii) be consulted in responding to the community concerning the environmental performance of the development where the resolution of points of conflict between the applicant and the community is required

Reason: To ensure, manage and co-ordinate the protection and enhancement of the Environment in accordance with the requirements of Policies SD1, SD3, SD4, LD1, LD4 of the Core Strategy.

5. Construction Environment Management Plan

The Applicant must prepare and implement a Construction Environmental Management Plan (CEMP) for the development. The CEMP must outline the environmental management practices and procedures that are to be followed and shall include, but not be limited to:

- (i) a description of construction activities (including phasing, timing, scheduling and sequencing of works);
- (ii) a register of all sensitive environmental features that have the potential to be affected by the development;
- (iii) a register of statutory consents, undertakings and assurances, including specific environmental licences, consents and applicable permits;
- (iv) a plan depicting the location and type of all environmental monitoring points;
- (v) a description of the roles and responsibilities for all

personnel involved in the implementation of the CEMP (including contractors and subcontractors), including training and induction arrangements, environmental awareness and maintenance of training records;

(vi) a community communications strategy to facilitate communication between the applicant (and its contractors and subcontractors), the applicant's Environmental Representatives, the Council and community stakeholders, particularly adjoining landowners on the design and construction environmental management of the development;

(vii) a description of the procedures that will be implemented to:

(a) keep stakeholders informed about the environmental performance of the development during construction;

(b) receive, handle, respond to, and record complaints;

(c) resolve any disputes that may arise; and

(d) respond to emergencies;

(viii) requirements for monitoring, management and reporting procedures and method statements for certain specific aspects of the works as committed to in the Environmental Impact Assessment report from WSP Parsons Brinckerhoff dated April 2015, including what actions will be taken to address identified adverse environmental impacts; and (ix) a mechanism for monitoring, reviewing and updating the CEMP and sub-plans identified in Condition 6.

The CEMP must be submitted for the approval of the local planning authority no later than three months prior to the commencement of construction. The CEMP may be prepared in stages; however, construction works must not commence until written approval of the relevant stage has been received from the local planning authority.

Reason: To ensure, manage and co-ordinate the protection and enhancement of the Environment in accordance with the requirements of Policies SD1, SD3, SD4, LD1, LD4 of the Core Strategy.

6. Construction Environmental Management Plan – Sub Plans

As part of the CEMP for the development, the Applicant must prepare and implement:

a) Construction Air Quality Management Plan;

Construction Air Quality Management Plan which sets out how construction impacts on local air quality will be minimised and managed. The Plan must include, but not be limited to:

(i) identification of sources (including stockpiles and open work areas) and quantification of airborne pollutants;

(ii) performance measures/criteria for local air quality during construction;

(iii) details of monitoring methods, including location, frequency and duration of monitoring;

(iv) a description of the mitigation and management measures to minimise impacts on local air quality, including the measures set out in Section 5.7 of the Environmental Impact Assessment report from WSP Parsons Brinckerhoff dated April 2015;

(v) procedures for record keeping and reporting against performance measures/criteria; and

(vi) Provisions for implementation of additional mitigation measures in response to issues identified during monitoring and reporting.

b) Construction Heritage Management Plan

The Construction Heritage Management Plan to ensure, and provide detail of how, construction impacts to cultural heritage will be appropriately minimised and managed. The Plan must include, but not be limited to:

- (i) identification of heritage assets directly and indirectly affected by the development;**
- (ii) details of mitigation and management measures to be implemented to prevent and minimise impacts on heritage items, including the measures set out in Sections 6.6 to 6.8 of the Environmental Impact Assessment report from WSP Parsons Brinckerhoff dated April 2015;**
- (iii) procedures for dealing with previously unidentified heritage finds and features; and**
- (iv) heritage training and induction processes for construction personnel.**

c) Construction Ecology Management Plan

Construction Ecology Management Plan to detail how construction impacts on flora and fauna will be minimised and managed. The Plan must include, but not be limited to:

- (i) plans illustrating the location of impacted and adjoining flora and fauna habitat areas;**
- (ii) the identification of areas to be impacted and details of the measures to avoid, reduce and compensate for ecological impacts during construction including the species mitigation and habitat enhancements set out in Section 8.8 of the Environmental Impact Assessment report from WSP Parsons Brinckerhoff dated April 2015, and as informed by the submitted individual ecological reports;**
- (iii) a Weed Management Strategy, incorporating weed management measures focusing on early identification of invasive weeds and effective management controls;**
- (iv) a description of how the effectiveness of the flora and fauna mitigation and management measures will be monitored during construction; and**
- (v) a procedure for dealing with unexpected threatened species, populations and ecological communities identified during construction, including cessation of work and notification to the local planning authority and determination of appropriate mitigation measures in consultation with the applicant's Environmental Representative and the local planning authority.**

d) Construction Soil, Water and Pollution Control Management Plan

A Construction Soil, Water and Pollution Control Management Plan to manage surface and groundwater impacts during construction of the development. The Plan must include, but not be limited to:

- (i) details of construction activities and their locations, which have the potential to impact on water courses and riparian land, storage facilities, surface water flows, and groundwater resources, including identification of all pollutants that may be introduced into the water cycle;**
- (ii) potential impacts on watercourse bank stability and the development of appropriate mitigation measures as required;**
- (iii) measures to manage and mitigate sediment and erosion, groundwater impacts and surface water quality impacts, including the measures set out in Sections 14.6 of the Environmental Impact Assessment report from WSP Parsons Brinckerhoff dated April 2015; and (iv) a description of how the effectiveness of the actions and measures for managing soil and water impacts will be monitored during the proposed works, indicating how often this monitoring will be undertaken, the locations where monitoring will take place, how the results of the monitoring will be recorded and reported, and, if any exceedance of the criteria is detected how any non-compliance will be rectified.**

e) Construction Noise and Vibration Management Plan

A Construction Noise and Vibration Management Plan to detail how construction noise and vibration impacts will be minimised and managed. The Plan must include, but not be limited to:

(i) identification of the work areas, construction compounds and access points;

(ii) identification of sensitive receivers and relevant construction noise and vibration goals applicable to the development; (iii) details of construction activities and an indicative schedule for construction works, including the identification of key noise and/or vibration generating construction activities (based on representative construction scenarios, including at construction compounds and ancillary facilities) that have the potential to generate noise and/or vibration impacts on surrounding sensitive receivers;

(iv) details of the predicted worst-case noise and vibration levels, including cumulative impacts arising from concurrent construction works and potential for sleep disturbance;

(v) figures illustrating the predicted safe working distances for vibration intensive activities and equipment;

(vi) an Out-of-Hours Work Protocol for the assessment, management and approval of works outside of standard construction hours as defined in Condition 3 of this permission, for approval by the local planning authority. The Out-of-Hours Protocol must:

a) provide an assessment of out-of-hours works against the relevant noise and vibration criteria;

(b) provide detailed mitigation measures for any residual impacts, and (c) set out proposed notification arrangements;

(vii) identification of measures to mitigate and manage construction noise and vibration impacts, especially sleep disturbance (including construction traffic noise impacts), including the measures set out in Section 11.6 of the Environmental Impact Assessment report from WSP Parsons Brinckerhoff dated April 2015; and

(viii) a description of how the effectiveness of mitigation and management measures will be monitored during the proposed works, indicating how often this monitoring will be conducted, the locations where monitoring will take place, how the results of this monitoring will be recorded and reported, and, if any exceedance is detected, how any noncompliance will be rectified.

f) Construction management plan and Health and Safety Plan

A Construction Management Plan & Health and Safety Plan to effectively manage general construction activities on-site personnel and impacts to surrounding landowners, including, but not limited to:

(i) details of all construction site management arrangements, including construction compounds, ancillary areas, fencings, hoardings, site lighting and security arrangements;

(ii) measures to reduce the visual impact on the surrounding landscape and sensitive receivers during the construction of the development;

(iii) measures for the handling, treatment and management of hazardous and contaminated materials encountered;

(iv) measures to monitor and manage potential hazard and risks that arise during construction, including emergency management;

(v) details of how community and private assets and will be protected and how affected landowners will continue to be able to safely access their properties; and

(vi) measures to monitor and rectify any impacts to third party property and infrastructure, including details of the process for rectification or compensation of affected landowners, and timeframes for rectification works or compensation processes.

g) Construction Traffic Management Plan

A Construction Traffic Management Plan, prepared in consultation with Highways England, to ensure traffic and access controls are implemented to avoid or minimise impacts on traffic, pedestrian and cyclist access and the amenity of the surrounding environment. The Plan shall include, but not be limited to:

- (i) a description of the nature and duration of construction impacts that could result in disruption of traffic, public transport, pedestrian and cycle access, access to public land, property access, including details of oversize load movements;
- (ii) identification of construction traffic routes including any known road closures and consideration of alternate routes and construction traffic volumes (including heavy vehicle/spoil haulage) along these routes;
- (iii) details of vehicle movements for construction compounds and ancillary facilities including parking, dedicated vehicle turning areas, and ingress and egress points;
- (iv) details of management measures to minimise traffic impacts, including temporary road work traffic control measures, onsite vehicle queuing and parking areas and management measures to minimise peak time congestion, including the measures set out in the Environmental Impact Assessment report from WSP Parsons Brinckerhoff dated April 2015;
- (v) details of measures to manage traffic movements, parking, loading and unloading at ancillary facilities during out-of-hours work;
- (vi) details of methods to be used to communicate proposed future traffic changes to affected road users, pedestrians and cyclists; and (vii) an adaptive response protocol which sets out a process for response to any traffic, construction or other incident.

h) Construction Site Waste Management Plan

Construction Site Waste Management Plan to ensure waste management provisions compliment the construction activities on site and that all waste emanating from the development are dealt with in an appropriate manner and follows the waste hierarchy. The Plan shall include, but not be limited to:

- (i) a description of the likely quantity and nature of waste streams that will be generated during construction of the development;
- (ii) measures to monitor and manage waste generated during construction including general procedures for waste classification, handling, reuse, and disposal, use of secondary waste material in construction wherever feasible and reasonable, procedures or dealing with green waste including timber and mulch from clearing activities and measures for reducing demand on water resources;
- (iii) measures to monitor and manage spoil, fill and materials stockpiles, including details of how spoil, fill or material will be handled, stockpiled, reused and disposed of, and locational criteria to guide the placement of stockpiles; and
- (iv) details of the methods and procedures to manage construction related environmental risks and minimise amenity impacts associated with waste handling, including the measures set out in Section 10.6 of the Environmental Impact Assessment report from WSP Parsons Brinckerhoff dated April 2015

Reason: To ensure, manage and co-ordinate the protection and enhancement of the Environment in accordance with the requirements of Policies SD1, SD3, SD4, LD1, LD4 of the Core Strategy.

Materials

7. **No construction of the bridge structures (as detailed on drawing number S01 – S08) shall take place until details, including where appropriate samples, of the construction materials and finishes have been submitted to and approved in writing by the County Planning Authority. The development shall be carried out in accordance with the approved materials/finishes.**

Reason: To control the visual appearance of the development in accordance with Policies SD1, LD1, LD4 of the Herefordshire local plan, Core Strategy and guidance contained within the national planning Policy Framework.

Nature Conservation

8. **To protect soils and ensure adequate soil function (e.g. plant growth, water attenuation, biodiversity) we advise that a Materials Management Plan should be submitted and agreed with the council prior to the commencement of any works. The plan should describe how soils and their function will be protected during and after construction.**

**Reason:
(As recommended by Natural England)**

9. **The recommendations for species mitigations and habitat enhancements set out in Section 8.8 the Ecology Statement of the Environmental Impact Assessment report from WSP Parsons Brinckerhoff dated April 2015, and as informed by the detail of the individual ecological reports, should be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. Prior to commencement of site works, including site clearance, working method statements for protected species present as applicable should be submitted to the local planning authority for approval in writing. The plan 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 (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 with 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).

10. **The recommendations for species and habitat enhancements set out in Section 8.12 the Ecology Statement of the Environmental Impact Assessment report from WSP Parsons Brinckerhoff dated April 2015 and as informed by the detail of the individual ecological reports should be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. Prior to commencement of site works, including site clearance, a species and habitat protection and enhancement scheme should be compiled alongside recommendations for**

landscape management proposals into an Ecology Management Plan conforming to BS42020:13 Biodiversity: Planning and Development for submission to, and approval in writing by, the local planning authority. 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 (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).

Landscape

11. No development shall commence until a detailed landscape planting scheme based on the principles set out but not confined to
- Draft Construction Environmental Management Plan April 2015 (all mitigation set out in here)
 - BS5837 Arboriculture Report April 2015 (showing tree constraints plan)
 - BS5837 Tree Protection Plan sheets 1-4 (showing RPAs)
 - Proposed Public Right of Way Network Drawing no. TRP/02/02 (Shows existing and proposed PROW)
 - Landscape Principles document (sets out principles of mitigation)
 - Landscape Mitigation at Haywood Lodge (drawing showing embankment at railway)
 - Landscape Mitigation Response December 2015 (response to HE suggesting alternative mitigation)
 - Landscape Mitigation Proposals Figure 7.4.1 Revision C (final drawing showing mitigation)
- has been submitted to and approved in writing by the County Planning Authority. The scheme shall include a programme of implementation that provides for planting to be carried out earliest opportunity. The approved scheme shall be implemented in full before the new road is brought into use.

Reason: To mitigate the visual impact of the development in accordance with Policies SS6, LD1, LD2 and LD4.

Archaeology

12. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. This programme shall be in accordance with a brief prepared by the County Archaeology Service.

Reason: To ensure the archaeological interest of the site is recorded and to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. The commencement in advance of such approval could result in irreparable harm to any identified heritage asset.

Water Quality, Flood Risk and Drainage

13. To ensure that the scheme does not lead to adverse impacts on the Water Framework Directive status of the affected and downstream waterbodies, mitigation measures as detailed within the Water framework Directive Assessment along with suitable channel enhancements to offset the proposed culverts are to be approved by the Local planning Authority prior to the commencement of the scheme.

Reason: To ensure the effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment so as to comply with Policies SD3 and SD4 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework

14. No development shall commence until a scheme for surface water disposal has been submitted to and approved in writing by the County Planning Authority. Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The scheme shall be implemented as approved.

Reason: To ensure the effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment so as to comply with Policies SD3 and SD4 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework

Highways

15. Development shall not commence until full design and construction details of the junction between the Southern Link Road and the A49(T) have been submitted and approved in writing by the local planning authority, in consultation with Highways Authority for the A49 Trunk Road. The details shall be in compliance with the current Design Manual for Roads and Bridges (DMRB) or approved relaxations/departures from standards.

Reason: To ensure the design and construction of the Southern Link Road and its junction with the strategic road network is in accordance with the relevant standards.

16. Development shall not commence until an appropriate legal agreement with Highways England under the Highways Act 1980 is made to allow for works on the A49 Trunk Road.

Reason: To ensure the development is conducted in accordance with the necessary statutory requirements.

17. The carriageway shall be surfaced and thereafter maintained with a low-noise road surface.

Reason: In the interests of safeguarding the amenity of nearby residents/occupiers in accordance with Policies.

18. Prior to the first operation of the road hereby approved, a weight restriction on Belmont Road (A465) shall be implemented and effective, unless an alternative timescale is submitted to and approved in writing by the Local Planning Authority.

Reason: To support the aim to reduce traffic movements along the A465 (Belmont Road) having regard to the aims of the South Wye Transport Package and policy HD3 of the Herefordshire Local Plan – Core Strategy.

Informatives:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal, including all the accompanying information included within the Environmental Statement and other supplementary documentation, 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 that clarified and identified the economic, social and environmental conditions of the area. The Local Planning Authority, taking into account all the submitted information and considering the public benefits of the proposed scheme, has been able to grant planning permission. The proposed mitigation and enhancement measures have, where appropriate, been secured by condition. The Local Planning Authority has therefore acted in accordance with the requirements in paragraphs 186 – 187 of the National Planning Policy Framework**
- 2. Any waste leaving the site shall be disposed of or recovered at a suitably permitted site in accordance with the Environmental Permitting (England and Wales) Regulations 2010.**
- 3. Use of waste on site will need suitable authorisation issued by the Environmental Agency in accordance with the Environmental Permitting (England and Wales) Regulations 2010.**
- 4. 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.**

6. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix 1 - Schedule of Updates

The meeting ended at 5.56 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 6 June 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

151314 - NEW SINGLE CARRIAGEWAY (SOUTHERN LINK ROAD) AND ASSOCIATED WORKS AT EXISTING ROUNDABOUT JUNCTION OF THE A49(T) AND B4399, TO A NEW ROUNDABOUT WITH THE A465, THEN JOINING THE B4349,

For: Ms Lane per Miss Amy Hallam, The Forum, Barnfield Road, Exeter, Devon, EX1 1QR

ADDITIONAL REPRESENTATIONS

Five further letters of objection have been received. These do not raise new issues and include a further letter from Jesse Norman MP raising again the queries from Mr and Mrs Harris at Pykeways that have already been reported and also issues raised by Hereford Transport Alliance. This letter can be seen at:

<https://www.herefordshire.gov.uk/documents?id=f5a1ca0b-2335-11e6-96d8-0050569f00ad>

One further letter of support has also been received from 'Herefordshire Business Board' that reiterates comments made in support previously.

The content of all of these additional letters can be seen at:

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151314&search=151314#Representations>

The Neighbourhood Planning Manager has provided an update on the progress of the Callow and Haywood Neighbourhood Development Plan:

The examiner's report has recommended the following modifications that are specific to the Southern link road:

- *Delete the words 'e.g. the route of the proposed Southern Link Road should be designed as a green corridor with a profound zone of tree planting on either side of the road and a minimum of urban features such as lighting' from Objective 4 in Aim 1.*
- *Second sentence, Criterion 9 of policy CH1 has been re-worded – 'Development which involves the removal of existing local orchards or areas of woodland will be strongly resisted unless it can be clearly demonstrated that the need for and benefits of, the development in that location clearly outweigh the loss of these habitats'*
- *Criterion 13 Policy CH1 has been re-worded to "Development proposals must ensure that key features of any views can continue to be enjoyed including distant buildings and natural features or features of importance, areas of landscape and the juxtaposition of settlement edges and open countryside."*
- *In criterion 7 of policy CH2 - insert a full stop after "low carbon technology" and reword the rest of the criterion so that it reads: "Development proposals must be accompanied by appropriate evidence to show that the proposal will have a satisfactory impact on the road network in the area and on the living conditions of residents particularly arising from noise generated by traffic movements."*

- *Also in Criterion 8, policy CH2 - Delete the words "...and in particular the new southern link road..."*
- *Policy CH2, Criterion 8, sub-Criterion ix is to be deleted*
- *Policy CH4 has been re-worded to 'Applications for development which affect or would potentially affect the landscape character and assets in areas of high-medium and high landscape sensitivity identified on Map 6 should be accompanied by an appropriate landscape impact analysis. This will include details of how the proposal would preserve or enhance the landscape character and its assets as well as taking local topography and skyline into account and demonstrate it would not contribute to the urbanisation of the rural area.'*

In addition consideration should be given to the River Wye Special Area of Conservation and development should include appropriate landscape designs to ensure that any potential impacts on local wildlife habitats are minimised. Development that would have an adverse effect on the River Wye SAC will not be permitted.

Development will only be permitted when it does not compromise the ability of the Nutrient Management Plan to deliver the necessary overall nutrient reductions along those stretches of the River Wye SAC which are already exceeding water quality targets, or are at risk of doing so.'

The Callow and Haywood NDP has been successful at examination and subject to the minor modifications being made it can proceed to referendum. It is anticipated that the referendum will be held within summer 2016. The minor modifications have removed the specific reference to the southern link road within policy CH2, so that the policy now provides criteria in general for roads across the Parish.

Therefore considering the advanced stage of the NDP it can be afforded significant weight.

Comments from Service Manager Built and Natural Environment (Arboriculture Consultant) that were obtained very recently are referred to at para 6.169 but not provided in full in section 5. These read as follows:

I have looked in to the guidance for ancient and veteran trees and there seems to be two documents;

- Ancient and other veteran trees – further guidance on management – David Lonsdale/ancient tree forum (2013).
- And older but still relevant, Veteran Trees – a guide to good management – Helen Reid (1999).

In both documents they set out guidelines to identify what veteran and ancient trees are and how they are defined.

Reid states that veteran trees are 'trees with a stem diameter of 1.5m and are valuable in the terms of conservation'. She then goes on to describe indications of a **veteran** tree;

- Major trunk cavities
- Natural forming water pools, decaying holes, bark loss, physical damage to the trunk.
- Large quantity of deadwood.
- Crevices.
- Fungi
- High aesthetic interest

- An old look
- A pollard
- Prominent.

Lonsdale describes it a little differently, he talks about **ancient** trees. He states that 'an ancient tree is one that has one or most of the following;

1. Biological, aesthetic or cultural interest because of its great age.
2. A growth stage that is described as ancient or post mature.
3. A chronological age that is old relative to others of the same species.

He also states;

Ancient trees are also described to have;

- a large girth (for the species), owing to the long-continued accumulation of annual increments
the progressive narrowing of successive annual increments in the stem, associated with sustained diminution of crown volume
- the aging and associated decay (leading to hollowing) of the central wood
changes in crown architecture
- a progressive or episodic reduction in post-mature crown size, often known as retrenchment

Veteran: this term describes a tree that has survived various rigours of life and thereby shows signs of ancientness, irrespective of its age. In order to qualify as a veteran, the tree should show crown retrenchment and signs of decay in the trunk, branches or roots, such as exposed dead wood or fungal fruit bodies.

I visited the site today to have a look at the Oak tree T15. The tree is obviously substantial and appeared to have good overall form and in good condition. When considering it against the criteria above, I consider that it doesn't have most of the characteristics for it to fall in to the veteran status.

However, it does seem to fit in to the ancient tree criteria, as it does have a stem diameter of at least 1.5m, does have aesthetic qualities and is larger (and older) than the neighbouring trees of same species.

From a legislation perspective, there seems to be no protection to a tree in that situation, it is not even classed as a habitat in the UKBAP, although could be protected as part of a TPO. This tree would defiantly warrant this type of protection

OFFICER COMMENTS

Clarification: Nature conservation

A recent letter of objection from Mr Elliot continues to object on the grounds that the survey of woodland plants within Grafton Wood was not carried out in Spring and early Summer as laid out in the ancient woodland planning guidelines but in September. Mr Elliot recently provided a photograph of a plant called 'Adders Tongue ferns' on the edge of Grafton Wood that you can see at:

<https://www.herefordshire.gov.uk/documents?id=e907dcc2-1b6e-11e6-94dc-0050569f00ad>

Officers have now had the opportunity to seek advice on this and can confirm that the plant in question falls within Schedule 8 of the Wildlife and Countryside Act. It is therefore protected against damage etc. Damage or loss should be avoided, but if that is not possible it can be translocated with a licence from Natural England in a similar way to any protected

species. Its presence would not preclude development. Natural England forwarded some links to advice on this matter.

<http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/protectedplants.aspx>

It is officers' opinion that whilst the applicants would need to deal with this matter and obtain the relevant licences (if necessary) it would not alter the advice in respect of the impact and effect on the Ancient Woodland within the report and I would refer Members to the advice of the Ecologist and the recommended conditions.

Clarification - Habitat Regulations Assessment (HRA)

After formal consultation with Natural England and the Council's Ecologist, the Council intends to formally adopt the updated Habitat Regulations Screening Assessment as submitted. This will need to be carried out prior to the issuing of any decision.

Clarification – Traffic Regulation Orders (Belmont Road)

Following receipt of several queries in respect of the inclusion of a weight restriction along Belmont Road, officers would make the following comments:

As part of the Transport Assessment the applicants assumed that the TRO would be in place to restrict HGVs using the A465 Belmont Road. This was included in the modelling that was undertaken. It is the intention to progress this alongside the SWTP (including the SLR).

The applicants have confirmed that they are progressing with the TRO and that they propose to take this forward by consulting with relevant parties such as the emergency services and the haulage association in the coming months. The aim would be to have the TRO in place in time for the opening of the SLR.

The current TRO options being discussed are:

- Weight restriction under Great Western Way Railway Bridge only. This does not require 'except for access'
- Weight restriction between Great Western Way bridge and Asda Roundabout – this would require 'except for access'
- Weight restriction between new SLR roundabout and Tesco Roundabout – this would require except for access

A Traffic Regulation Order would not normally be covered in the planning application as it relates to a separate process outside of the control of the planning permission.

However, in the worst case scenario, the TRO is not considered to be mitigation that would be required for the proposed development but what it does do, is to ensure that HGV's use the SLR in preference to the A465. There is a clear desire, from the applicants and as expressed by the Ward Councillor for the area and the City Council to progress this proposed TRO.

The weight restriction would need to be delivered as part of the wider South Wye Transport Package. The South Wye Transport Package is reliant upon the delivery of the SLR.

CHANGE TO RECOMMENDATION

The recommendation should be altered to read:

That subject to confirmation that the Secretary of State does not wish to request a call in of the application and the completion of the Habitat Regulation Assessment, that 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;

Condition 11 - Landscape

Insert: 'on the principle set out in, but not confined to:

- **Draft Construction Environmental Management Plan April 2015 (all mitigation set out in here)**
- **BS5837 Arboriculture Report April 2015 (showing tree constraints plan)**
- **BS5837 Tree Protection Plan sheets 1-4 (showing RPAs)**
- **Proposed Public Right of Way Network Drawing no. TRP/02/02 (Shows existing and proposed PROW)**
- **Landscape Principles document (sets out principles of mitigation)**
- **Landscape Mitigation at Haywood Lodge (drawing showing embankment at railway)**
- **Landscape Mitigation Response December 2015 (response to HE suggesting alternative mitigation)**
- **Landscape Mitigation Proposals Figure 7.4.1 Revision C (final drawing showing mitigation)**

Condition 12 - altering part (i) " items" to assets. Secondly I would suggest altering section (iii) "objects and relics" to finds and features.

Conditions 13 and 14 - Drainage

The reasons for the conditions have been omitted and should be included as follows:

Reason: To ensure the effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment so as to comply with Policies SD3 and SD4 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework

MINUTES of the meeting of Planning Committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 15 June 2016 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor J Hardwick (Vice Chairman)

Councillors: BA Baker, PJ Edwards, DW Greenow, KS Guthrie, EPJ Harvey, EL Holton, JA Hyde, TM James, JLV Kenyon, MN Mansell, FM Norman, WC Skelton, EJ Swinglehurst, LC Tawn and A Warmington

In attendance: Councillor JG Lester

7. APOLOGIES FOR ABSENCE

Apologies were received from Councillors JLV Kenyon, AJW Powers, and A Seldon.

8. NAMED SUBSTITUTES

Councillor EPJ Harvey substituted for Councillor AJW Powers, Councillor MN Mansell for Councillor JLV Kenyon, and Councillor A Warmington for Councillor A Seldon.

9. DECLARATIONS OF INTEREST

Agenda item 6: 152568 – The Paddocks, Roman Road, Hereford

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

Agenda item 8: 151438 Land at Fir Tree Cottage, Floyds Lane, Wellington Heath, Ledbury

Councillor EL Holton declared a non-pecuniary interest as one of the Council's representatives on the Malvern Hills AONB Joint Advisory Committee.

10. CHAIRMAN'S ANNOUNCEMENTS

The Chairman reported that Mike Jones, Senior Litigator, and legal advisor was to leave the Council. He thanked Mr Jones for his help to him personally and to the Council as a whole and wished him well for the future.

The Committee applauded Mr Jones.

Mr Jones thanked the Members for their support to him and other officers and expressed his appreciation of the way in which Members sought to achieve the best for Herefordshire.

11. APPEALS

The Planning Committee noted the report.

Comment was made on the following appeal decisions:

- Application 143769 – Upper House Farm, Moreton-on-Lugg that had been refused by the Committee had been granted planning permission on appeal.

Councillor KS Guthrie, local ward member, expressed her disappointment at the appeal decision. She reported that officers were considering whether there were grounds for judicial review.

A Member observed that a request had been made to Council for a supplementary planning policy to be adopted to help manage applications for poultry house developments of the type proposed in this application. It was requested that consideration be given to whether the application demonstrated that it would be of assistance to the Council to have such a policy.

The Lead Development Manager commented that officers thoroughly reviewed appeal decisions. A conference was scheduled with a barrister and the local ward member would be kept informed. He noted that the authority's appeal success rate at 83% was above the national average.

Councillor DW Greenow referred to the refusal of an appeal, not referred to in the report, in relation to a Bartestree application. He expressed his thanks as local ward member, and on behalf of residents and Barterstree and Lugwardine Parish Council, to Mr E Thomas, principal planning officer, for work on the appeal above and beyond the call of duty and requested that this be placed on record.

The Lead Development Manager confirmed that the Annual Monitoring Report had been completed and would be reported on to Members at a seminar in early July.

12. **152568 - THE PADDOCKS, ROMAN ROAD, HEREFORD, HR4 7SR**

(Site for proposed residential development of up to 50 houses.)

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, the local ward member, Councillor MN Mansell spoke on the application.

He made the following principal comments:

- The application needed to be considered in the context of plans for the development of over 1500 homes in the area. There was already pressure on school and other infrastructure. Development on the scale proposed risked choking the north of the City and creating air pollution problems replicating conditions similar to those in the south of the City.
- Bovingdon Park was a quiet, peaceful residential location.
- There were not sustainable transport links. The bus service was too infrequent to encourage people not to use their cars. This would lead to increased car traffic at a dangerous junction.
- The provision of affordable housing was welcome but he questioned whether the properties would truly be affordable for those on the average local wage.
- There was concern about the drainage proposals and the risk of flooding.

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

- The site was suitable for development and the proposal was in accordance with policy.
- The access was the principal concern given the number of houses proposed and the increased traffic that would be generated.
- It was requested that consideration should be given to a 40mph speed limit some 400m to the west of the entrance.
- It was also suggested that a right hand turn lane should be provided for traffic.
- The development, including any extension of speed limits, needed to be considered within the context of the strategic development of the area as a whole.
- It was asked whether the application was premature given the proposed strategic development.
- Consideration needed to be given to the timeframe for the strategic development, noting that the Three Elms development would be delivered in advance of the introduction of the Community Infrastructure Levy posing questions about infrastructure provision.
- A specific issue had been identified on the site visit with a bus turning within the entrance to Bovingdon Park. It was noted that the Transportation Manager would seek clarification from the public transport team.
- The Conservation Manager (Landscape), mindful that the site was adjacent to the planned urban extension, had identified the importance of landscaping, “taking into account any adjacent development providing seamless links and connectivity across the site and beyond its boundaries.”
- Concern was expressed about ensuring the long term management of the public open space. It was also suggested consideration should be given to the provision of outdoor gym equipment.
- The drainage proposals needed to be carefully assessed to ensure infiltration would be satisfactory. The Land Drainage Manager in his response had identified concerns about the geology’s ability to support infiltration measures.
- A concern was expressed that the S106 contributions would not meet the cost of the cumulative effect of the extensive development planned for the area.
- Practical alternatives needed to be provided to encourage people not to use their cars.
- The development should be constructed to high standards including energy efficiency measures to set a benchmark for the larger development that would follow.

The Lead Development Manager commented that:

- the heads of terms would provide for the public open space to be managed by a management company;
- a ruling of the Secretary of State in a recent case precluded the application being held back for consideration alongside the other significant development proposals in the area; and
- contributions would be sought from developers to meet the need for any additional school places that it was evidenced were required.

The local ward member was given the opportunity to close the debate. He supported the need for consideration to be given to the access and the extension and enforcement of lower speed limits. He remained of the view that the application needed to be considered in the context of the other proposals for development in the area and that sustainable transport measures were required.

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

1. **A02 Time limit for commencement (full permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **H06 Vehicular access construction**
5. **H17 Junction improvement/off site works**
6. **H21 Wheel washing**
7. **H27 Parking for site operatives**
8. **H30 Travel Plans**
9. **E01 Site investigation – archaeology**
10. **G04 Protection of trees/hedgerows that are to be retained**
11. **G09 Details of boundary treatments**
12. **Landscaping scheme**
13. **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.**
14. **The recommendations for ecological enhancement set out in Section 5 of the ecologist's report from Ecology Services dated February 2015 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme 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.**
15. **H29 Secure covered cycle parking provision**
16. **I51 Details of slab levels**
17. **I16 Restriction of hours during construction**
18. **I01 Scheme of noise attenuating measures**

19. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:
- a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice
 - b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors
 - c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

20. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

21. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

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 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 in the National Planning Policy Framework.

2. **HN01 Mud on highway**
3. **HN02 Public rights of way**
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. **N02 Section 106 obligation**

13. 152759 - LAND ADJACENT TO CUCKHORN FARM, STOKE LACY, HEREFORDSHIRE, HR7 4HE

(Proposed new build part earth-sheltered dwelling to include submerged integral garage.)

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mrs N White, the applicant, spoke in support of the application.

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

He made the following principal comments:

- The application was the right type of development, innovative and exciting.
- There were no highway issues and no archaeological issues.
- The application was not detrimental to the amenity of neighbours.
- The applicants were a local family.
- The key issue was whether the application was considered as falling within policy RA2 or RA3. He noted that an application for 28 homes at Stoke Lacy had recently been approved by the Committee. The application site was as close to the settlement area as that site. He therefore considered policy RA2 to be relevant and that the application met points 1, 3 and 4 of that policy.
- The Parish Council did not object to the application and there were letters in support of it.
- The scheme was sustainable and represented the organic growth that the community expected.

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

- Some members considered that the design was of exceptional quality and innovative. Others considered that it was not exceptional or innovative enough to meet the requirements of policy RA3.
- The design set high standards and was energy efficient, providing an example for other developers to follow.
- The application was from a local family and had the support of the local community.
- The application would not be out of keeping.
- The application could not be considered under policy RA2. It was not adjacent to the settlement, although it was close to it suggesting there might be scope to exercise some discretion.
- The application site was in the open countryside.
- As the recommendation stated, the application was contrary to policies SS1, SS6, RA2 and RA3.

The Lead Development Manager commented that the application was clearly not within policy RA2 as the application site was neither within or adjacent to the identified settlement. The application represented development in the open countryside. Whilst of good design officers did not consider the application represented exceptional design such as to merit approval under policy RA3 and paragraph 55 of the National Planning Policy Framework.

The local ward member was given the opportunity to close the debate. He reiterated that he considered the application site to be within the settlement of Stoke Lacy, and that the application was of exceptional design commanding local support. It compared favourably with the application for 28 houses that had recently been granted approval.

A motion that the application be approved on the grounds that it was sustainable development and of exceptional design was lost following a named vote.

For (7): Councillors BC Baker, DW Greenow, EL Holton, JA Hyde, MN Mansell, FM Norman and A Warmington.

Against (9): Councillors CR Butler, PGH Cutter, PJ Edwards, KS Guthrie, J Hardwick, EPJ Harvey, TM James, WC Skelton and LC Tawn.

Abstain (1): Councillor EJ Swinglehurst.

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

1. **The proposal would be contrary to Policy SS1, SS6, RA2 and RA3 of the Herefordshire Local Plan: Core Strategy (adopted October 2015) which seeks to achieve sustainable development, as outlined in paragraphs 18 to 219 of the National Planning Policy Framework 2012.**

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations by identifying matters of concern with the proposal and determining the application within a timely**

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

14. 151438 - LAND AT FIR TREE COTTAGE, FLOYDS LANE, WELLINGTON HEATH, LEDBURY, HR8 1LR

(Proposed erection of 3 dwelling houses.)

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

In accordance with the criteria for public speaking, Mr F Roselaar, of Wellington Heath Parish Council, spoke in opposition to the Scheme. Dr J Maclean, a local resident, spoke in objection. Mr R Jolly, the applicant's agent, spoke in support.

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

She made the following principal comments:

- The ground on which the site lay sloped steeply away. Floyds Lane and Horse Lane were narrow and there was flash run off of rainfall and sewage overflow.
- There was concern that the proposal for 3x 4 bed dwellings represented overdevelopment.
- Significant car parking space would need to be provided for the proposed 3x4 bed houses.
- There were slow worms, wildflowers and orchids on the site.
- The site was within the Malvern Hills AONB and regard should be had to the AONB Management Plan.
- The Core Strategy provided for 29 houses to be built in Wellington Heath by 2031. Seven houses had been built since 2011 so the Parish was on course to meet the housing target.
- The Parish Council was not opposed to the principle of development but did have reservations about the detail.
- Paragraphs 6.6 and 6.8 of the report discussed the provisions of policy RA2 referring to the need for proportionate development and for schemes to be appropriate in their context and make a positive contribution to the surrounding environment and its landscape setting, and result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in the particular settlement, reflecting local demand. The Parish Council considered 2 or 3 bed homes were needed and paragraph 6.11 of the report supported 3 bed dwellings.
- Paragraph 6.16 of the report was incorrect. There had never been vehicular access from Horse Lane to Fir Tree Cottage. Access had always been via Floyds Lane.
- The application was for outline permission and access. She requested that if the Committee was minded to approve the application reserved matters were brought to the Committee for determination.
- A condition should be imposed requiring an ecological survey to be undertaken before any clearance of the site or other work.

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

- Concern was expressed about the access.
- Concern was also expressed about landscaping and design.
- The Parish Council was not opposed to the principle of development.
- Provision of safe parking and turning space for vehicles was important
- The applicant should be strongly advised that the development should consist of no more than 2 or 3 bed properties.
- Account should be taken of the local ward member's request that an ecological survey should be undertaken before work of any sort commenced on site. It was suggested this should be made a condition.
- It was important that the development was of high quality suitable for the AONB.

The Lead Development Manager commented that:

- the local ward member could request a reserved matters application to be brought before the Committee through the redirection process if necessary;
- the proposal represented organic growth. The Core Strategy required a minimum of a further 19 dwellings in Wellington Heath;
- a scheme of high quality design would be expected for a site within the AONB;
- parking and the size of dwellings would be considered at the reserved matters stage. Notes would be added to the decision notice regarding the size of dwellings that would be preferred; and
- a speed survey on Floyds Lane had found that the proposed access was acceptable.

The local ward member was given the opportunity to close the debate

She sought an assurance that if there were concerns at the reserved matters stage and she requested a redirection that her request would be accepted. In response the Chairman indicated that, whilst he did not have the final say on the redirection process, he would encourage weight to be given to the local ward member's view.

She added that she remained concerned about the proposed 3 new accesses onto Floyds Lane and the vehicular use of the existing access onto Horse Lane that had not previously been used by the relevant property. She suggested that consideration might be given to deferring consideration of the application to allow a further review of the access proposals.

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

1. **A02 - Time limit for submission of reserved matters (outline permission)**
- 2 **A03 - Time limit for commencement (outline permission)**
- 3 **A04 - Approval of reserved matters**
- 4 **A05 - Plans and particulars of reserved matters**
- 5 **B01 - Development in accordance with the approved plans**

- 6 G03 - Retention of existing trees/hedgerows
- 7 G04 - Protection of trees/hedgerows that are to be retained
- 8 Prior to commencement of the development, an appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to inspect the site and conduct during the active season for reptiles and dormice and ensure there is no impact upon protected species by demolition of the building and clearance of the area. The results and actions from the inspection and survey shall be relayed to the local planning authority upon completion.

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.

- 9 H13 - Access, turning and parking
- 10 I17 - Scheme of foul drainage disposal
- 11 The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

Reason: As recommended by Severn Trent in order to ensure that satisfactory drainage arrangements are provided and to comply with Policy SD1 and SS6 of Herefordshire Local Plan- Core Strategy.

- 12 Prior to the first occupation of any of the residential development hereby permitted written evidence / certification demonstrating that water conservation and efficiency measures to achieve the 'Housing – Optional Technical Standards – Water efficiency standards' (i.e. currently a maximum of 110 litres per person per day) for water consumption as a minimum have been installed / implemented shall be submitted to the Local Planning Authority for their written approval. The development shall not be first occupied until the Local Planning Authority have confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation. Thereafter those water conservation and efficiency measures shall be maintained for the lifetime of the development;

Reason: - To ensure water conservation and efficiency measures are secured, in accordance with policy SD3 (6) of the Herefordshire Local Plan Core Strategy 2011-2031

- 13 H27 - Parking for site operatives
- 14 I16 - Restriction of hours during construction

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

15. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix 1 - Committee Update

The meeting ended at 12.55 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 15 June 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

152568 - SITE FOR PROPOSED RESIDENTIAL DEVELOPMENT OF UP TO 50 HOUSES AT THE PADDOCKS, ROMAN ROAD, HEREFORD, HR4 7SR

For: Mr Brailsford per Mr James Spreckley MRICS, Brinsop House, Brinsop, Hereford, Herefordshire HR4 7AS

ADDITIONAL REPRESENTATIONS

The following additional representation has been received from Mrs Janet Smith and is supplemental to Mrs Smith's existing objection.

SOAKAWAYS; BRE365 TEST; OIL INTERCEPTION TEST

I previously requested these tests and your Land Drainage Company, contracted by Hfds Council also agreed with me and said tests should be carried out. According to Hydro-Logic Services, on behalf of Mr. Brailsford, have not carried them out, just made assumptions based on stats. I would like to know why they have not been made to carry out these tests?

Land maintenance/Soakaways/SUDS system responsibility being passed to householders, which I am very concerned about. It is what happens on this site which could impact on the whole of the hillside and rest of the area.

This is exactly why the Government are currently conducting a survey on the SUDS system due to the low take up by Local Authorities on approving planning applications using this system. Mainly due to the manufacturer, builder, L/A etc. who do not want to take responsibility for SUDS.

The House of Commons in April tried to pass a bill on allowing developers to use SUDS instead of underground drainage systems. The House of Lords in May refused to pass the bill and will conduct their own survey ref. the use of SUDS.

SUDS is a low cost option allowing developers to maximise number of houses to be built on a site, otherwise known as garden grabbing.

BOREHOLES

What could be affected on rest of area?

31 Boreholes

Environment Agency issue 14 water extraction licences

Total withdrawal allowed up to 5 million cu. m's of water per annum

If SUDS system becomes blocked by sand/silt, not maintained on a regular basis, leaks, quality of water could be affected. Householders responsible for land maintenance are unlikely to get insurance cover so who will pay for the compensation necessary if local sewerage system flooded, basins leak, adverse effect on the groundwater which could change its watercourse, could rise up in the houses on the northern boundary of Huntington Hamlet?

RADON (RADIOACTIVE GAS)

Radon gas within 25 metres of northern boundary of Huntington so will be in whole area. I requested a Radon Test but I cannot see in reports that one has been carried out which must be done. Depending on the radon levels in the ground it may be necessary to put extra precautions into the houses built to protect householders against possible lung cancer from

gas rising up from below ground into the houses. Further research in the USA they have added dementia to the list.

How can a planning application be considered until all tests requested, not only by myself, but a company contracted by Hfcs Council are carried out.

Land Drainage Consultant's response to the late representation:-

Infiltration Testing

The Paddocks site off Roman Road in Hereford is located in an area where the soil maps indicate that the ground is likely to consist of freely draining soils. It is therefore likely that it should be suitable for the implementation of infiltration measures to discharge surface water runoff from the site. As highlighted in our initial response this must be confirmed to be the case by the Applicant through the completion of infiltration testing, undertaken in accordance with BRE365, and provided by the Applicant to the Council along with a detailed surface water drainage strategy as part of the reserved matters. On completion of the tests should it be found that the infiltration rate at the site is inadequate, making infiltration measures unviable, it is judged that there would be sufficient space within the boundary of the site in order to accommodate an alternative drainage design. Should neither infiltration and/or attenuation with a discharge to a local watercourse be found viable then the site's proximity to the Roman Road means that, subject to agreement with Welsh Water, onsite attenuation and discharge to the drainage system under the road would also present a viable option. As it is deemed that there are a number of potential options for the management of surface water runoff from the site the risks associated with postponing the completion of infiltration tests for consideration as reserved matters are deemed to be low.

Maintenance of Soakaways

The use of soakaways servicing individual properties is common practice. Each property owner should be made aware of the details regarding maintenance of the soakaways and their maintenance responsibilities. Similarly to any other household drainage, failure to complete regular maintenance resulting in flooding would make the owner liable for any resulting damage.

Through the design of the development the Applicant must ensure that any proposed soakaways will be easily accessible for maintenance and as such we would advocate that where they are to be located within the curtilage of private dwelling that they are positioned in the front gardens where possible. For soakaways serving multiple properties or receiving runoff from shared access roads it would be preferential for them to be located on common land. Details of the responsibility and maintenance of all soakaways should be outlined in the reserved matters application.

In addition, during the design of the development layout and the proposed drainage system, the Applicant must consider the management of surface water during extreme events that overwhelm the surface water drainage system and/or occur as a result of failure of the system (for example blockage). In the event of exceedance or failure of the system water should be managed within the site boundary or directed to an area of low vulnerability. This will need to be demonstrated by the Applicant on formulation of the site Masterplan as part of the reserved matters.

Potential for contamination of the aquifer

It is expected that due consideration will be given by the Applicant to the control of potential pollution of ground or surface waters from wash down, vehicles and other potentially contaminating sources. Evidence of adequate separation and/or treatment of polluted water should be provided by the Applicant to ensure no risk of pollution is introduced to groundwater or watercourses both locally and downstream of the site, especially from

proposed parking and vehicular areas. It is expected that the Applicant will provide details of how it is anticipated that this will be achieved as part of the reserved matters application. Details of the design of any proposed measures should be included in the detailed surface water drainage design to be presented to the Council for sign off prior to construction. Given that the site lies within Zone 3 of a groundwater Source Protection Zone, it is expected that the Applicant will consult with the Environment Agency to establish whether there are any specific groundwater quality requirements that need to be met.

The Environmental Health Manager (Contamination) has recommended inclusion of the following standard conditions:-

1. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:
 - a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice
 - b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors
 - c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

2. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

Technical notes about the condition

1. I would also mention that the assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012.
2. And as a final technical point, we require all investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.

CHANGE TO RECOMMENDATION

Add contaminated land conditions as above.

151438 - PROPOSED ERECTION OF 3 DWELLINGHOUSES AT LAND AT FIR TREE COTTAGE, FLOYDS LANE, WELLINGTON HEATH, LEDBURY, HR8 1LR

For: Mrs Morris per Mr R Jolly, EJ Planning Limited, P O Box 310, Malvern, Worcestershire, WR14 9FF

ADDITIONAL REPRESENTATIONS

One further letter received which re-affirms that there is a restrictive covenant on the application site adjoining the southern boundary of Jay House (formerly known as The Shingles) This area of land it is stated was originally within the boundary of Jay House.

In addition Severn Trent has now submitted its response to the application. It has no objections subject to appropriate conditions.

OFFICER COMMENTS

None

CHANGE TO RECOMMENDATION

Additional Conditions as recommended by Severn Trent

MEETING:	PLANNING COMMITTEE
DATE:	13 JULY 2016
TITLE OF REPORT:	APPEALS

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the progress in respect of the following appeals.

Key Decision

This is not an executive decision

Recommendation

That the report be noted.

APPEALS RECEIVED

Enforcement Notice 161901

- The appeal was received on 8 June 2016
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr Paul Murray, Mrs Julia Murray, More 2 Life Ltd
- The site is located at Togpen, Willey Lane, Lower Willey, Presteigne, Herefordshire, LD8 2LU
- The breach of planning control alleged in this notice is:
 - (i) Timber-boarded passageway between a barn and a garage.
 - (ii) Timber-boarded woodshed to the north of the said garage.
 - (iii) Timber-clad summerhouse to the east of the said garage.
 - (iv) Greenhouse to the south of the barn.
 - (v) Boundary fencing/screening.
- The requirements of the notice are:
 - i. Permanently secure the removal of the structures described in paragraph 3 above.
 - ii. Remove all resulting waste materials to a registered disposal site.
- The appeal is to be heard by Written Representations

Case Officer: Mr Nicholas Hall on 01432 261808

Application 152240

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

- The appeal was received on 21 June 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 David Stokes
- The site is located at Land at Fernleigh, Eau Withington, Hereford, Herefordshire
- The development proposed is Proposed erection of a replacement dwellinghouse and the erection of 1 no. new dwellinghouse within the curtilage
- The appeal is to be heard by Written Representations

Case Officer: Mr Simon Withers on 01432 260612

Application 143836

- The appeal was received on 24 June 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 & Mrs Drzymalski
- The site is located at Thatch Close, Llangrove, Ross-On-Wye, Herefordshire, HR9 6EL
- The development proposed is Proposed reinstatement of drive
- The appeal is to be heard by Written Representations

Case Officer: Mr Nicholas Hall on 01432 261808

APPEALS DETERMINED

Application 153239

- The appeal was received on 8 April 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 Ms Mary George
- The site is located at The Old Coach House, Goodrich Manor, Goodrich, Ross-On-Wye, Herefordshire, HR9 6JB
- The development proposed was Proposed change of use of redundant agricultural land to amenity space and garden.

Decision:

- The application was Refused under Delegated Powers on 18 December 2015
- The appeal was Withdrawn on 7 June 2016

Case Officer: Mr C Brace on 01432 261947

Application 150994

- The appeal was received on 4 February 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 Hanson
- The site is located at Home Farm, Eardisland, Leominster, Herefordshire, HR6 9DN

- The development proposed was Propose raising roof of existing portal framed agricultural building, including 2 no. additional bays.
- The main issues were the accuracy of the submitted drawings and the potential impacts on the neighbouring grade II* listed building. As a consequence neither the Inspector or others, can properly assess the likely impact of the development. That is of particular importance in this case, given the proximity of the appeal site to the listed building. On that basis, I consider that the appeal should not succeed.

Decision:

- The application was Refused under Delegated Powers on 12 June 2015
- The appeal was Dismissed on 9 June 2016

Case Officer: Mr Fernando Barber-Martinez on 01432 383674

Application 142632

- The appeal was received on 6 February 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Lawful Certificate
- The appeal was brought by Ms B Eakins
- The site is located at Redwood Orchard, St Michaels, Tenbury Wells, Worcestershire, WR15 8TL
- The development proposed was Application for a Lawful Development Certificate for full residential use. (with statutory declaration witness evidence as requested)
- The main issues were: In terms of the structure on site the issues were (a) was it a caravan within the definition in the Act or was it an operational development and (b) if it was a caravan had it been occupied for residential purposes for a continuous period of ten years either (i) immediately before the date of the application (25 August 2014) or (ii) some earlier 10 year period that was completed before that date and since when there has been no material change in the use of the land or the use has not been abandoned.

Decision:

- The application was Refused under Delegated Powers on 15 December 2014.
- The appeal was Dismissed on 14 June 2016

Case Officer: Mr A Prior on 01432 261932

Application 142985

- The appeal was received on 17 December 2015
- 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 Wyevale Holdings Ltd
- The site is located at Land adjacent Kings Acre Halt, Kings Acre Road, Hereford, Herefordshire, HR4 7AY
- The development proposed was Site for proposed erection of up to 73 dwellings (including up to 26 affordable dwellings). Construction of associated works.
- The main issues were:
 - The effect of the proposal on the proposed Hereford Relief Road.
 - The effect of the proposal on highway safety, with particular reference to the junction between the site, the public highway, and Wyevale Business Park.

Decision:

- The application was Refused under Delegated on 6 May 2015
- The appeal was Dismissed on 16 June 2016
- Applications for the award of Costs, made by the Council and the Appellant were both dismissed

Case Officer: Mr Edward Thomas on 01432 260479

Application 152353

- The appeal was received on 24 March 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 Miss Amy Marsland
- The site is located at Forge Cottage, Bridstow, Ross-on-Wye, Herefordshire, HR9 6QW
- The development proposed was Proposed erection of blacksmiths forge and stables.
- The main issue in this case is the effect of the proposed development on the character and appearance of the countryside in this part of the Wye Valley Area of Outstanding Natural Beauty (WVAONB).

Decision:

- The application was Refused under Delegated Powers on 30 September 2015
- The appeal was Dismissed on 16 June 2016
- An Application for the award of Costs, made by the Appellant against the Council, was Dismissed

Case Officer: Mr C Brace on 01432 261947

Application 140215

- The appeal was received on 20 November 2015
- 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 Richard White
- The site is located at 83 Tower Hill, Dormington, Hereford
- The development proposed was Resumption of residential use following access dispute. Retention of bat roost.
- The main issues in this appeal were the effects of the proposed development on:
 - a) The character and appearance of the structure and on the area, having particular regard to relevant policies for development in the countryside, and for the re-use of rural buildings.
 - b) Mineral resources.

Decision:

- The application was Refused under Delegated Powers on 6 March 2015
- The appeal was Dismissed on 17 June 2016

Case Officer: Ms Kelly Gibbons on 01432 261781

Application 151248

- The appeal was received on 31 March 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 HKSLEP Limited T/A Natalka Delicatessen
- The site is located at 61 Stanhope Street, Hereford, Herefordshire, HR4 0HA
- The development proposed was Change of use to HMO and installation of fire alarm Grade A LD2, all bedrooms and kitchen door to be replaced with fire door, all walls repainted, carpets refitted, additional shower room and toilet, one internal stud wall added. (Retrospective)
- The main issues were:
 - The effect on the living conditions of neighbouring occupiers with particular regard to noise, disturbance and the car parking arrangements; and
 - The effect of the development on highway safety; and
 - The effect on the character and appearance of the surrounding area.

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

Decision:

- The application was Refused at Planning Committee (against Officer Recommendation) on 9 December 2015
- The appeal was Dismissed on 22 June 2016

Case Officer: Mrs Charlotte Atkins on 01432 260536

Application 153078

- The appeal was received on 31 March 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 Robert Stuliglowa
- The site is located at 28 Breinton Road, Hereford, Herefordshire, HR4 0JX
- The development proposed was Proposed change of use of dwelling to form House of Multiple Occupancy for up to 8 people
- The main issues were:
 - The effect on the living conditions of neighbouring occupiers with particular regard to noise, disturbance and the car parking arrangements; and
 - The effect of the development on highway safety.

Decision:

- The application was Refused under Delegated Powers on 14 January 2016
- The appeal was Dismissed on 22 June 2016

Case Officer: Mrs Charlotte Atkins on 01432 260536

Application 150182

- The appeal was received on 4 March 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 N Rolinson
- The site is located at Land adjoining and immediately to the south of Fairview, Putley, Herefordshire, HR8 2RE
- The development proposed was Proposed erection of two holiday let units
- The main issues were:
 - i) whether the proposal would contribute to a sustainable pattern of development and
 - ii) its effect on the character and appearance of the surrounding area.

Decision:

- The application was Refused under Delegated Powers on 17 June 2015
- The appeal was Dismissed on 23 June 2016

Case Officer: Mr A Prior on 01432 261932

Application 153000

- The appeal was received on 31 March 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Planning Conditions
- The appeal was brought by Red Miracle Ltd
- The site is located at Unit 3, 109-111 Belmont Road, Hereford, Herefordshire, HR2 7JR

- The development proposed was Variation of Condition 7 of Planning Permission CW2002/3803/F and Condition 1 of Planning Permission CW2003/3853/F.
- The main issue was the effect of the proposal on the living conditions of the occupants of neighbouring properties, with particular regard to noise and disturbance.

Decision:

- The application was Refused at Planning Committee on 3 February 2016
- The appeal was Allowed on 30 June 2016

Case Officer: Steffan Thomas on 01432 260627

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



MEETING:	PLANNING COMMITTEE
DATE:	13 JULY 2106
TITLE OF REPORT:	152041 - PROPOSED RESIDENTIAL DEVELOPMENT OF 10 DWELLINGS (AMENDMENT TO ORIGINAL APPLICATION) AT LAND TO THE NORTH OF ASHPERTON VILLAGE HALL, ASHPERTON, HEREFORDSHIRE For: Mr Davies per Twyford Barn, Upper Twyford, Hereford, Herefordshire HR2 8AD
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=152041&search=152041
Reason Application submitted to Committee – Re-direction	

Date Received: 13 July 2015

Ward: Three Crosses

Grid Ref: 364355,241955

Expiry Date: 15 June 2016

Local Member: Councillor J G Lester

1. Site Description and Proposal

- 1.1 The application site features an undeveloped agricultural field located adjacent to the main built core of Ashperton, a settlement designated under Core Strategy policy RA2 as a sustainable location for residential development outside Hereford city and the market towns.
- 1.2 Ashperton is located in east Herefordshire 7 miles from the market town of Ledbury, 15 miles from Leominster and 11 miles from Hereford. Though there are a number of services and facilities in and around the village, furthermore Ashperton has good proximity and road connectivity to other local settlements and their facilities. There is a (albeit) limited bus service, a primary school, church and village hall in Ashperton and a pub just outside of the main village to the south about half a mile from the site.
- 1.3 The site is an agricultural field which is currently part of Walsopthorne Farm. It is located at the northern edge of the village immediately to the North of the Village Hall and east of the A417. The site is predominantly surrounded by agricultural land and existing development.
- 1.4 Existing development in close proximity of the site is varied in size, age, design and orientation and includes a number of Grade II listed dwellings. The site is undulating in character with high and low points along the main road, with the land plateauing and levelling out and falling away to the East. The site is higher in topography than the adjoining road, the A417 and existing adjacent dwellings opposite, however the village hall sits at a higher and more prominent level on the crest of the rising land.
- 1.5 There is a wide hedgerow around the site which currently provides visual screening between the site and the highway. The A417 is recognised as a significant strategic and busy road used as a main route by HGVs as it connects the A49, A4103 routes with road links to Gloucester,

Further information on the subject of this report is available from Mr C Brace on 01432 261947

the M50 and wider national strategic road network. The speed limit adjacent to the site forms a 30 & 40 mph zones.

- 1.6 The proposal is an outline application for the erection of 10 dwellings with all matters reserved for a future Reserved Matters application other than the site access and site layout.

2. Policies

2.1 Herefordshire Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
OS1	-	Requirement for Open Space, Sport and Recreation Facilities
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	-	Waste Water Treatment and River Water Quality

2.2 Neighbourhood Plan

Ashperton Neighbourhood Plan Area was designated on 3rd June 2015. Whilst it is a material consideration it is not sufficiently advanced to attract weight for the purposes of determining planning applications.

2.3 National Planning Policy Framework

The following sections of the National Planning Policy Framework (NPPF) are particularly relevant:-

Ministerial foreword
Introduction
Achieving Sustainable Development
Delivering Sustainable Development
Section 6 - Delivering a Wide Choice of High Quality Homes
Section 7 - Requiring Good Design
Section 8 - Promoting Healthy Communities
Section 10 - Meeting the Challenge of Climate Change
Section 11 - Conserving and Enhancing the Natural Environment
Section 12 - Conserving and Enhancing the Historic Environment

- 2.5 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 None

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water has no objection, commenting no problems are envisaged with the provision of water supply for this development.

Internal Council Consultations

4.2 Transportation Manager is satisfied the proposal satisfies Core Strategy policies SS4 and MT1 and also offers opportunities for connectivity between the development and village. Technical standards regarding the internal roadway, turning and parking areas are secured through condition. A number of conditions and informatives requested are added to the recommendation.

4.3 Conservation Manager (Landscape) - I have read the amended landscape planting plan in conjunction with the landscape materials plan as part of the amended drainage strategy.

4.4 As stated I am satisfied that having walked the site on two occasions with both the architects and the planning officer that whilst accepting that the site is sensitive as a result of its undulating landform the impact upon the landscape and visual receptors will not be substantially harmful:

4.5 In terms of landscape character, the proposed layout does not unduly conflict with the settlement pattern of the village of Ashperton which has clusters of dwellings radiating outwards from the village green and the historic core. The chosen layout enables the proposal to be situated on the lower contours of the land located between two high points and some 5m below that of the core of the existing settlement.

4.6 Whilst it is readily acknowledged that the undulations of the land render it sensitive in character, the visual impact of the proposal is confined to near distant views. Road users, particularly of a road such as the A417, are considered low sensitivity receptors (GLVIA3) as they experience transient views.

4.7 Views from existing properties have been taken into consideration as well as the setting of nearby listed buildings, as demonstrated within the Village Analysis Study, with built form set back from the roadside in order to retain vistas of the village hall and avoid overshadowing of existing dwellings. Extensive mitigation is proposed inline with the landscape character type; Principal Settled Farmlands, which can be secured at the reserved matters stage.

4.8 Conservation Manager (Ecology) - as a general comment notes the application site is currently under agricultural management as pasture and so of fairly low ecological value overall. The landscaping, biodiversity mitigation and enhancements that will come as part of the development will provide a significant enhancement of habitat value above current for local wildlife and protected species.

4.9 The contents of the additional 'Phase 2' detailed ecological surveys and report by Europaeus Land Management Services dated December 2015 are noted and I am happy that these address the concerns and request for further information made previously [by my colleague Rob Widdicombe]. I note in particular that they recommend that a European Protected Species Licence is required in respect of the local potential for Great Crested Newts. This licence will require a detailed protection, mitigation and enhancement plan, and should include the proposed off-site attenuation pond in the proposals. In addition the creation of new hedgerows

and copse/woodland will provide additional habitat. The inclusion of bird nesting and bat roosting opportunities (eg. bird boxes, sparrow terraces, bat bricks and tiles) within the construction of the new houses would further enhance the habitat.

- 4.10 To ensure that the required ecological protection, mitigation and enhancements are included numerous conditions are recommended. These are attached to the recommendation, below.
- 4.11 PROW Manager notes Public footpath AP28 has been shown on plans, and would not appear to be obstructed by the development. The path has a historic width of at least 4m which must not be encroached upon.
- 4.12 Waste Services Manager comments throughout the design and access statement there is reference to the Homezone standards and verge planting to reduce speed of movement through the development. The area is serviced by an 18 tonne refuse collection vehicle (RCV) which will need clearance space for width, height and manoeuvring across the development as well as adequate turning circles. This vehicle will access the site every week.
- 4.13 The County Land Agent has no objection, considering there will be no impact on the village green.
- 4.14 Conservation Manager (Archaeology) - has no objection, making the following comments:
- There is certainly some interest in relation to Roman-period archaeology in the broader landscape context. The existing road forming the western edge of the development in all probability traces the alignment of the former Roman road that ran southwards from the forts and settlements at Stretton Grandison in the north, towards [ultimately] the Roman city of Gloucester to the south.
 - However, both in regard to Roman-period remains, and indeed to remains of other periods, it would seem that the application site itself does not have great archaeological potential. It has plainly been subject to a degree of comparatively recent disturbance, which would have damaged pre-existing deposit profiles, and there are no traces of the kind of medieval earthworks that are present (for instance and n.b.) in some of the fields to the south of the village hall.
 - In the circumstances, in relation to this particular case, I have no objections and no requirements to advise.

5. Representations

- 5.1 Ashperton Parish Council objects to the proposal. Ashperton Parish Council is of the opinion that the revised application for 10 dwellings would result in some reduction to the harm to the character and appearance of the landscape and visual setting of the village, and other harm, it remains of the opinion that the detriment would remain severe and would outweigh any benefit in terms of additional housing. Furthermore, whilst the removal of the northern “cluster” of dwellings would mean that there would be reduced detriment to the living conditions of those residents opposite that part of the site, there would remain significant harm to the living conditions of occupiers of properties to the west of the A417 with regard to outlook.
- 5.2 **The Parish Council’s full objection and further comments are appended to this Report**
- 5.3 Ashperton Neighbourhood Plan steering group advises they have for the last 12 months been gathering information and have begun the process of creating a draft plan using data provided by public consultation. The response rate to our first questionnaire was 74%.
- 5.4 Some of the questions asked that are perhaps pertinent to the above application are:

- What do you like about the Parish? : 48% chose the rural views and unspoilt and peaceful location of the village.
- The Herefordshire Core Strategy states that Ashperton Parish must have at least 15 new houses by 2031. How would you like to see these distributed? : 71 %> responded that there should be less than 3 dwellings on any one site.
- Should this development take place gradually until 2031 or take place all at once? : 90% want gradual development within the Parish.
- Are there any locations where houses should not be built? : 57% responded that houses should not be built on greenfield sites including this land but 36%) specifically not on the land as proposed in this application.
- When asked if the Neighbourhood Plan should protect natural features and the landscape within the Parish (Q5.2), 56% answered yes.
- How important are heritage features of the village to you? : 93%) responded important or very important.

5.5 The intention is for public consultation on the draft plan to begin in August / September 2016. The proposed development does not fit in any way and clearly shows that despite having gone out to public consultation last year, the applicant has not taken on board the thoughts and feelings of the current residents.

5.6 48 letters of objection have been received from local residents. Comments are summarised as:

- Criticism over number of amendments allowed to be considered
- Concern over surface water and foul drainage
- Safety issue regarding attenuation basin
- Concern regarding pollution of watercourses
- Concern over highway safety
- The illustrative layout and landscape is only indicative and might not happen
- Substantial increase in number of dwellings in the village
- Impact on listed buildings
- The layout is inappropriate and out of character and context with this rural setting
- Proposal is not rural in concept
- Detrimental impact on the character and setting of the village
- Landscape harm
- Impact on existing residential amenity and privacy
- Impact on wildlife and biodiversity
- This is not a small scale development
- The landscape assessment and the Council's assessment of landscape impact is wrong
- Noise and pollution from extra traffic
- Lack of services and infrastructure in the village
- Inadequate consultation has taken place
- Proposal will have an overbearing impact on the village
- Loss of views from properties
- Loss of views from PROW/ countryside
- Shadowing and loss of light
- Loss of dog walking/ recreation facility
- Proposal is not in accordance with the Neighbourhood Plan
- If approved could lead to development of the rest of the field
- Unsustainable development
- Conflicts with local and national planning policies

5.7 Herefordshire Ramblers object, their objection is summarised as:

- Concern regarding the impact on PROW AP28

- Impact on the pleasant aspect and views from the local PROW network
 - Potential impact on tourism
- 5.8 The Open Spaces Society comments nowhere on the plans are PROW AP28 annotated. The proposed Attenuation Basin, appears near the route of FP AP28, also consider must be suitably fenced for H & S reasons, also the registered path must be kept free of obstructions/works during the proposed development.
- 5.9 Ledbury and District Civic Society comments: The development would add to existing problems associated with the road through the village. There are no jobs available, no shops, few facilities and hardly any bus services for Ashperton; the village is already not self sufficient and many additional car journeys to and from would be generated to reach such facilities. There are very real concerns about how to discharge rainwater and foul water from the site, given possible flooding of adjacent areas lower than the site and lack of capacity for sewage effluent.
- 5.10 8 letters of support have been received, comments are summarised as:
- Proposal will meet local and county housing needs
 - Well considered proposal
 - Area lacks diversity of population, this will help address that
 - Rural feel to layout
 - Spacious development
 - Clear need for housing in the area
 - Villages such as Ashperton need to grow
 - Will help support existing local facilities
 - Views expressed at the public consultation have been considered
 - Will help me secure a house in the area
- 5.11 West Mercia Police comment there is a clear opportunity within the development to achieve the Secured by Design award scheme. The development appears to have good access control and natural surveillance already built into the design. The principles and standards of the award give excellent guidance on crime prevention through the environmental design and also on the physical measures. The scheme has a proven track record in crime prevention and reduction which would enhance the community well being within this village.
- 5.12 Canon Frome cricket club supports the application as it welcomed the additional families that the proposed application would bring into the village. This, hopefully, would give it a greater pool of potential players for its senior and thriving junior section. Like all small clubs, playing numbers are always a problem, and so the club welcomes any opportunity to increase the pool of potential players.
- 5.13 Ledbury Area Cycling Forum comments in the light of the Government's *Cycling and Walking Investment Strategy* every opportunity to improve active travel infrastructure to encourage a reduction in car dependency and encourage people to walk and cycle. It is noted on the outline planning application that a shared cycle/pedestrian path runs through the development and terminates near the village hall, with a new pedestrian crossing at that point and a second new pedestrian crossing a short distance to the north. This shared use path should have priority where it crosses the southern vehicular access road to the site. The crossings over the A417 should accommodate pedestrians and cyclists and should be light controlled. An off-road shared-use cycle/pedestrian path connecting with the A417 should be provided, together with a road crossing, to connect with the proposed path running through the site. This will provide a safe link for local residents to access the new public amenity space and other village facilities. Each new residential unit should be provided with its own fully enclosed, secure cycle parking accommodation. By supplying the storage spaces with mains electricity, they can also be used for parking rechargeable e-bikes, thereby increasing the scope of cycle use to take advantage of the quiet lane network connecting Ashperton to Ledbury and other centres.

Further information on the subject of this report is available from Mr C Brace on 01432 261947

- 5.14 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=152041&search=152041>

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

Background

- 6.1 Ashperton is designated under Core Strategy policy RA2 as a sustainable location for residential development outside Hereford city and the market towns. The village is within the Ledbury Housing Market Area and is one of ten villages that are the main focus of proportionate housing development.
- 6.2 Ashperton was designated under the previous local plan, the Herefordshire Unitary Development Plan policy H6 as a smaller settlement, however, from the adoption of that preceding plan to today's date the village has only provided planning permission for three new dwellings, all permitted under planning reference 143420/F at Planning Committee on 15th July 2015. This permission however has yet to commence. In summary, in over ten years Ashperton has actually delivered no new dwellings and only has advanced three units through extant planning permission despite its long standing identification as a sustainable location for residential development.
- 6.3 Discussions for development of the site considered here began prior to the adoption of the Core Strategy and developed during a period of the Council failing to demonstrate a five year supply of housing land against the knowledge Ashperton was a designated settlement for proportionate housing development.
- 6.4 Community consultation has been undertaken with the local community and stakeholders at events held on 28th January 2015 and 12th May 2015 by the applicants' agent. There have been three rounds of full formal public consultation as part of the application consultation and determination process.
- 6.5 A proposal of 27 dwellings of which 9 would be affordable, significant public open space and landscaping provision, along with a s106 agreement proposing financial contributions totalling £24,8017 and above and beyond that a land donation providing land and dedicated new car parking for the village hall adjoining the site was put forward in a formal planning application, registered and open to public consultation from 16th July 2015. The proposal was unanimously rejected by the local community and the offer of land and car parking for the village hall was rejected by the Parish Council on 13th August 2015, who commented: *The application proposes an extension to the Village Green on the highest land next to the Village Hall. Not only is this land of no use to the applicant but it would serve no useful purpose as public space. It is land some 1.5-2m above Dognall Lane alongside the Hall and high above the road. It would demonstrably be an unsafe place for children to play. The Parish Council would not be prepared to take on responsibility for this land.*
- 6.6 Following this rebuttal from the local community, the applicant has worked with Officers to address the concerns raised and as such an amended reduced proposal of ten dwellings and associated landscaping replaced the original proposal and was reconsulted on from 16th March 2016. An amendment to the red line area to incorporate drainage strategies recommended and to address the Council's drainage consultants comments led to a further full reconsultation process running from 16th May 2016.

- 6.7 Herefordshire through the Core Strategy is to provide a minimum 16,500 homes during the Plan period to 2031.

Proposal Summary

- 6.8 The proposed scheme is to develop the site to accommodate 10 new dwellings on an approximately 0.91ha site. The proposal includes the provision of areas of amenity space for the development. The site will contain varying sized residential units to create a mixed community, the whole development comprised of smaller sized properties as well as larger family homes.
- 6.9 10 dwellings are proposed in response to the rejection of the larger 27 unit development and because it enables Ashperton to accommodate the level of housing it is likely to require over the coming years, in a well planned rather than piecemeal fashion. Furthermore the proposal creates less housing on the site compared to a typical developer scheme and allows an appropriately 'rural' balance of housing and green space, responding to context.
- 6.10 The density of housing in the site is 12.5 d.p.h and has been informed by a study into neighbouring housing development. The Core Strategy recommends housing densities to be between 30 and 50 d.p.h across the county, although sets out that the density should be informed by the characteristics of the area.

Policy Assessment

- 6.11 The local authority is currently failing to provide a 5 year Housing Land Supply, plus a 20% buffer, which must be met by all local authorities in accordance with paragraph 47 of the NPPF. Paragraph 49 of the NPPF states that '*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*'.
- 6.12 Where the existence of a five year land supply cannot be demonstrated, there is presumption in favour of granting planning permission for new housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing.
- 6.13 Paragraph 14 of the NPPF states that there "*is a presumption in favour of sustainable development and for decision taking this means... where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole... or specific policies in this Framework indicate development should be restricted.*"
- 6.14 The NPPF is therefore emphasising the importance of the presumption in favour of sustainable development. In reaching a decision upon new housing the housing land supply position will need to be balanced against other factors in the development plan and/or NPPF which could result in the refusal of planning permission. This site is therefore assessed and considered on its suitability as being sustainable in regards its location and material constraints and considerations.
- 6.15 The NPPF sets out 12 core land-use planning principles in paragraph 17 which should underpin decision taking. These include the principle to '*proactively drive and support sustainable economic development to deliver homes, businesses and industrial units, infrastructure and thriving places that the country needs*'.
- 6.16 NPPF section 12 sets out the position regarding conserving and enhancing the natural environment. Specific principles and policies relating to the natural environment and its assets and development are found in paragraphs 109 – 125.

6.17 Paragraph 215 of the NPPF applies and due weight should be given the policies of the existing plan, in this instance the Herefordshire Core Strategy, according to their degree of consistency with the NPPF.

Herefordshire Core Strategy

6.18 Core Strategy Policy SS1 – *Presumption in favour of sustainable development*, in line with the NPPF, has a positive approach to such development. Furthermore, planning permission will be granted unless the adverse impact of the permission would significantly and demonstrably outweigh the benefits of the proposal.

6.19 Core Strategy Policy SS2 – *Delivering new homes* sets out Herefordshire is to deliver a minimum 16,500 dwellings during the plan period and that designated rural settlements play a key role in that delivery and support the rural economy, local services and facilities. Such settlements will deliver a minimum 5,600 dwellings.

6.20 Core Strategy policy SS7 – *Addressing climate change* describes how developments will be required to mitigate their impact on climate change, and strategically, this includes:

- focussing development to the most sustainable locations
- delivering development that reduces the need to travel by private car and encourages sustainable travel options including walking, cycling and public transport

6.21 Core Strategy policy RA1 – Rural housing distribution sets out the strategic way housing is to be provided within rural Herefordshire and to deliver a minimum 5,600 dwellings. Herefordshire is divided into seven Housing Market Areas (HMAs) in order to respond to the differing housing needs, requirements and spatial matters across the county.

6.22 Core Strategy policy RA2 – Housing outside Hereford and the market towns identifies the settlements in each HMA area where both the main focus of proportionate housing development will be directed, along with other settlements where proportionate housing growth is appropriate.

6.23 Ashperton is within the Ledbury HMA and one of ten settlements designated to be the main focus of proportionate growth in that HMA. The Ledbury HMA is to provide a minimum 565 dwellings in the Plan period with an indicative housing growth target of 14%.

6.24 The application site is therefore sustainably located, being adjacent to the main built core of Ashperton, a settlement designated under Policy RA2. Development is therefore acceptable in principle on a locational basis. The Parish of Ashperton has 101 dwellings and the indicative target within this HMA is 14% meaning an additional 15 dwellings, therefore the proposal for ten dwellings is considered to be proportionate housing growth.

6.25 In principle and strategically, the proposal is acceptable as it represents sustainable and proportionate development, complying with Core Strategy policies SS1, SS2, SS7, RA1 and RA2 and the relevant requirements of the NPPF.

Assessment

6.26 Sustainable development and sustainability are more than a matter of location. The NPPF states that good design is a key aspect of sustainable development and indivisible from good planning. It is not just a matter of aesthetics. Amongst other things, it says that decisions should aim to ensure that developments function well and add to the overall quality of the area; and optimise the potential of the site to accommodate development. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

6.27 Section 7 (*Requiring good design*) of the NPPF requires developments should function well and add to the overall quality of an area, establishing a sense of place to create attractive places to live, work and visit through responding to local character and history and reflecting local identity, whilst at the same time not stifling innovation. This approach is reinforced through Core Strategy policies SS6, LD1 and SD1 and the criteria of policy RA2 which requires development should reflect the size, role and function of the settlement and be located within or adjoining its main built up area. Attention is required to be paid to the form, layout, character and setting of the site and its location, resulting in high quality sustainable development.

6.28 As such, given the sustainable location and in principle acceptability of the development on those terms, the decision making process turns to the assessment of material considerations.

Heritage

6.29 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states “*In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*”

6.30 NPPF section 12 sets out the position regarding conserving and enhancing the historic environment. Specific principles and policies relating to the historic environment and heritage assets and development are found in paragraphs 126 – 141.

6.31 The NPPF sets out in paragraph 126 that there should be a positive strategy for the conservation of the historic environment. It is recognised that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance taking account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
- The wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring
- The desirability of new development making a positive contribution to local character and distinctiveness
- Opportunities to draw on the contribution made by the historic environment to the character of a place.

6.32 Paragraphs 131 – 133 set out what and how LPAs should consider in determining planning applications featuring heritage assets. This includes:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness.

6.33 The Core Strategy sets out heritage policy under LD4. The historic environment is defined as all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora. Those elements of significance with statutory protection are referred to as designated heritage assets. Policy LD4 is applicable to heritage assets throughout Herefordshire whether formally designated e.g. listed buildings and conservation areas, or not.

- 6.34 Policy LD4 – *Historic environment and heritage assets* requires Development proposals affecting heritage assets and the wider historic environment should:
- 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;
 - The conservation and enhancement of heritage assets and their settings through appropriate management, uses and sympathetic design. Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas;
 - Use the retention, repair and sustainable use of heritage assets to provide a focus for wider regeneration schemes;
 - 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 where appropriate, improve the understanding of and public access to the heritage asset.
- 6.35 The application site as a whole has been assessed regarding its impact on all heritage assets hereabouts, with particular regard to the nearest five listed buildings. These are:
- a) No.47, a Grade II listed building South West of the application site
 - b) Chandlers, a Grade II listed building South West of the application site
 - c) No. 42/43, a Grade II listed building West of the application site
 - d) The Farmhouse, a Grade II listed building North West of the application site
 - e) The Green, a Grade II listed building South East of the application site
- 6.36 It is noted listed buildings a) and b) are located immediately adjacent to the extant planning permission under reference 143420/F for the erection of three dwellings. This development immediately adjoins these listed buildings and is viewed as part of their setting and vista as viewed, in particular from the PROW adjoining the site and village hall, and on approaching the village from the North. Despite the direct proximity of that proposal, no explicit objection on the impact of that development on the setting of these adjoining listed cottages was received.
- 6.37 Regarding the proposal under consideration here, it is noted the siting of the proposed dwellings is both located and orientated to minimise impact on all dwellings on the West side of the A417, and with further regard to listed buildings a), b) and c), a significant open space landscaping area provides a buffer between those listed buildings and the development. This protects and provides a long term guarantee to the protection of these buildings setting and in particular, views from the PROW, open space proposed and development itself. As such the setting of these listed buildings is widely protected and their historic context still appreciable from the PROW and application site itself.
- 6.38 Listed building d) is located 111 metres North West of the nearest dwelling within the application site on the opposite side of the A417. This building is set back and orientated at 90 degrees to the road. Having regard to context, topography, intervening buildings, the distance from the nearest proposed dwelling and landscaping proposed, it is considered there is neither significant or demonstrable harm to its setting.
- 6.39 Listed building e), through its existing setting, topography, intervening buildings and layout and landscaping of the proposal, is similarly considered to suffer neither significant or demonstrable harm to its setting over that already existing.
- 6.40 The proposal, as part of its wider landscaping and integration strategy, will reveal and re-emphasise an old village pump that adjoins the highway.

6.41 As such it is considered there is not only no demonstrable, significant adverse impact upon the setting of heritage assets hereabouts to justify refusal, but there is also a positive consideration and strategy to ensure the setting of these assets is adequately protected and maintained in the longer term. Quite simply, if it is considered the impact of the proposal would justify refusal on the basis of the setting of adjoining heritage assets, it would be reasonable to conclude no development could take place *anywhere* within or adjoining any listed building and its curtilage. Accordingly Core strategy policies SS6, RA2, LD1, LD4 and SD1 and the heritage aims and objectives of the NPPF are considered to be satisfied.

Landscape

- 6.42 Paragraph 17 of the NPPF describes twelve core planning principles. This includes taking account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it, and contributing to conserving and enhancing the natural environment and reducing pollution.
- 6.43 Section 11 of the NPPF – *Conserving and enhancing the natural environment*, in its opening paragraph 109, sets out: *The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.*
- 6.44 Core Strategy policy SS6 describes proposals *should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.* Policy SS6 then states in its list of criteria that *Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.*
- 6.45 Core Strategy Policy LD1 – *Landscape and townscape* states Development proposals should:
- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas;
 - Conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, nationally and locally designated parks and gardens and conservation areas; through the protection of the area's character and by enabling appropriate uses, design and management;
 - Incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings; and
 - Maintain and extend tree cover where important to amenity, through the retention of important trees, appropriate replacement of trees lost through development and new planting to support green infrastructure.
- 6.46 There are no formal landscape designations applicable to the site or its location and the site does not form part of the visual setting of an Area of Outstanding Natural Beauty, however the Public Right of Way AP28 Dognall Lane runs past the Village Hall in close proximity to the site.
- 6.47 The landscape character type in which the site falls is *Principal Settled Farmlands* described as settled agricultural landscapes of dispersed scattered farms relic commons and small villages and hamlets. The Landscape Character Assessment (updated 2009) states additional housing in hamlets and villages should be modest in size in order to preserve the character of the original settlement.
- 6.48 The development site relates well to the existing settlement in terms of proximity and the proposed number of units now reduced to 10 is not considered to substantially adversely affect

the character of the village which has several small clusters of houses located to the west of the A417.

- 6.49 Significant concern has been raised regarding the impact that the proposals would have on the visual and landscape character of the village, its setting and views into and from Ashperton. The proposal has been designed and informed with regard to this concern with the dwellings being set back from the road, and located at a low point of the site with a landscape strategy which aims to soften the impact of the proposal on the village.
- 6.50 The development will be visible from views along the A417 travelling in both north and southerly directions, however, this is minimised through the design layout and further softened by landscape planting.
- 6.51 It is acknowledged the views through the village will be altered, particularly when approaching the village from the north, as the view range is wider and longer. The proposed development has been designed to maintain views to the village when approaching from the north, in particular the recognisable Village Hall building, and the open countryside where development has been kept to a minimum area upon the lowest topography. Consideration has been given to the high point of the field adjacent to the village hall where no development is proposed.
- 6.52 Viewing the site when travelling through the village from the south the views to the open countryside have been altered, however, filtered views of the open countryside will remain. Planting strategies which include trees and hedges aim to give a soft screening edge to the development in order to preserve the rural aesthetic and mitigate significant negative change to views.
- 6.53 The Strategy advanced by the proposal regarding the overall layout is fully responsive to assessment and consideration of the context and landscape character hereabouts. The proposal creates one distinct area of housing arranged to follow the contours of the site, with a cohesive landscaping strategy. Development is avoided on the highest parts of the site and conditions restricting the heights to ridge are proposed on certain plots to further minimise and mitigate impact, both in landscape terms and in respect of maintaining and enhancing the setting of the village and heritage assets (as outlined above). Significant areas of amenity space with pedestrian links, that ties into the grain of the existing village create connectivity both functionally and visually. The use of Green corridors of landscaping and swales accommodate informal play and social space for the site and enhancements to the biodiversity of the site.
- 6.54 The layout of the proposed development integrates the proposal into the village by locating the dwellings close to existing developed parts of the Ashperton, and by being immediately adjacent to one of the key local facilities, the village hall. Rather than replicate the broadly linear development pattern on the West, opposite of the A417, the proposal replicates and is informed by a 'cluster' layout, concentrating development into one area. Ten new units is considered to be a moderate addition to the built fabric of the Ashperton and therefore the proposal has been designed sensitively to sit as far as possible in the lower point of the site with predominantly building gables, rather than main elevations facing the A417 road and adjacent houses. The dwellings have been orientated in this way to allow filtered views through the development to the wider landscape and to present a low density proposal, with the intention that from the main road the proposal appears to be smaller than it is. The orientation also allows the possibility that Passivhaus standard dwellings could be designed as part of any Reserved Matters application.
- 6.55 This layout strategy is further reinforced by a landscape design strategy which takes reference from the local landscape with swales, an orchard and informal play spaces, with native tree and plant species, all contributing towards providing landscape amenity. Landscaping is to comprise:
- Public open space in the form of a community orchard.

- Ecological enhancements and habitat creation
- Homezone access with pedestrian priority
- A focus on native planting and orchard planting
- Woodland screening planting and hedgerow planting

6.56 The proposals present a community orchard space, and woodland buffer and hedgerow planting to the boundary. These areas provide opportunity for community use, informal recreation and children's play and overall amenity opportunities to all residents and the local community. The planting proposals are focused on creating natural habitats through native species planting and enhancing the overall biodiversity of the site and also helping to alleviate surface water runoff.

6.57 The proposed planting will enhance ecological value and diversity. The planting character reflects the rural nature of the site, the dynamic SUDS functions of the landscape, and significantly contributes to the amenity value of the proposals. The variety of planting types includes:

- Proposed fruit tree planting
- Grass and wildflower verges
- Native mixed hedgerows and woodland screening planting to the boundaries
- Native marginal planting to the swales.
- Amenity lawn planting is proposed within private gardens and public open spaces

6.58 There are no existing trees within the site boundary. Existing hedgerow borders the south, west and north of the site. The majority of the existing hedgerow is to be retained and protected during construction. Some hedgerow will be removed to enable pedestrian and vehicular access into the site. The proposed quantity of mixed native hedgerow is 210 linear metres equating to 245 sqm area, which outweighs the loss of 165 sqm area of existing hedgerow. The proposed hedgerow also provides enhancement to the diversity of species in the existing species poor hedgerow.

6.59 Whilst the development, like any, will have a 'landscape impact' through its very presence over the current situation (undeveloped agricultural land), it is noted the location is not a protected landscape and the site adjoins and relates to the existing built form of Ashperton, a village identified for growth. The density and layout responds to the landscape context and further mitigates its impact through landscaping design. As such it is considered the landscape harm is acceptable when balanced against this position, conditions that can be imposed and requirement to deliver housing, both in the village and Herefordshire generally. As such Core Strategy policies SS6, RA2, LD1 and SD1 and the relevant aims and objectives of the NPPF are satisfied regarding landscape character and design.

Amenity

6.60 A core planning principle of the NPPF is that planning should seek to ensure high quality design and a good standard of amenity for existing and future occupants of land and buildings. This is reinforced in Core Strategy policy SD1 which requires development to safeguard residential amenity for existing and future residents.

6.61 The most sensitive views are considered to be those from the closest neighbouring properties. The proposed dwellings will be particularly visible from the upper floors. In order to reduce this impact the proposed dwellings have been well set back from the road, accommodated in the lowest possible points of the site and broken up in massing. Orchard 'buffer' planting adjacent to the road is intended to mitigate some direct views to the closest dwellings, and reinforces a rural aesthetic. The highest point adjacent to the village hall has been left clear from development.

- 6.62 The eleven existing dwellings to the application site and proposed dwellings range in distance as follows (distance from nearest part of existing dwellinghouse to nearest part of nearest proposed dwelling):
- 42 Ashperton Road – 80 metres
 - 43 Ashperton Road – 102 metres
 - 47 Ashperton Road – 71.6 metres
 - 52 Ashperton Road – 60 metres
 - Chandlers – 51.9 metres
 - Goshen Cottage – 75 metres
 - Green House (obscured from site by Village Hall) 62 metres
 - Orchard Leaze – 131 metres
 - The Ditch/ 44 Ashperton Road – 45.8 metres
 - The Farm – 111 metres
 - Westward – 138 metres
- 6.63 Green House and 52 Ashperton Road are located East of the village Hall. Given the context, orientation of properties, existing and proposed landscaping and intervening distances it is considered there is no adverse impact on their amenity.
- 6.64 Chandlers and 47 Ashperton Road (both Grade II listed) front the A417 and face the open space area formed around the highest part of the site adjoining the village hall. The nearest proposed dwellings are at an oblique angle to these dwellings and set on land sloping away from them. Given the context, distances and intervening distances, their amenity is adequately protected and will be further safeguarded at the detailed design stage.
- 6.65 42 and 43 Ashperton Road (Grade II listed), Goshen Cottage and The Ditch are sited at a significantly lower level than the application site. Having regard to the application site, The Ditch has always been recognised as the dwelling which risks the most impact upon it. To that end, the access is positioned so it is not directly opposite the dwelling and, landscape planting is proposed inbetween it and the nearest proposed dwellings, which also in turn are orientated so as not to directly face The Ditch and furthermore a condition is recommended restricting the height to ridge of these nearest proposed units. Having regard to this and intervening distance, it is considered the amenity of The Ditch is adequately protected and will be further safeguarded at the detailed design stage. Given the orientation and existing context regarding 42 and 43 Ashperton Road, it is considered there is no adverse impact upon these dwellings from the proposal.
- 6.66 Orchard Leaze, The Farm and Westward are all at a distance of over 100 metres from the nearest proposed dwelling, which will have a height to ridge restriction enforced by condition. Furthermore having regard to their orientation and that of the proposed dwellings, landscaping and topography, it is considered there is no adverse impact upon their amenity from the proposal.
- 6.67 Regarding concerns over noise and lighting, it is considered the existing noise from the A417 provides significant background noise levels. Given there are already over ten dwellings hereabouts, a further ten dwellings is not considered to create such additional disturbance above that existing to justify refusal. Similarly the light from the proposed development and associated vehicular movements would not be so detrimental or out of context, given this is a village with post War estate and primary school, located on an A road and opposite linear ribbon development and adjacent to a well used village hall (one located in an elevated position with hardstanding providing vehicular parking adjoining the road and dwellings opposite) to justify refusal or demonstrate an unacceptable impact on the character and appearance of the area.
- 6.68 As such having regard to the proposed layout and proposed conditions regarding landscaping and specific height to ridge, the context of existing dwellings in the vicinity and adjoining the site

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and ability at the Reserved Matters stage to further safeguard amenity, it is considered there is no adverse impact on existing adjoining residential amenity. Furthermore it is considered the proposal will ensure future occupiers of the dwellings will also have suitable and significant levels of amenity.

Surface Water, Drainage and Flooding

- 6.69 Flood risk and drainage aspects have been assessed, with information obtained from the following sources:
- Environment Agency (EA) indicative flood maps available through the EA website;
 - EA groundwater maps available through the EA website;
 - Ordnance Survey mapping;
 - Strategic Flood Risk Assessment for Herefordshire;
 - Core Strategy 2011 - 2031.
- 6.70 Furthermore Officers have discussed the proposal in regards surface water, drainage and flooding with the Council's and applicants' drainage consultants in detail.
- 6.71 The application site is a greenfield site. The site area is stated to measure 0.8 hectares (ha). The site is located within the catchment of the River Frome, located approximately 1.4km north of the site.
- 6.72 Fluvial Flood Risk – the site is located in the low risk Flood Zone 1, where the annual probability of flooding from fluvial sources is less than 0.1% (1 in 1000). A FRA has been submitted by the Applicant and confirms the low risk to the site from fluvial flood risk. Officers concur with this assessment.
- 6.73 Other Considerations and Sources of Flood Risk – The submitted FRA considers the risk of flooding to the development from off-site overland flows, groundwater, reservoirs and sewers to be minimal. Again, Officers concur with this assessment.
- 6.74 A revised outline surface water drainage strategy, showing how surface water from the development will be disposed of was provided following comments and discussion with the Council's Drainage consultants. The drainage strategy demonstrates how discharges from the site are restricted to no greater than pre-developed rates (with climate change allowance) between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change.
- 6.75 A sustainable drainage solution is considered to be demonstrated and deliverable at this site, complying with relevant planning and legislative criteria. The most important function of this drainage strategy is to demonstrate that the development will not increase flood risk elsewhere.
- 6.76 The amended FRA and supporting Technical Note demonstrates infiltration is not viable. As such attenuation and controlled discharge to a watercourse is the preferred option of surface water management in the hierarchy set out in the NPPF consisting of controlled discharge to an existing watercourse. As such the surface water drainage strategy for the site utilises an attenuation basin and control chamber, such as a Hydrobrake, along with other surface water conveyance features (swales) to ensure that water quality parameters are met. surface water runoff will be discharged to a local watercourse (the disused canal) to the north east of the development. Discharging all surface water runoff from impermeable areas to the north east does change the hydrology of the site slightly, however this involves a slight decrease of runoff onto the adjacent highway.
- 6.77 Controlled discharge to 2 l/s will ensure flood risk downstream of the site is not increased. In order to achieve this runoff rate attenuation is required. Calculations carried out on

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MicroDrainage demonstrate that a volume of 121m³ is required for the proposed development. Attenuation can be provided in a number of forms including ponds, basins, tanks, swales, permeable paving etc. however due to the varying levels at the site, and for water quality purposes, above ground storage in a basin is proposed.

- 6.78 Due to the levels on and around the site, the basin will be positioned to the north east of the proposed dwellings, between the development and the disused canal. This will also allow surface water conveyance downstream of the basin in a swale ensuring that with the basin and swale there are two treatment stages in the SuDS train. The number of stages of treatment that are considered to be acceptable depend on what treatment structure was being proposed at each stage. However, if the treatment train includes permeable paving, two stages are typically considered acceptable for a residential development. For a development of the size proposed here, the use of SUDS to provide natural treatment of runoff is welcomed and supported.
- 6.79 Roadside swales have also been included within the development, primarily as an aesthetic feature, however, they will add small amounts of attenuation and will act as an additional treatment stage to aid water quality. Furthermore the significant landscape planting will further add attenuation and aid water quality. During the detailed design stage, it is possible that other attenuation features are utilised in the surface water drainage of the site, however it is considered that a minimum two treatment stages should be present for all runoff from any trafficked areas as proposed (and agreed by the Council's Drainage consultant).
- 6.80 Regarding climate change allowance, the Flood Risk Assessment discusses a 30% allowance for climate change. As this document predates the new EA guidance the Council's Drainage consultants consider a 30% allowance to be acceptable. During events more extreme than the design storm (Q100 plus climate change) surface water flows will follow the topography of the site. This will result in runoff to the north east which would likely be captured within the basin's spare capacity, or overflow to the local watercourse network. There would also be some runoff to the highway to the west of the site, replicating the existing conditions, though it is worth noting that this would occur far less frequently than under the current conditions and also does not factor in the landscape planting proposed and other potential attenuation measures possible.

Ecology

- 6.81 A Phase 2 protected species survey and assessment has been undertaken to support the application and following original comments from the Council's Conservation Manager (Ecology). A great crested newt presence was identified in several of the off-site ponds including breeding. Some bat activity associated with foraging and commuting was identified at the site and these results are herewith presented. No signs of a hazel dormouse presence were identified via the survey methodology at the survey site. No signs of other protected species groups were identified and no further dedicated surveys for other protected species were undertaken, nor are deemed necessary.
- 6.82 The site with current proposals for change and the identified flanking and nearby habitat components, was considered relatively easy to access leaving negligible potential for oversight of ecological matters within the assessment. No other protected species or habitats issues were identified other than the possibility of nesting birds in due season.
- 6.83 Great crested newts are present within a metapopulation, and dispersal and terrestrial use of the open grassland cannot be ruled out albeit to a limited extent. It is the Council's position that appropriate mitigation and habitat enhancement is possible within the development proposals to minimise any negative effects on this population and its favourable conservation status. A mitigation package will need to be devised and a European Protected Species Mitigation licence acquired prior to any potentially disturbing works. This is likely to involve fencing off from the

development site during works and habitat creation for dispersal and terrestrial habitat connectivity. Appropriate conditions are recommended to secure this, as is standard practice.

- 6.84 The use of the site by bats is limited and it is considered that diversification of the habitat via the proposals contained within the development will positively enhance the potential for use of the location by the commoner bat species. A lighting strategy will need to be adopted.
- 6.85 The site has low ecological value in itself, comprising agricultural pasture/ grazing land. The Council's Conservation Manager (Ecology) has found the relevant ecological assessments satisfactory and notes the significant opportunities of ecological and biodiversity enhancement. The significant planting strategy is also welcomed as part of this.
- 6.86 The proposal is therefore considered to conserve and enhance the biodiversity of the area and create new biodiversity features and wildlife habitat over and beyond the existing situation. As such Core Strategy Policy LD2 – *Biodiversity and geodiversity* is satisfied, along with the relevant aims and objectives of the NPPF.

Highways

- 6.87 The applicant proposes visibility splays of 2.4m x 120m, this is acceptable in this location, the hedge will need to be set back to allow growth,. There will need to be a footpath linking to a suitably located crossing with similar spay to accommodate safe crossing.
- 6.88 The development would benefit from a footway cycle link to the village hall to the south and the internal layout needs to be to adoptable standards including turning head, parking, cycleparking, easement strips, etc, the proposed needs to be amended to be included but this can be conditioned.
- 6.89 The Transportation Manager is satisfied the proposal satisfies Core Strategy policies SS4 and MT1 and also offers opportunities for connectivity between the development and village. Technical standards regarding the internal roadway, turning and parking areas are secured through condition.

Summary

- 6.90 The proposal represents sustainable, proportionate residential development in a settlement designate for such growth. In weighing the planning balance, the delivery of ten dwellings in such a location and having regard to the Council's housing land supply position and no detrimental impact regarding highway safety, heritage assets, drainage and ecology (indeed there are material benefits) outweighs any landscape impact or harm, which officers note is mitigated through sensitive locating and orientation of the proposed units, and a comprehensive landscaping strategy which can be enforced and protected through conditions.
- 6.91 Officers also note the lack of either housing delivery hereabouts historically and the absence of any other sites previously or currently coming forward to deliver housing growth in the locality. Furthermore it is also highlighted the Neighbourhood Plan is a significant distance away from having any weight.
- 6.92 As such, when assessed against local and national planning policies, approval is recommended.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. C02 – Time limit for submission of reserved matters (outline permission)**

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2. **C03 – Time limit for commencement (outline permission)**
3. **C04 – Approval of reserved matters**
4. **C06 – Development in accordance with the approved plans**
5. **Drainage and surface water mitigation details and implementation**
6. **C62 – Restriction on height of building**
7. **C63 – Restriction on number of dwellings**
8. **C87 – Earthworks**
9. **C90 – Protection of trees/hedgerows that are to be retained**
10. **C95 – Details of Boundary treatments**
11. **C96 – Landscaping scheme**
12. **C97 – Landscaping scheme – implementation**
13. **CA1 – Landscape management plan**
14. **CA4 – Provision of open space areas (outline permissions)**
15. **Nature Conservation – site protection**
16. **Habitat Enhancement Scheme – Approval and implementation**
17. **CAB – Visibility splays**
18. **CAE – Vehicular access construction**
19. **CAL – Access, turning area and parking**
20. **CAR – On site roads – phasing**
21. **CB2 – Covered and secure cycle parking provision**
22. **CAH – Driveway gradient**
23. **CAG – Access closure**
24. **CAJ – Parking – estate development**
25. **CAP – Junction improvement/off site works**
26. **CAS – Road completion in 2 years**
27. **CAT – Wheel washing**
28. **CAZ – Parking for site operatives**

INFORMATIVES:

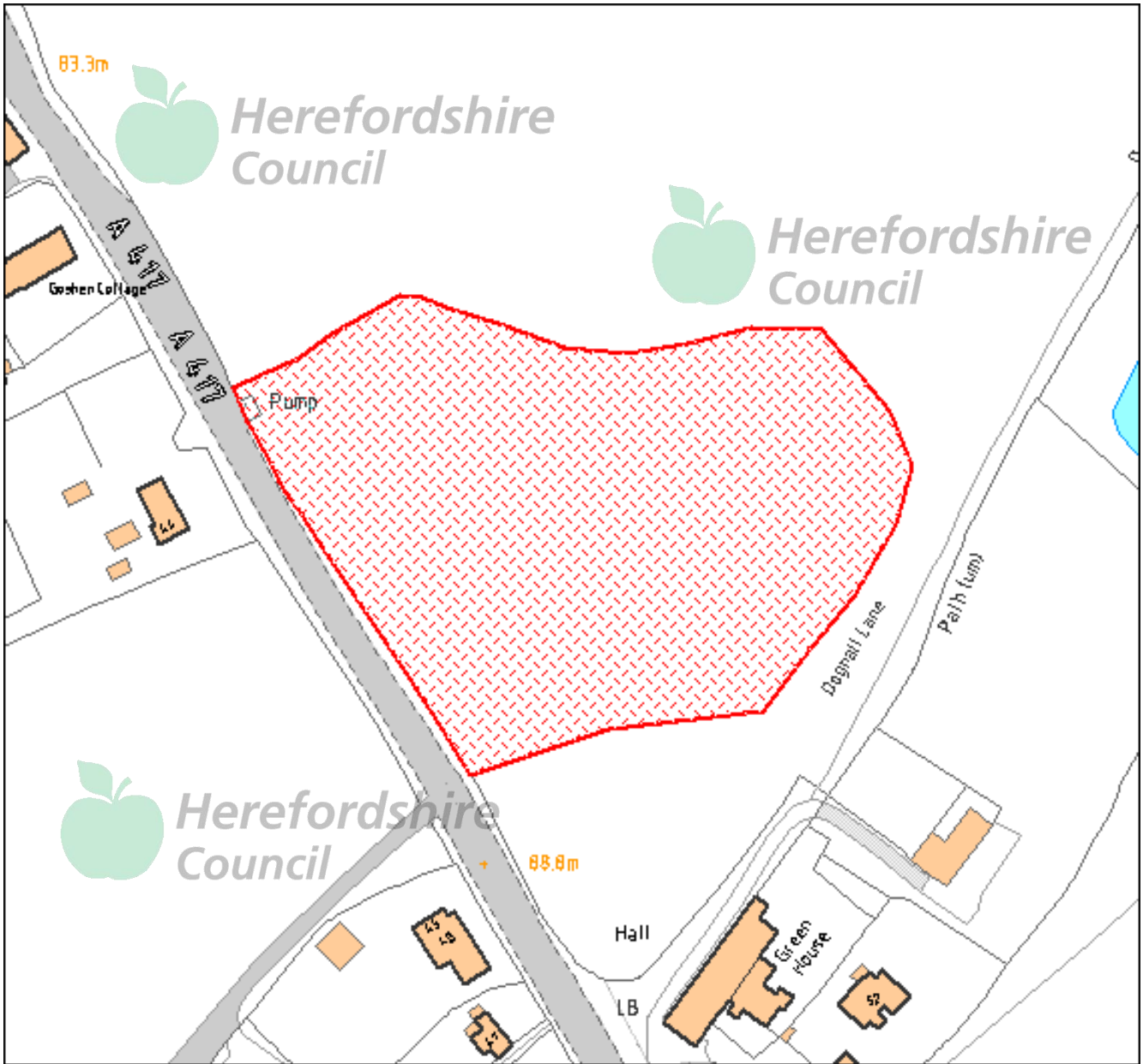
1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments 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. N11A – Wildlife and Countryside Act 1981 (as amended) – Birds
3. N11C – Wildlife – General
4. I42 – European Protected Species Licence
5. I06 – Public rights of way
6. The applicant is encouraged to consider utilising the new off-site attenuation pond as part of the Great Crested Newt mitigation/enhancement plan and EPS Licence
7. External lighting and ecology
8. I11 – Mud on highway
9. I45 – Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)
10. I08 – Section 278 Agreement
11. I07 – Section 38 Agreement & Drainage details
12. I35 – Highways Design Guide and Specification

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 152041

SITE ADDRESS : LAND TO THE NORTH OF ASHPERTON VILLAGE HALL, ASHPERTON, HEREFORDSHIRE

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Annex

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Dear Carl

Ref: Planning application 152041 as amended.
Land North of Ashperton Village Hall - Proposed residential development of 10 dwellings

Although Ashperton Parish Council is of the opinion that the revised application for 10 dwellings would result in some reduction to the harm to the character and appearance of the landscape and visual setting of the village, and other harm, it remains of the opinion that the detriment would remain severe and would outweigh any benefit in terms of additional housing. Furthermore, whilst the removal of the northern "cluster" of dwellings would mean that there would be reduced detriment to the living conditions of those residents opposite that part of the site, there would remain significant harm to the living conditions of occupiers of properties to the west of the A417 with regard to outlook.

The Parish Council therefore strongly OBJECTS to the proposed development and this objection replaces that dated 13th August. It is divided into three main sections, the objections, elaboration of objections 1 & 2 and a critique of the Amended Design and Access Statement (DAS), and in particular the Indicative Views.

SECTION 1 The objections

- 1) The application site forms a key element defining the rural character of Ashperton being continuously visible as an open green hillside in views along the approaching A417 from a point outside the 40MPH speed limit. The development would introduce visually intrusive development of a suburban appearance into the prominent elevated location compromising its essential contribution to the character, appearance and landscape setting of the small rural village of Ashperton.
- 2) A significant aspect of the character of Ashperton results from it having developed in a piecemeal manner to provide a variety of house sizes and styles but with common threads. Although the proposal has been reduced to one "cluster" of 10 dwellings, this would, nevertheless result in a significant influx of population in one tranche to a village with a central core of around 61 dwellings. The DAS describes the access and layout of the proposal as resulting in a "community" and, given that there would be no pedestrian interconnection with the village, the Parish Council is of the view that the proposal would result in an enclave of uncharacteristic dwellings standing apart from the remainder of the village.
- 3) Although the applicant now proposes fewer dwellings than in the original scheme, he maintains the original approach to drainage and has not addressed the concerns expressed by local residents and the results of the Council's own internal consultation as to the suitability of the surface water drainage strategy and the (existing) risk of flooding of adjacent low lying properties. The Parish Council therefore considers that an acceptable form of surface water drainage has not been demonstrated. The ground does not drain naturally as can frequently be seen "on the ground" and as demonstrated by the applicant's own percolation tests.

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- 4) The proposed dwellings would be set considerably higher than the properties to the opposite side of the A417, some of which are lower than the road level. Whilst it is acknowledged that there is no “right to a view”, and that the indicative plan shows the properties nearest the road removed from the scheme, the proposed dwellings would be set up high above the level of the road such that they would appear overbearing and potentially intimidating, to the significant detriment of the living conditions of the occupiers of those dwellings, with particular regard to outlook.
- 5) Three of the buildings to the opposite side of the road, No. 42/43, No. 45/46 (Chandlers) and No. 47 [Note: NOT Pound House as indicated in the Village Analysis] are Grade II listed as is No. 52 (Walnut Cottage) on the Village Green. The applicant has provided no description of the significance of these heritage assets as required by paragraph 128 of the National Planning Policy Framework and, given the fundamental errors in the descriptions of listed buildings in the Amended Village Analysis it appears unlikely that any basic analysis can have been undertaken. (In addition to the error described above, the diagram of “Site Analysis – Historical Buildings” describes all listed buildings in the village, with the exception of the former Box Bush Inn, as being “timber frame with sandstone plinth, thatched”, including the Church!).
- Whilst it may be that a proper assessment concludes that there is not substantial harm to the significance of these heritage assets and their setting, the effect on the setting, including that on views of No. 52 in views from the north, together with views from footpath AP33 where the roofscape would probably be visible in the background, is a matter which falls to be taken into account in determining the application as is the effect on listed buildings to the opposite side of the A417.
- Without any evidence of proper consideration or evidence to the contrary, the Planning Committee is invited to agree that there would be an adverse effect on listed buildings and their setting and attribute appropriate weight to that harm.
- 6) The public right of way along the southern boundary of the application site (Footpath AP28) follows the route of Saxon lane from the village of Ashperton, itself Saxon or earlier in origin, to a long abandoned group of dwellings, known as Dognall End, and beyond. Land to the immediate south of the application site, behind the Village Hall, shows signs of potentially having been terraced. In the view of the Parish Council there is potential for archaeological remains on the application site and therefore any grant of planning permission should be subject to appropriate conditions.

The Parish Council acknowledges that the provision of additional housing is at the core of Government Policy and that the Framework has a presumption in favour of sustainable development. However the Parish Council, having received the unanimous views of residents of the village at a special meeting of the Council on 30 March, consider that the proposal is environmentally unsustainable with the adverse effects significantly and demonstrably outweighing any benefit accruing from the provision of 10 additional dwellings.

Given the level of local opposition to the proposed development, and the potential impact on the landscape, the Parish Council requests that the application be determined by the Planning Committee and that a site visit takes place in advance. It is important that members are clear as to the actual impact and do not rely on sketch visualisations which may be misleading.

Section 2 Elaboration on objections 1 & 2

The applicant contends that the proposed development would be substantially screened by the roadside hedge and by the existing landform. This is blatantly not so as a site visit would clearly show. The “cluster” of 10 dwellings would be located either side of a “Homezone” access snaking up from the A417 in a shallow “S” shape from a point just outside the 30MPH speed limit towards the clearly visible Oak tree, with the uppermost property being located in the foreground of that tree in views from the north and from the access. The proposed dwellings would be in full view on rising land in many views above the hedgerow and through the gap in the hedgerow to provide highway visibility.

Furthermore, whilst the applicant states, in the Landscape Baseline Study, that the site is not visible from Footpath AP33 the Council consider that this claim has not been substantiated and that the roofscape would probably indeed be visible between hedgerow trees, extending back from the main road.

The applicant describes the site layout as being along a “Homezone” access. The concept of Homezones, as described by the Institute of Incorporated Highway Engineers in their Design Guidelines, is more applicable to larger suburban schemes where they provide access for vehicles, pedestrians and cyclists into and through residential development of generally larger scale. The proposal does not follow the Guidelines and the Parish Council suspect that this term may have been used loosely by the applicant to describe a shared surface access which, even so, would still appear suburban in nature and out of character in its elevated location on the edge of a rural village.

The application site is currently an elevated hillside open pasture which is a defining feature of the character, appearance and landscape setting of the village and its existing buildings. The development would be prominent and obtrusive and

would result in a degradation or total loss of this crucial landscape feature. Its replacement with built development of a suburban nature would hijack views from the north when entering Ashperton. The suggested landscape planting, which is not included in the outline application and which no longer includes the "Community Orchard" proposed in the original scheme, would do little to screen these views, even after several years, and would, in itself be incongruous in its setting. The development would NOT be in keeping with the linear nature of the existing village but would introduce in-depth development on rising ground in the form of a HIGHLY VISIBLE and OBTRUSIVE development of a suburban character into a small rural village and hence be ENVIRONMENTALLY UNSUSTAINABLE. The Parish Council contend that the development would cause severe permanent detriment to the character and appearance of Ashperton and its landscape setting, contrary to Herefordshire Core Strategy Policy SS6 and the aims of the National Planning Policy Framework regarding protection of the built and natural environment.

Section 3 the Design and Access Statement

The Parish Council considers that the Statement aims merely to justify the scheme by stating, without justification, that it has been designed with careful consideration of the local context and vernacular. Given the many errors and shortcomings in the statement it is difficult to accept this claim. The text that follows does not attempt to identify all the errors and omissions in the Statement.

The Statement explains that the "vision" is new housing in Ashperton that is distinctively site specific, rural and "Herefordshire" in the design of housing, layout, orientation and landscape. The application is in outline with only access and layout for determination.

Whilst the application has been amended, unfortunately the Statement has been hastily edited and does not always reflect the amendments to the application, such as repeated references to the "northern cluster", the screening provided by the community orchard planting, the provision of the new village green area and the additional parking for the Village Hall, none of which form part of the current application.

Strangely, the Statement also refers to the proposal continuing the linear pattern of development in the village and repeatedly claims that it is located on lower ground, whereas the reality is that the proposal is for development in depth on rising ground to a ground level almost 5m above the road level at the access, at an approximately 45° angle to the main road, to a point around 100m from the A417. The depth of the development can be seen in the views that follow. Similarly reference is made to analysis of the village context including listed buildings and village character. Given that no details of such analysis have been provided other than in a Village Analysis Study that refers to all the listed buildings, with the exception of the former Box Bush, as being timber framed and thatched (including the Church) and one of the listed buildings being incorrectly identified, very little faith can be given to this "study" or the claim that listed buildings have been taken into account in the development of the scheme.

The Statement suggests that the density of housing proposed is 12.5 d.p.h. as opposed to 30 d.p.h. in the Herefordshire UDP. The Core Strategy refers to an average NET density across the County with local variation. The figure of 12.5 is a gross figure which does not take into the landscaping area (which it is inferred would be public open space) or the access (See Proposed Adoption Plan). A realistic net figure would be more near to 25 d.p.h. The diagram in the Statement clearly shows that the density proposed is higher than that prevailing in the village. Note that the diagram also shows existing outbuildings, barns etc. which gives a distorted impression of residential density.

The Statement claims that the proposal has been designed with sensitively (sic) with gables rather than main elevations facing the road. Such an arrangement would be generally uncharacteristic of Ashperton but, in any event, the layout clearly shows the dwellings aligned alongside either side of the access which runs at approximately 45° to the A417.

In the pages that follow each of the indicative views included in the Statement is compared with a Google Streetview image from, as near as possible, the same viewpoint. It can be clearly seen that the claims as to the scheme continuing the linear development of the village, avoiding higher ground and maintaining views are without foundation.

Yours Sincerely

J L Chester

Janet Chester

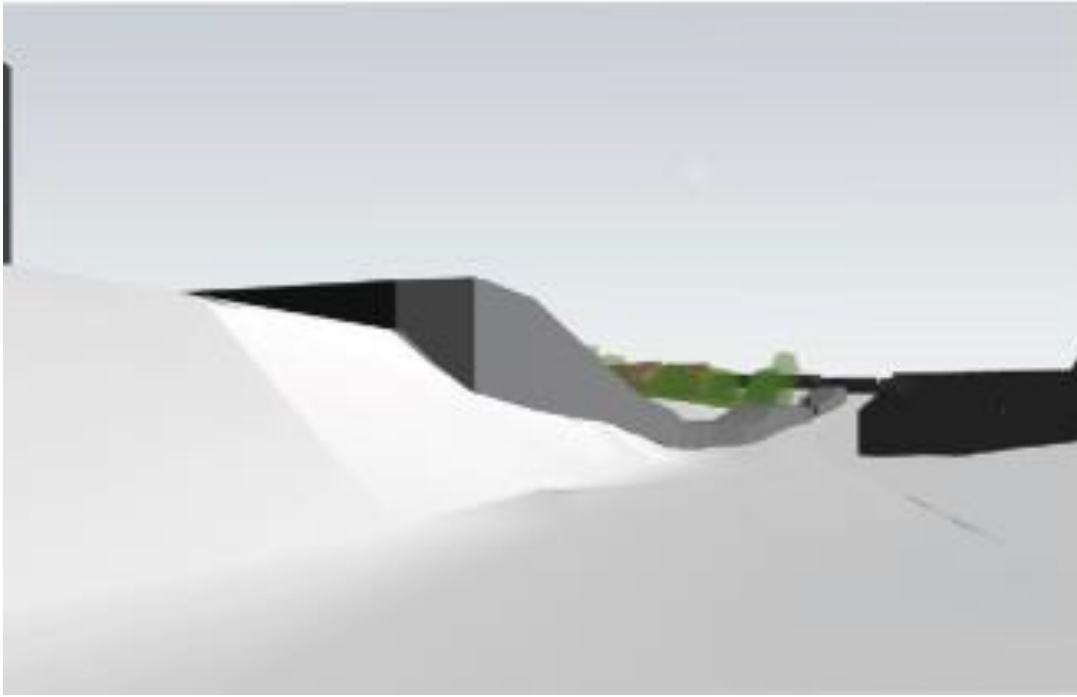
Clerk to Ashperton Parish Council



Indicative view from north 1. This view cannot be reproduced. As soon as buildings to the right side of the road come into view the “Old Police House” on the left cannot be seen. As with all the indicative views the existing buildings are shown in solid black/grey which exaggerates their bulk and mass whilst the proposed dwellings are shown in pastel orange which lessens their apparent impact. Compare with Google Streetview image from the same point on the road.



Note the dwellings on the right hand side of the road are screened from view and do not have the same appearance as indicated in the indicative view. The proposed dwellings would extend back from the road from a point in front of the Village Hall (indicated by blue arrow) across the view of No 52 (grade II listed) (indicated by orange arrow). Approximate extent of development indicated by the black line. Most of the iconic green sward would be lost.



Indicative view from north 2. Again massing and colouring of existing dwellings is deceptive. Effect of hedge exaggerated.



Same viewpoint as indicative view 2. Note existing buildings on right not visible let alone dominant in the view. Proposed dwellings would be highly visible extending back in depth from the main road.



Indicative view from north 3. The accompanying text suggests that “The orchard planting screens the southern (*sic*) cluster”. The orchard planting no longer forms part of the application. Colouring again deceptive.



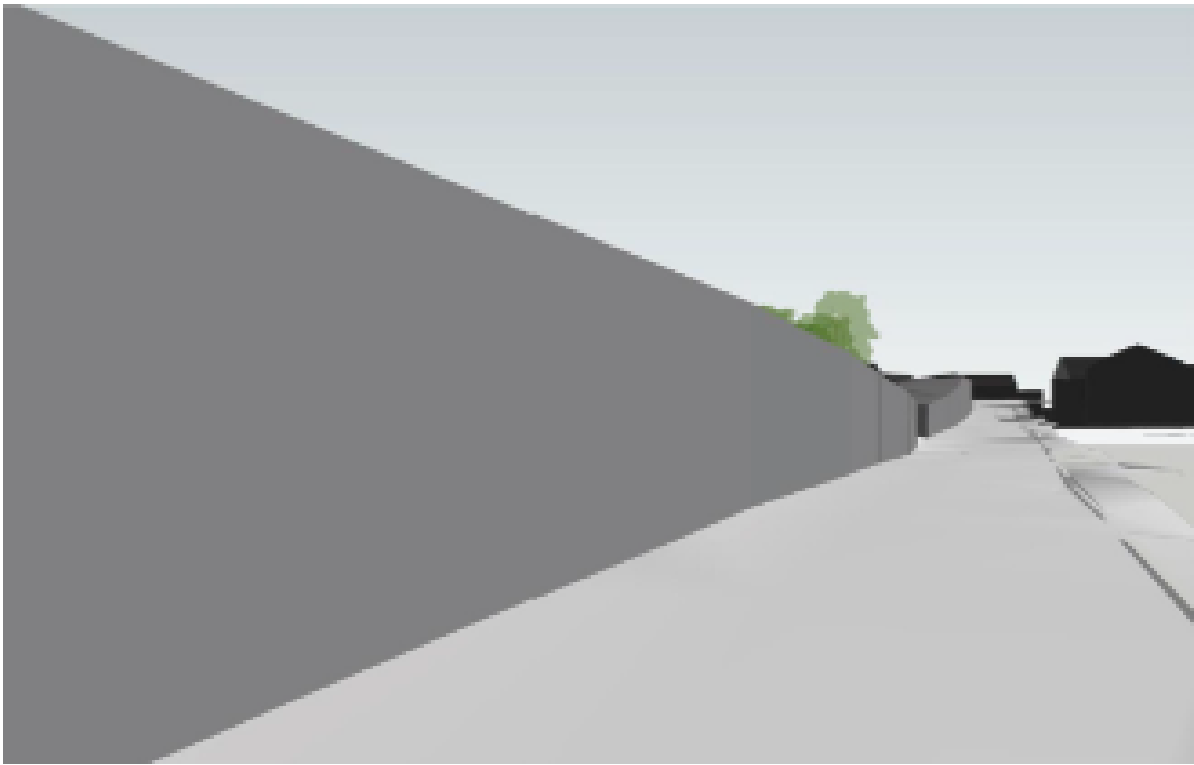
Looking south from the same viewpoint. The most easterly dwelling would be in front of the oak indicated by the green arrow not the one indicated by the red arrow which is in the field beyond. Note lack of screening by hedge and the depth of the proposed development. The proposed development would appear to cover most of the width of the sward.



Indicative view from north 4. Compare with Streetview.



Whilst the floor level of some of the houses would be obscured by the highest ground, the highest point is only around 2m above the floor level of the most easterly of the dwellings and around the same level as the highest of the dwellings.



Indicative view from the north 5. Screening by hedge grossly exaggerated. Reference in text to the orchard being visible behind the hedge.



Development would be clearly visible behind/above hedge. Hedge would be cut back to provide visibility for the entrance in the approximate location of the car.



Indicative view from the north 6. Screening from hedge exaggerated. Text refers to the additional village green area which no longer forms part of the application.



Similar viewpoint. Note level of hedge and lack of prominence of existing buildings.



Indicative view from north 7. Cut back of hedge for visibility not shown and screening effect of proposed trees (in full leaf) appears exaggerated. Compare with view below which looks slightly more to the left.



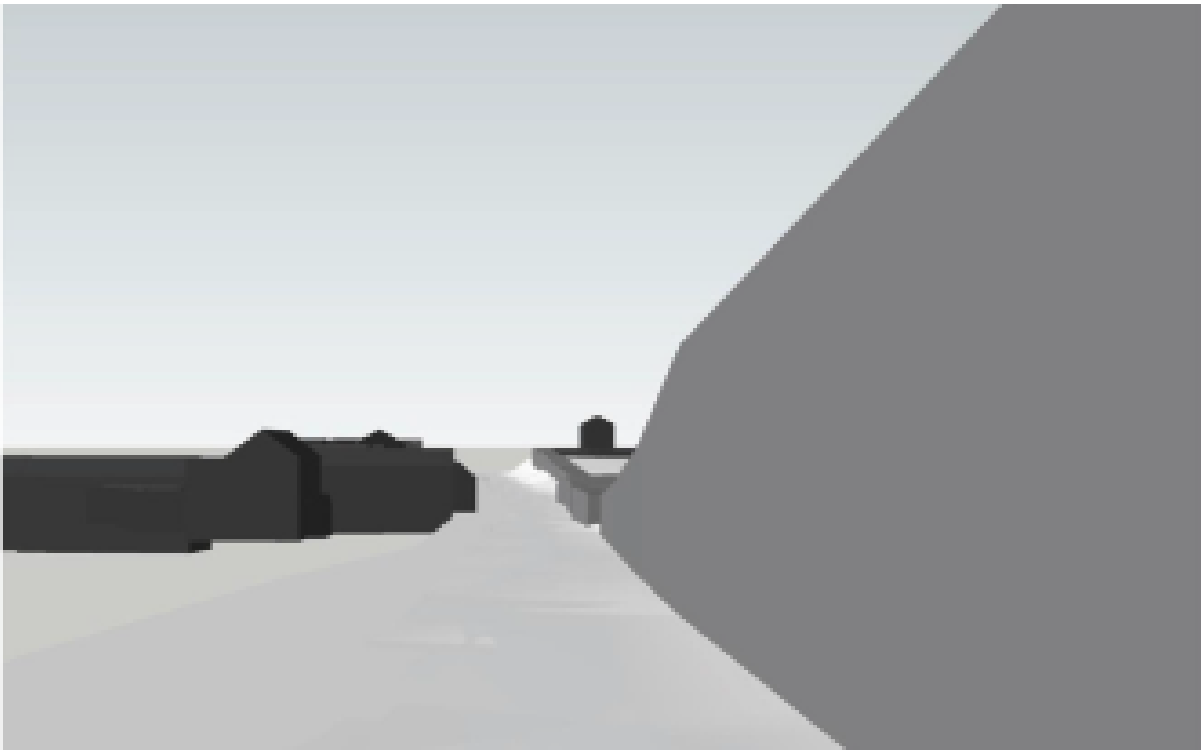
The access “Homezone” driveway would climb to a point approximately as indicated by the red arrow, almost 5m above the road at this point, with dwellings on either side. The most easterly dwelling would be located in front of the oak tree indicated by the green arrow.



Indicative view from the south 1



Similar viewpoint but northbound lane.



Indicative view from the south 2. Text refers to the northern cluster. Screening of hedge again exaggerated as is the massing of properties to the opposite side of the road.





Indicative view from the south 3. Visibility splay not shown. Text refers to elevations of buildings being visible but these are not shown.





MEETING:	PLANNING COMMITTEE
DATE:	13 JULY 2016
TITLE OF REPORT:	<p>160014 - PROPOSED ERECTION OF 12 DWELLINGS, NEW VEHICULAR ACCESS AND ASSOCIATED WORKS INCLUDING NEW PLAY AREA/OPEN SPACE AT LAND ADJACENT TO STOKE LACY VILLAGE HALL, STOKE LACY, HEREFORDSHIRE, HR7 4HG</p> <p>For: Mr Symonds per Mrs Julie Joseph, Trecorras Farm, Llangarron, Ross-on-Wye, Herefordshire, HR9 6PG</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160014&search=160014
Reason Application submitted to Committee – Re-direction	

Date Received: 6 January 2016

Ward: Three Crosses

Grid Ref: 362423,250220

Expiry Date: 20 April 2016

Local Member: Councillor JG Lester

1. Site Description and Proposal

- 1.1 The site lies to the west of the A465 Bromyard Road adjacent to Stoke Lacy village hall. It is centrally located and is currently used as a commercial orchard. The total site area is approximately 1.47 hectares.
- 1.2 The village is split into two parts. Stoke Lacy is the historic core which includes the church and a number of farmsteads, whilst Stoke Cross comprises more recent development, has a higher concentration of residential properties, and includes the parish hall, public house and employment uses. The village is also served by a local bus route that runs between Bromyard and Hereford. The stop for Hereford is located at the northernmost point of the application site, whilst the stop for Bromyard is a further 50 metres to the north.
- 1.3 The site slopes roughly from north to south and is irregularly shaped. It is bounded to the roadside by a mature hedgerow and similarly mature vegetation to the east and south east. Boundaries to the north and south are also comprised of hedgerows but these are not as mature and allow more open views across the site.
- 1.4 Access to the site is currently via a roadside entrance off the A465, immediately opposite The Plough Inn Public House. A public right of way runs to the south of the site; adjacent to the village hall, before spurring off in a south easterly direction, connecting the A465 and Three Choirs Way long distance walk further to the east.

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

- 1.5 A group of dwellings lie immediately north of the site which include four properties known locally as the 'Swedish Houses'. These are dormer style bungalows and are within the closest proximity to the northern boundary. On the opposite side of the A465 and to the north-west is the small residential estate known as Westbury.
- 1.6 The application was originally submitted as an outline proposal for the erection of 25 dwellings with all matters apart from access and landscaping reserved for future consideration. However, the scheme has been amended in light of the grant of planning permission on land adjacent to Newlands (151937/O) for 27 dwellings and the numbers have been reduced to 12. The application is supported by the following documents:
- Planning, Design & Access Statement
 - Landscape & Visual Baseline Statement
 - Transport Assessment
 - Flood Risk Assessment and Drainage Statement
 - Ecology Survey
- 1.7 As part of on-going discussions in relation to the application a Draft heads of Terms Agreement has been prepared and agreed with the applicant's agent. A copy is appended to this report.

2. Policies

2.1 National Planning Policy Framework:

The following sections are of particular relevance:

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

2.2 Herefordshire Local Plan - Core Strategy:

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land For Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
RA1	-	Rural Housing Distribution
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.3 Neighbourhood Planning

Stoke Lacy Parish Council are not at the present time producing a Neighborhood Plan.

- 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 There is no planning history that relates specifically to this site. However, there is a resolution to approve the erection of 28 dwelling houses with details of access and all other matters reserved on land adjacent to Newlands (151937/O). Permission is subject the completion of a Section 106 Agreement.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water – No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site. No problems are envisaged with the provision of water supply for this development. No objection subject to the imposition of conditions.

Internal Council Consultations

- 4.2 Transportation Manager – No objection subject to the imposition of conditions

Conservation Manager

- 4.3 Ecology - I have reviewed the amended plans and the ecological report by Janet Lomas dated September 2015. I am satisfied that the report covers all the key aspects of the ecology of the site. I am happy to support the application subject to conditions and advisory notes.

- 4.4 Landscape – No objections in principle and makes the following comments:

I have read the landscape appraisal submitted in support of the current application and I note the reduction in the number of units from 25 to 12.

- 4.5 Given the position of the site in relation to the existing pattern of development I have no objection to the principle of development on the site. The visual effects are localised mid to long distance views of the site are limited and would be filtered by the proposed planting.

- 4.6 I do however note that the appraisal states the removal of some hedgerow along the A465 boundary, the transport statement suggests a 2.4m x 90m visibility splay, clarification as to the extent of hedgerow removal is therefore required in order to determine the extent of the landscape effects. Currently a robust hedgerow exists along this boundary which contributes to the rural character of the settlement and extensive removal could have a detrimental effect.

- 4.7 Furthermore whilst I am aware that the layout is a schematic layout given that this is an outline application, I do have some comments in relation to the proposals:

- The current layout does indicate a pinch point between the existing commercial units and the proposed roadway.
- The public space adjacent to the village hall as commented upon by the Parks and Countryside officer should be appropriately designed to function for the local community.

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

- I note that there are a number of trees on along the site boundary which have not been surveyed, a tree survey was requested at pre-app stage, a tree constraints plan would be useful in determining RPA's of both trees and hedgerow to inform layout.

4.8 Public Rights of Way Manager – No objection

4.9 Environmental Health & Trading Standards Manager – No objection

4.10 Waste & Recycling - Each property will be provided, as standard, with 1 x 180 litre black general rubbish bin and 1 x 240 litre green recycling bin. The location point at which residents are able to present their bins for collection should be at the boundary of the property closest to the public highway and not more than 25 meters from the point on the highway that an RCV can safely access. In this area we operate an 18 tonne RCV.

4.11 Housing Manager - There is a requirement for any application which proposes open market housing of more than 10 dwellings to provide affordable housing. This site sits within the Bromyard HMA and as such there is a requirement to provide 40% affordable housing. After reviewing the correspondence it appears to me that the applicant is not meeting this requirement, as the application states that it will provide 2 units by way of low cost mark.

4.12 In order for me to support the application 4 units will need to be provided. I am happy for these units to be low cost market and would be looking for 2 x 2 and 2 x 3 bed units.

4.13 Parks & Countryside Manager – The applicant has clearly indicated how the open space will be used having consulted the Village Hall Committee. This reflects my original comments and the need to consult with the Parish Council as to their requirements especially when considering any formal play for such a small site, given a village the size of Stoke Lacy doesn't require any formal provision. Discussions have taken place with the village hall committee and they have advised that they are supportive of the land being gifted to them, given that Stoke Lacy village hall has no useable outdoor space. They have suggested that rather than a formal play area the land should be set out informally which would allow multiple uses including the erection of a marquees if required which is supported.

4.14 Although not mentioned, suitable management and maintenance arrangements are required and as the land is to be gifted to the village hall committee, it is assumed this will be through them.

5. Representations

5.1 Stoke Lacy Parish Council – Comment as follows:

Stoke Lacy Parish Council OPPOSED this application, on the following grounds:

1. The objections made to the original proposal for 25 houses on this site, made by this Parish Council on 10th February 2016, still pertain. Notwithstanding the proposed 'gift' of land to the village hall and that the number of houses has been reduced to 12, the potential flooding, road safety and all other issues still remain, including the probability of contaminated land, as stated on the Environmental Health Issues letter on the planning website. Also this land was marked as 'unsuitable for development' in the land survey of Stoke Lacy/Stoke Cross. Source: Call for sites, page 5.
2. From the Minutes of the Planning Meeting for the Newlands development: "This proposal (for 28 houses) would provide in one development more than the minimum growth the Core Strategy envisaged for Stoke Lacy in the life of the Strategy", (January 2016; outline planning permission granted.)

3. Since 10th February 2016 a further 4 planning applications have been approved for Stoke Lacy/Stoke Cross, bringing the total number of planning approvals to 32, which represents some 20% of existing houses in the area. In the Parish Council's view and, presumably, in Herefordshire Planners' view (see 2 above) these more than allow for the minimum 15% housing growth envisaged in the Core Strategy for Stoke Lacy/Stoke Cross to 2031. A further 12 houses would be a gross overdevelopment of this very small settlement and would contravene Herefordshire Council's own Strategy.

- 5.2 Stoke Lacy Village Hall Charity – Has commented on the application. In summary the points raised are as follows:

Although the scheme has been significantly amended since its original submission, there are a number of issues with which the charity remains unhappy. These are:

- The proposed position of the pedestrian crossing.
- Access / security issues relating to the gifted area of open space.
- The implication that the village hall car park could be used as overflow parking for the new development

- 5.3 West Mercia Police - I note that this application makes reference to crime reduction and anti social measures within the Design Access Statement, under the Planning Policy, para 3.7.

There is, however, a clear opportunity within the development to achieve the Secured by Design award scheme. The development appears to have good access control and natural surveillance already built into the design. The principles and standards of the award give excellent guidance on crime prevention through the environmental design and also on the physical measures. The scheme has a proven track record in crime prevention and reduction which would enhance the community well being within this village.

- 5.4 CPRE – Object to the application. In summary the points raised are as follows:

- There is already sufficient provision of new housing development in the village for the Plan Period 2011-2031. The proposal is contrary to Policy RA1 of the Core Strategy.
- The proposed new access to the site directly from the A465 will jeopardise the safety of road users and pedestrians, contrary to Policy MT1 of the Core Strategy.
- The site is grade 3 agricultural land and a productive orchard. The proposal is contrary to Policies LD2 and LD3 of the Core Strategy and paragraphs 110 and 112 of the National Planning Policy Framework.
- The consequence of the proposal would be an unsustainable development for new and existing residents, contrary to Policy SD1 of the Core Strategy and paragraph 120 of the National Planning Policy Framework.

- 5.5 Twenty four letters of objection have been received from local residents. In summary the points raised are as follows:

Principle of Development

- Disproportionate growth for the existing size of the village, particularly in light of the recent permission for 28 dwellings at Newlands.
- The proposed dwellings will not be affordable to local people and will not meet local needs.
- There is no great need for new housing locally.
- The village lacks local services, amenities or employment opportunities to support a development of this size.
- The village is not sustainably located and future residents would have to rely on private modes of transport.

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

- The Council should promote a more dispersed, lower density housing model.
- There will be increased pressure on existing services such as local schools and doctors surgery.

Amenity

- The scheme will have a detrimental impact on the amenities of adjoining residents.
- Increases in pollution (air, light and noise).
- Noise and general disruption during construction.

Highway Matters

- Additional traffic and the position of the access road will cause highway safety problems.
- There have been a number of near misses and incidents of dangerous driving that have not been recorded.
- There is no safe footpath between Stoke Lacy and Stoke Cross

Visual Impacts

- The development is not in keeping with the rest of the village / does not reflect local distinctiveness.
- The proposal would be detrimental to the setting of the village and will be particularly visible from public footpaths to the east.

Other Matters

- The proposal will result in the loss of an orchard and cause detrimental effects on local wildlife and a loss of biodiversity.
- Local people were led to believe that the development would be instead of, not as well as, the approved scheme at Newlands.
- Increased possibility of flooding in lower lying parts of the village.

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

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

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

6. Officer's Appraisal

Policy Context

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

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

6.2 In this instance the Development Plan for the area is the Herefordshire Local Plan - Core Strategy (CS). A range of CS policies, referred to at section 2.1, are relevant to development of this nature. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms proposals that accord with the policies of the Core Strategy (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

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

- 6.3 As per the NPPF, the delivery of sustainable housing development to meet objectively assessed needs is a central Core Strategy theme. Policy SS2 'Delivering new homes' confirms that Hereford, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable *"where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community."*
- 6.4 Equally it is clear that failure to maintain a robust NPPF compliant supply of housing land will render the housing supply policies of the Core Strategy out-of-date. Policy SS3 'Ensuring sufficient housing land delivery' thus imposes requirements on the Council in the event that completions fall below the trajectory set out in Core Strategy Appendix 4.
- 6.5 The matter of housing land supply has been the subject of particular scrutiny in a number of recent appeal inquiries and it has been consistently concluded that that the Council is not able to demonstrate a 5 year supply of housing land. Therefore, policies relevant to the supply of housing are, in accordance with paragraph 49 of the NPPF, out-of-date. However, this does not render such policies an irrelevance and they may still be afforded some weight. For the avoidance of doubt, Inspectors have determined that CS policies SS2, SS3, RA1 and RA2 are all relevant to the supply of housing in the rural context.
- 6.6 Irrespective of the weight to be ascribed to the Core Strategy housing supply policies, it is useful to review the application in context. Stoke Cross / Stoke Lacy is identified as one of the rural settlements within the Bromyard Housing Market Area (HMA). These settlements are to be the main focus of proportionate housing development in the rural areas. The strategy set out at Core Strategy Policy RA1 is to ascribe an indicative housing growth target for the settlements listed within each rural HMA. Within the Bromyard rural HMA the indicative minimum housing growth is 15%. This amounts to 24 dwellings for Stoke Lacy.
- 6.7 The growth target should not be seen as a ceiling to development and proposals should be considered in terms of paragraph 14 of the NPPF which states that the presumption in favour of sustainable development requires the granting of planning permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 6.8 The preamble to RA2 – Housing in settlements outside Hereford and the market towns states: *"Within these [figure 4.14] settlements carefully considered development which is proportionate to the size of the community and its needs will be permitted."* The proactive approach to neighbourhood planning in Herefordshire is also noted and that when adopted, Neighbourhood Development Plans (NDPs) will be the principal mechanism by which new rural housing will be identified, allocated and managed. In this case however, Stoke Lacy has not sought to progress a Neighbourhood Plan.
- 6.9 In the absence of a NDP, the CS confirms that housing schemes should be assessed against their relationship to the main built up part of the settlement; the intention being to avoid unsustainable patterns of development that give rise to isolated residential development, that are inaccessible and give rise to attendant landscape harm.
- 6.10 The core principles upon which RA2 is founded can be summarised as an expectation that development proposals should reflect the size, role and function of the village concerned; make best use of brownfield land where possible; result in high-quality, sustainable development which enhances local character where possible and does not result in unsustainable patterns of development. It is my view, therefore, that although out-of-date, RA2 may continue to attract weight in the determination of this application. This is because it is positively worded and does not, in advance of an NDP, seek to impose a cap on development. It does, however, require development to be built within or adjacent the main built up part of the settlement concerned,

and that locational aspect of the policy cannot, in your officers' opinion, carry weight in the current context.

- 6.11 However, it is your officers opinion that the site is well related to Stoke Lacy. It is bounded by the village Hall to the south and dwellings to the north. Access can be achieved directly onto the A465 and the Wye Valley Brewery and Plough Inn public house are opposite. It cannot be concluded that the proposal would result in an isolated or unsustainable pattern of development and the detailed design of the scheme would be agreed at a reserved matters stage.
- 6.12 In this instance, officers consider that there is no overriding harm in the context of Policy RA2. The proposal is therefore representative of sustainable development when held against both the Core Strategy and paragraph 14 of the NPPF.

Highway Matters

- 6.13 Policy MT1 of the Core Strategy and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 30 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 32 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and 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.'*(NPPF para. 32).
- 6.14 The proposed means of access to the site is onto the A465 and within a 30 mph zone. At the point of the proposed access the road is straight in both directions; although continues to rise in a northerly direction, and is currently bounded by a mature hedge that forms part of the application site. There are other traffic generating uses within the immediate locality which include the village hall, brewery, public house and other business uses.

The application is accompanied by a Transport Statement. This includes details of a speed survey completed as part of the assessment of road conditions within the locality. It confirms the point made in many of the letters of objection that traffic speeds exceed the 30 mph limit. 85th percentiles are recorded as being 36 mph to the north of the Plough Inn and 38 mph adjacent to the village hall. Accordingly, the 2.4 x 90 metre visibility splays shown on the plan forming an appendix to the Transport Assessment are well in excess of those prescribed for a 30mph limit.

- 6.15 If planning permission were to be granted the development would be subject to the completion of a Section 278 Agreement. This would include works that are deemed to be necessary within the application site or on highway land to make the development acceptable in highway safety terms. In this case the Transport Assessment has identified the need to extend the footpath across the entire site frontage from the village hall to connect with the bus stop to the north, and to provide a crossing point. This would take the form of dropped kerbs rather than a more formal controlled crossing and is identified on the indicative layout plan. Its location has been questioned with some suggestion that it would require a breach of the guard rails that have been put in place adjacent to the pedestrian entrance to the village hall. Members can be assured that all works required through Section 278 Agreements are the subject of detailed assessment to ensure that all works proposed are safe, and the location of the crossing point will be given the same scrutiny.
- 6.16 The Heads of Terms appended to this report also sets out contributions to be made for other off site highway improvements and include a gateway feature for the settlement and the installation of a Speed Indication Display (SID) device. These are matters that, in your officers opinion, provide mitigation in highway safety terms to make the development acceptable.

- 6.17 It is concluded that in terms of highway safety, the above measures demonstrate that any potential impacts arising from the development can be mitigated. The proposal is therefore considered to accord with Policy MT1 of the Core Strategy and paragraph 32 of the NPPF.

Landscape and Ecological Impacts

- 6.18 The site is currently used as a commercial orchard. It is surrounded by mature hedgerows and is visually contained. In landscape terms its presence is not especially evident. Views from the footpath to the east are filtered by these hedgerows and these are unlikely to be unaffected by the development.
- 6.19 In terms of landscape impact, apart from the removal of the orchard the most significant visual change will be the removal of the roadside hedgerow. A balance has to be struck here between a desire to retain the rural nature of the village and a desire to change the perception of the area for road users.
- 6.20 No objections have been raised to the application by either the Council's Landscape Officer or Ecologist, subject to the imposition of conditions. The scheme includes measures to mitigate the impacts of the development which include the retention of existing hedgerows and areas of new planting. The Landscape Officer has recommended the submission of further information in respect of Root Protection Areas (RPAs) around existing trees and this is a matter that can be dealt with through the imposition of an appropriately worded condition. Similarly the Council's Ecologist has recommended the imposition of conditions to ensure that development is carried out in accordance with the recommendations in the ecology report submitted with the application.
- 6.21 Development of any sort will inevitably have impacts both in terms of landscape and ecology. In both cases however it is considered that the impacts of the development can be mitigated. The site has no national or local designation in either regard and on this basis, the proposal is sustainable and considered to accord with policies LD1, LD2 and LD3 of the Core Strategy.

Other Matters

- 6.22 The potential for increased flood risk has been raised by some of the letters of objection but no evidence has been submitted to substantiate this and it is not supported either by the information submitted as part of the application, or in the consultation response received from the Council's Land Drainage Engineer. There was an initial request for the submission of further information in respect of drainage arrangements, but this has now been provided and, subject to condition, is considered to be acceptable. There is no clear evidence to suggest that the proposal will cause flooding elsewhere and the scheme is compliant with Policy SD3 of the Core Strategy.
- 6.23 Draft Heads of Terms are appended to the report. These include the provision of four affordable dwellings in accordance with Policy H1 of the Core Strategy. The applicant has also allocated a specific area of open space adjacent to the village hall. The Heads of Terms also requires a contribution to be made towards education infrastructure at Burley Gate Primary School and, as discussed previously, highway improvements that include the creation of a gateway feature and SID device to try and reduce traffic speeds along the A465. These are all considered to be social benefits that weigh in favour of the development.

Summary and Conclusions

- 6.24 Both Policy SS1 of the Core Strategy and paragraph 14 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that development should be approved where they accord with the development plan. The site is well related to the built elements of Stoke Cross. Notwithstanding the concerns raised by local

residents, the village is considered to be sustainable and is one where proportionate growth will be promoted.

In assessing the three indivisible dimensions of sustainable development as set out in the Core Strategy and NPPF, officers are of the opinion that the scheme is representative of sustainable development and that the presumption in favour of approval is engaged. 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 and social roles. Likewise S106 contributions as outlined in the draft heads of terms agreement appended to this report should also be regarded as a material consideration when making any decision.

- 6.25 The development will have some impacts in environmental terms. The character of the orchard and the village would inevitably be changed if the development were to go ahead. There will also be some impacts in terms of biodiversity through the loss of existing vegetation and habitats. Whilst these impacts can be mitigated through new planting and landscaping schemes they are not necessarily environmental benefits. However, the area is not afforded any national or local designation and your officers do not consider these impacts to outweigh the presumption in favour of sustainable development.
- 6.26 To conclude, the proposed development is considered to represent a sustainable development for which there is a presumption in favour of and, as such, the application is recommended for approval subject to conditions and the completion of the Section 106 agreement in accordance with the heads of terms attached to this report.

RECOMMENDATION

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

- 1. C02 - A02 Time limit for submission of reserved matters (outline permission)**
- 2. C03 - A03 Time limit for commencement (outline permission)**
- 3. C04 - A04 Approval of reserved matters**
- 4. None of the dwellings shall be occupied until the roadworks necessary to provide vehicular access from the A465 have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.**

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

- 5. 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

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

Framework.

6. **No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:**
- a. **Wheel cleaning apparatus which shall be operated and maintained during construction of the development hereby approved.**
 - b. **Parking for site operatives and visitors which shall be retained and kept available during construction of the development.**
 - c. **A noise management plan including a scheme for the monitoring of construction noise.**
 - d. **Details of working hours and hours for deliveries**
 - e. **A scheme for the control of dust arising from building and site works**
 - f. **A scheme for the management of all waste arising from the site**
 - g. **A travel plan for employees.**

The agreed details of the CMP shall be implemented throughout the construction period.

Reason: In the interests of the residential amenity of properties within the locality and of highway safety in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7. **No building shall be occupied until the drainage system for the site has been completed in accordance with the approved details. Thereafter no further surface water and/or 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

8. **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.

9. **Prior to the first occupation of any of the dwellings hereby approved a Travel Plan which contains measures and targets to promote alternative sustainable means of transport for residents and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation**

shall be made available for inspection by the Local Planning Authority upon reasonable request.

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

10. **No development shall commence on site, including any site clearance, or materials or machinery brought to the site for the purposes of development until a scheme of habitat protection works (trees and hedgerows as identified in the ecology report recommendations) has been submitted to and approved in writing by the local planning authority and the agreed scheme implemented on site. The protection measures shall be maintained in good condition in situ on site until the completion of all works and the removal of materials and machinery at the end of development, at which time they must be removed from site and any disturbance made good.**

Reason: The proper consideration of potential impacts on protected species and biodiversity assets is a necessary initial requirement before any groundworks are undertaken so as to ensure that the nature conservation interest of the site is protected. So as to comply with Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

11. **In this condition ‘retained tree/hedgerow’ means an existing tree/hedgerow that is to be retained in accordance with the approved plans and particulars.**

No development, including demolition works shall be commenced on site or site huts, machinery or materials brought onto the site, before adequate measures have been taken to prevent damage to retained trees/hedgerows.. Measures to protect retained trees/hedgerows must include:

a) Root Protection Areas for each retained tree/hedgerow must be defined in accordance with BS3998:2010 – Tree Work - Recommendations, shown on the site layout drawing and approved by the Local Planning Authority.

b) Temporary protective fencing, of a type and form agreed in writing with the Local Planning Authority must be erected around each retained tree/hedgerow. The fencing must be at least 1.25 metres high and erected to encompass the whole of the Root Protection Areas for each retained tree/hedgerow.

c) No excavations, site works or trenching shall take place, no soil, waste or deleterious materials shall be deposited and no site huts, vehicles, machinery, fuel, construction materials or equipment shall be sited within the Root Protection Areas for any retained tree/hedgerow without the prior written consent of the Local Planning Authority.

d) No burning of any materials shall take place within 10 metres of the furthest extent of any retained hedgerow or the crown spread of any retained tree.

e) There shall be no alteration of soil levels within the Root Protection Areas of any retained tree/hedgerow.

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.

12. **No new development shall commence on site until, based on the recommendations in the ecology report, a detailed habitat & biodiversity enhancement scheme, including type and location of bat roosting and bird nesting mitigation/enhancements, a lighting plan, landscape & planting proposal and an associated 5 year maintenance and replacement plan has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

13. **No development shall commence until a detailed plan, showing the levels of the existing site, the proposed slab levels of the dwellings approved and a datum point outside of the site, has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

Reason: In the absence of sufficient detailed information, the clarification of slab levels is a necessary initial requirement before any groundworks are undertaken so as to define the permission and ensure that the development is of a scale and height appropriate to the locality and to comply with Policy SD1 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. 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. **This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.**
3. **I 09 Private apparatus within the highway**
4. **I 11 Mud on the highway**
5. **I 35 Highways Design Guide**
6. **I 41 Travel Plans**
7. **I 45 Works within the highway**
8. **It is possible that unforeseen contamination may be present on the site as a result of its former agricultural/orchard use. Consideration should be given to the possibility of encountering contamination on the site as a result of its former uses and specialist advice be sought should there be any concern about the land**

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

9. **The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com**

10. **The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.**

11. **The landscaping/enhancement scheme should take in to account Chalara Ash Dieback Disease that is now endemic to the UK and widespread across Herefordshire. With a 95-98% ash mortality consideration should be given as to the management of existing ash trees on site and ensure appropriate additional mitigation planting of future standard hedgerow trees of alternative species (eg Oak, Small-leaved Lime and Hornbeam) is included in the scheme submitted for approval. With a much better take up by wildlife the enhancement scheme should also see the inclusion of bat roosting opportunities within the houses (see Bat Conservation Trust website for details of appropriate 'bat bricks' raised ridge tiles and bat boxes) and the use of woodcrete bird nesting boxes including sparrow terraces. The lighting plan is needed so as to ensure bats and other nocturnal animals and the wider landscape are not impacted by any additional lighting and support the objectives of the 'dark skies initiative'.**

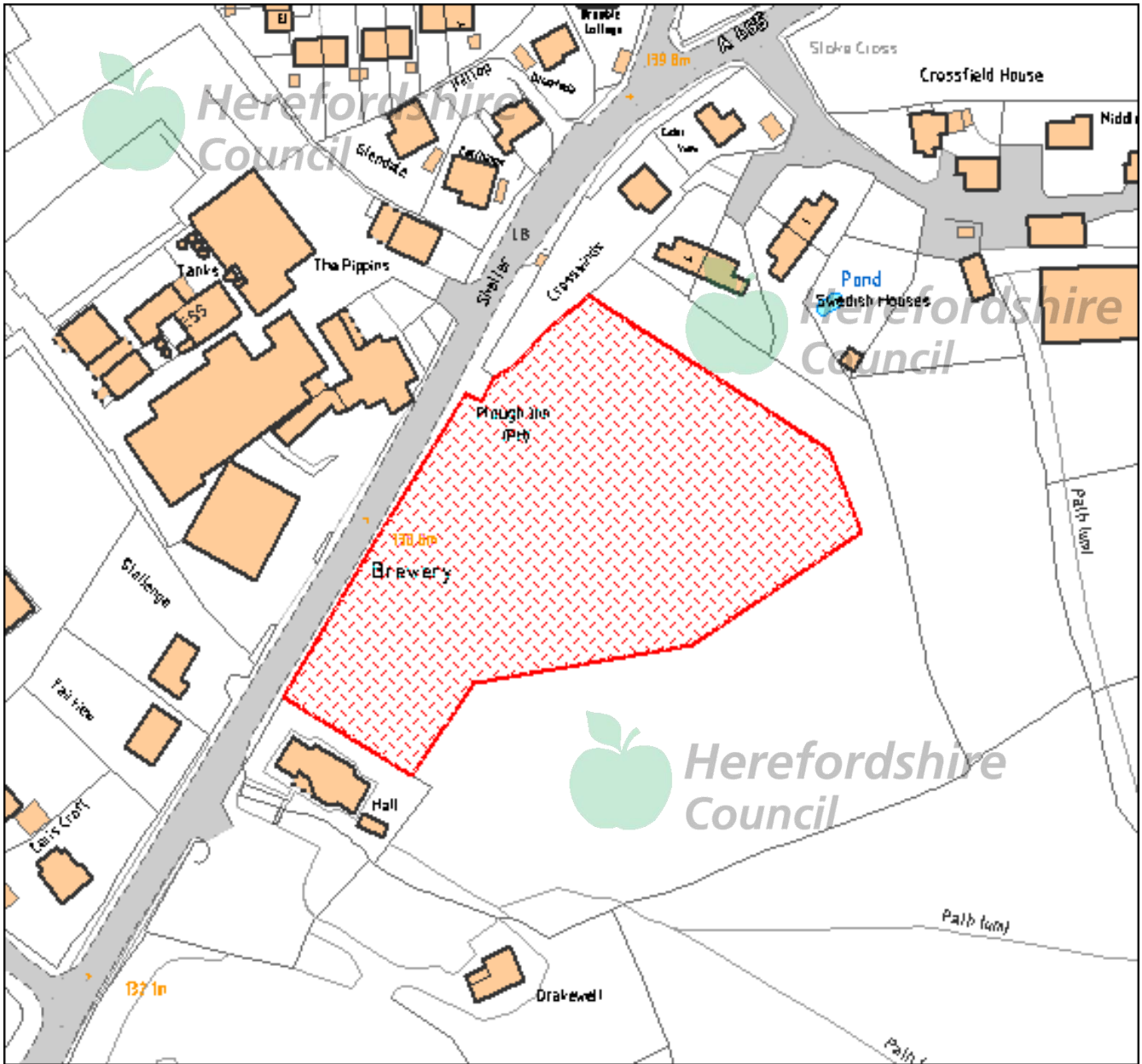
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 160014

SITE ADDRESS : LAND ADJACENT TO STOKE LACY VILLAGE HALL, STOKE LACY, HEREFORDSHIRE, HR7 4HG

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

DRAFT

HEADS OF TERMS

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

Planning Application – P160014

Site address:

Land adjacent to Stoke Lacy Village Hall, Stoke Lacy, Herefordshire, HR7 4HG

Planning application for:

Proposed erection of 12 dwellings, new vehicular access and associated works including new play area/open space.

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1st 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 sum of (per open market unit):

£1,201.00 (index linked) for a 2 bedroom apartment open market unit

£2,143.00 (index linked) for a 2/3 bedroom open market unit

£3,471.00 (index linked) for a 4+ bedroom open market unit

to provide enhanced educational infrastructure at Burley Gate Primary School. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

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

£1,967.00 (index linked) for a 2 bedroom open market unit

£2,592.00 (index linked) for a 3 bedroom open market unit

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

to provide 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:

- a) Provision of Gateway features at both ends of the village, to reduce speeds and make drivers more aware of the village environment they are driving through. This may include relocation/redesign of the 30mph features and the installation of a Speed Indicator Device.
- b) Improvements to and provision of passenger waiting facilities, shelters and dropped kerbs.
- c) Provision of improved pedestrian/cycle access to key infrastructure identified at

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

NOTE: A Section 278 agreement may also be required for the provision of the footpath to the bus stop and the crossing to the village hall depending on the advice of the local Highways Authority

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £80.00 (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
4. The developer covenants with Herefordshire Council to provide a minimum of 0.033ha of on-site green infrastructure comprising;
 - 0.011ha (110sqm) of Public Open Space
 - 0.022ha (220sqm) of Children's Play of which 0.006 (60sqm) should be formal play
5. 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

6. The developer covenants with Herefordshire Council that 40% (4) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H1 of the Herefordshire Core Strategy or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
7. The developer covenants with Herefordshire Council that the affordable housing should be low cost market comprising 2 x 2 bed dwellings and 2 x 3 bed dwellings.
8. 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.
9. The Low Cost Market Housing Units must be allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
 - 9.1. a local connection with the parish of Stoke Lacy;
 - 9.2. in the event of there being no person with a local connection to Stoke Lacy any of the following parishes, Much Cowarne, Moreton Jeffries, Ullingswick, Little Cowarne, Bromyard West, Avenbury, Bishops Frome;
 - 9.3. in the event of there being no person with a local connection to those parishes identified in paragraph 9.1 and 9.2 above any other person who has a local connection of a type described in 10.1 to 10.2 below if the owner can demonstrate to the Council after 3 months of any Low Cost Market Housing units becoming available for sale the Owner having made all reasonable efforts has found no suitable candidate under sub-clause 9.1 or 9.2 above any other person ordinarily resident within the administrative area of the.
10. For the purposes of sub-paragraph 10.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - 10.1. is or in the past was normally resident there; or

- 10.2. is employed there; or
 - 10.3. has a family association there; or
 - 10.4. a proven need to give support to or receive support from family members; or
 - 10.5. because of special circumstances;
11. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2 and 3 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.
 12. The sums referred to in paragraphs 1, 2 and 3 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.
 13. 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.
 14. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Yvonne Coleman
Planning Obligations Manager
22 June 2016



MEETING:	PLANNING COMMITTEE
DATE:	13 JULY 2016
TITLE OF REPORT:	<p>P143252/F - PROPOSED DEVELOPMENT OF 12 NOS. DWELLINGS, CONSISTING OF 5 NOS. AFFORDABLE AND 7 NOS. OPEN MARKET. WORKS TO INCLUDE NEW ROAD AND LANDSCAPING AT LAND ADJOINING KINGSLEANE, KINGSLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9SP</p> <p>For: Mr & Mrs Glynne Schenke per Mr R Mills, Les Stephan Planning Ltd, 9 Sweetlake Business Village, Shrewsbury, SY3 9EW</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143252&search=143252
Reason Application Submitted to Committee – Member of Staff Application	

Date Received: 21 February 2014

Ward: Bircher

Grid Ref: 344255,261307

Expiry Date: 23 May 2014

Local Member: Councillor WLS Bowen

1. Site Description and Proposal

- 1.1 The site, which covers an area of approx. 0.63 of a hectare, is located outside, but within close proximity to the former UDP settlement boundary for Kingsland, a main village in accordance with Policy RA2 of the Herefordshire Local Plan – Core Strategy. The site is located within the Kingsland Conservation Area and nearby are listed buildings (Kingsland House Grade 2* and Arbour Farm Grade 2).
- 1.2 The site is situated alongside (east) an existing housing development known as ‘Kingsleane’, which is an affordable housing site and it is this housing development that is located adjacent to the former settlement boundary. The C1036 public highway adjoins the southern side of the site, which provides a convenient walking route to the village’s community facilities such as a primary school, village hall, post office/shop, public house, church and recycling centre. The site forms part of a cultivated field and is surrounded on its southern and northern boundaries by native hedgerows.
- 1.3 The application proposes the construction of twelve dwellings, and associated access road, which will lead into the site off the existing Kingsleane access road. The breakdown of the dwellings is two 4 bed dwellings, five 3 bed dwellings and five affordable dwellings, which consist of four 2 bed dwellings and one 3 bed dwelling.
- 1.4 The application is fully detailed and accompanied by a Planning Statement, Design and Access Statement, Archaeology, Drainage, Affordable Housing, and Heritage Statements, Ecology/Biodiversity and Landscape Management reports and a draft Section 106 agreement. Addendum reports for Landscaping, Heritage and Planning have also been submitted. Also accompanying the application are detailed proposed elevation and floor plans, site layout plan

Further information on the subject of this report is available from Mr K Bishop on 01432 260756

and street scene. The Draft Heads of Terms, drawn up in accordance with Section 106 of the Town and Country Planning Act 1990 in line with the Council's Supplementary Planning Document on Planning Obligations, is attached as an appendix to the report.

- 1.5 This application was originally approved subject to a Section 106 agreement however following the decision a Judicial Review (JR) was made and the notice subsequently quashed. The application is represented for determination. The JR challenged the original decision in three areas; that is was contrary to the emerging Neighbourhood Plan, heritage matters and five year housing land supply.
- 1.6 The report has been updated with revised consultation responses following further publication of the application.

2. Policies

2.1 National Planning Policy Framework

The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment
Section 12	-	Conserving and Enhancing the Historic Environment

2.2 Historic England - The Setting of Heritage Assets

2.3 Herefordshire Local Plan Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.4 Supplementary Planning Guidance

- Kingsland Parish Plan
- Supplementary Planning Document: Planning Obligations

Neighbourhood Planning

- 2.5 Kingsland Parish Council has designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. An emerging neighbourhood plan may be a material consideration once it has reached submission / local authority publication stage (Regulation 16). In the case of the Kingsland Parish, the Parish Council has prepared a Neighbourhood Development Plan for the area. The neighbourhood area was designated on 15th August 2014. Work has commenced and the plan reached draft plan (Regulation 14) stage on 5th January 2104. However no weight can be attached in the decision making process at this stage.
- 2.6 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 P140534/F – Proposed development of 12 number dwellings consisting of 4 affordable and 8 open market housing. Works to include new road and landscaping. Refused 25th June 2014.

The application was refused for the following reasons:

- The proposed development by reason of its design and layout does not enhance or preserve the Conservation Area and therefore will have a detrimental impact on the setting of the settlement. The proposed development is accordingly considered contrary to Policies HBA6, LA3 and H13 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.
- No completed Section 106 Agreement under the Town and Country Planning Act 1990 in relationship to planning obligations accompanied the application. Therefore, the proposal is considered contrary to Policy DR5 of the Herefordshire Unitary Development Plan.

- 3.2 NW09/2679/F – Residential development comprising 10 number affordable houses with car parking, shared access and landscaping. Refused 15th December 2009.

The application was refused for the following reasons:

- The application site is not considered to be adjacent to the settlement boundary of the village of Kingsland. Consequently, the proposal does not comply with policy H10 of the Herefordshire Unitary Development Plan (2007).
- The proposed development fails to preserve or enhance the character and appearance of the conservation area contrary to policy HBA6 of the Herefordshire Unitary Development Plan (2007) and to guidance contained with Planning Policy Guidance 15 - Planning and Historic Environment.
- The proposed development by virtue of its location and prominent position is considered to be harmful to the landscape quality of the area contrary to Policy LA2 of the Herefordshire Unitary Development Plan (2007). The introduction of built form in this location would harm the setting and approach to the village contrary to policy LA3 of the Herefordshire Unitary Development Plan (2007).

- The application site is designated as a Special Wildlife site and is recognised as unimproved hay meadow. As such the introduction of development would be contrary to the aims of policies NC4 and NC6 of the Herefordshire Unitary Development Plan (2007) and guidance contained within Planning Policy Statement 9 - Biodiversity and Geological Conservation.
- The proposal, when considered in relation to the adjacent affordable housing site known as Kingsleane, would create a development, harmful to the social cohesion of Kingsland by virtue of not being integrated within or with meaningful context to the existing local community, contrary to policies S1 and S3.

3.3 NW08/1915/F - Residential development comprising 10 affordable housing units, car parking and shared access and landscaping. Refused 22nd October 2008.

The application was refused for the following reasons:

- The application site is not considered to be adjacent to the settlement boundary of the village of Kingsland. Consequently, the proposal does not comply with policy H10 of the Herefordshire Unitary Development Plan (2007).
- The proposed development fails to preserve or enhance the character and appearance of the conservation area contrary to policy HBA6 of the Herefordshire Unitary Development Plan (2007) and to guidance contained with PPG15 - Planning and Historic Environment.
- The proposed development by virtue of its location and prominent position is considered to be harmful to the landscape quality of the area contrary to Policy LA2 of the Herefordshire Unitary Development Plan (2007). The introduction of built form in this location would harm the setting and approach to the village contrary to policy LA3 of the Herefordshire Unitary Development Plan (2007).
- The application site is designated as a Special Wildlife site and is recognised as unimproved hay meadow. As such the introduction of development would be contrary to the aims of policies NC4 and NC6 of the Herefordshire Unitary Development Plan (2007) and guidance contained within PPS9 - Biodiversity and Geological Conservation.
- The proposal, when considered in relation to the adjacent affordable housing site known as Kingsleane, would create a development, harmful to the social cohesion of Kingsland by virtue of not being integrated within or with meaningful context to the existing local community, contrary to policies S1 and S3.
- The proposed development fails to make provision for or in lieu of a small children's /infants play area, properly equipped and fenced and therefore fails to meet the criteria of policy H19 of the Herefordshire Unitary Development Plan (2007).
- The proposal would result in unacceptable over-loading of the waste water treatment works and as such would be detrimental to the local environmental and public health, and therefore contrary to Herefordshire Unitary Development Plan policies DR2 and CF2.

3.4 92/418 – (Adjoining the site). Erection of ten dwellings approved 4th February 1993. Forming part of the planning approval was an associated section 39 agreement in accordance with the Wildlife and Countryside Act 1981) to ecologically manage the adjoining land and its botanical interests for a period of 10 years, expiring 3 February 2003.

4. Consultation Summary

Statutory Consultees

4.1 Historic England

We have received amended proposals for the above scheme. We do not wish to comment in detail, but offer the following general observations.

Historic England Advice

- 4.2 Conditions should be imposed requiring your Council's prior approval of all external details, materials and finishes, including all building works and all landscaping, including boundary treatments.

Recommendation

- 4.3 We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

Previous comments:

Thank you for your letter of 5 November 2014 notifying us of the application for planning permission relating to the above site. We do not wish to comment in detail, but offer the following general observations.

English Heritage Advice

- 4.4 As the application affects a conservation area, the statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (s.72, 1990 Act) must be taken into account by your authority when making its decision.

The elevational treatment of the proposed development should be informed by the conservation area. Where the conservation area is strong in character it should reinforce the choice of materials and the rhythm and style of architectural details and form of the proposed development. If the character of the area is used in a creative way to inform the design of the new building there is an opportunity for new work to add to the design of the conservation area and create a development that reinforces the local distinctiveness of the conservation area in line with NPPF paragraphs 58 to 61. The detailed design of the scheme will be key to the success of the development. We therefore advise you to consider whether the proposed design takes these matters into consideration.

If you are minded to approve the scheme conditions should be imposed requiring your council's prior approval of architectural details, materials and finishes in relation to both aspects of the development.

Recommendation

- 4.5 We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

- 4.6 Welsh Water raises no objections subject to conditions with regards to foul and surface water discharges.

Internal Consultees

- 4.7 The Transportation Manager recommends conditions with regards to access, parking and turning, parking for site operators and no conversion of garages to habitable accommodation.

- 4.8 The Conservation Manager (Historic Buildings),

Since the last set of comments was submitted on 8 January 2015 there has been no change to the submitted scheme for 12no. dwellings or its location in the central area of the Kingsland Conservation Area. Additional photographic assessment and comment has been made on the conservation area plus an endorsement by a conservation consultant, all of which has been read. There has been a change in the policy context however with the adoption of the Core Strategy in October 2015. This means that the scheme needs to be assessed against Policy LD4 of the Core Strategy in addition to the relevant policies of the NPPF Chapter 12.

- 4.9 The site, as previously stated, is in the centre of the Kingsland Conservation Area, which was designated in 1975. At that time there were two main areas of built development: the ribbon development of the main village street of Kingsland and the cluster of properties known as West Town on the main road. The lane linking the two had a few properties at the main village end, including the former Rectory, now called Kingsland House (grade II*) and The Lees (grade II). More recently these were joined by the Kingsleane development on the sharp bend in the lane, creating more of a cluster than was previously the case, but one that seems to have added to the character of the Conservation Area.

- 4.10 Despite the Kingsleane development in the late 1990s, there has remained a considerable open space gap between the built development of West Town and that of Kingsleane/Kingsland; a gap noted in the original designation report for the Conservation Area. Also in that designation report the distinct village character of West Town was remarked upon.

To recap, the fundamental aspects of the Conservation Area in terms of layout and general character are:

1. Kingsland: formed by ribbon development along a mile-long single street
2. West Town: separate cluster of approx. 30 buildings
3. Kingsleane: very small node of housing at sharp bend between Kingsland and West Town
4. Open fields and hedges separating three distinct built elements of Kingsland Conservation Area.

- 4.11 As previously stated, since 2008 the application site has been the subject of three applications for housing, the first two on a smaller part of the existing field, but all adjacent to the Kingsleane development. The previous applications were considered by three different Senior Building Conservation Officers and each independently recommended refusal of the application before them. Subsequently the applications were formally refused with the last application being refused in July 2014. The Conservation Team have consistently raised strong objections to any development of the application site due to the adverse impact on the character and appearance of the Kingsland Conservation Area at this particular point.

- 4.12 As indicated above there are now three separate areas within the Kingsland Conservation Area: the main village, which has developed in a linear form along a single village road; West Town, which is a loose cluster of about 30 dwellings to the west of the main village; Kingsleane, which

is a more recent, very small cluster of housing located between Kingsland and West Town and includes Kingsland House and The Lees, listed grade II* and grade II respectively. Other than these three distinct areas the built environment is scattered and small scale.

- 4.13 The separation of the three areas is clearly visible when visiting the Kingsland Conservation Area and is supported by the cartographic evidence. The separation of the nodes by means of open fields is a fundamental part of the character of the conservation area. It is therefore considered critical to the preservation of the designated heritage asset of the Kingsland Conservation Area that the balance between space and built form be respected and upheld.
- 4.14 As I have already commented in relation to the July 2014 application and to this application in January 2015, the proposal to develop half of the field, currently separating Kingsleane and West Town, would visually link the two nodes together by significantly reducing their separation distance. It is noted that in the intervening period the roadside hedge has been allowed to grow unchecked and consequently is very high but also is becoming very sparse for at least half its height as it reverts to a series of trees rather than hedge. The effect on the character and appearance of the Conservation Area at this point is not considered protection or enhancement as such a high hedge is out of character with the area. In addition, landscaping should be the mitigation route of last resort, if indeed that is the reason behind letting the hedge grow overly high.
- 4.15 The proposed development would alter the character of the current Kingsleane node by elongating it more towards ribbon development in the direction of West Town. The more visually obvious linking of West Town to Kingsleane and then on to Kingsland by built development would be contrary to the character of the conservation area and would neither preserve nor enhance it.
- 4.16 As pointed out previously, to the south of the development is the Fire Station: the proposed scheme would link the Kingsleane node to that currently detached element. Whilst an expansion to the Fire Station had previously been granted (objected to by a previous colleague), it is understood that this scheme is unlikely to be proceeding, so the site will remain as a small detached plot rather than a large facility, unless the proposed housing scheme proceeds. It currently does not dominate the views from the south but should the proposed housing development be constructed there will be a significant increase in built form which will link visually with the fire station and also West Town. The scale of this intrusion would be harmful to the heritage asset of the conservation area in this particular area.
- 4.17 The layout of the proposed scheme is arranged round a cul de sac, which is not a historic form of development in this rural context, though it has been used on many infill plots in the 20th century in the main linear village due to the way land has become available. The access road design does allow for the retention of the existing hedgerow but this is considered inadequate compensation for the location of 12 dwellings behind the hedge which are clearly visible from both long and short views and do not reflect the rural character of the area. As noted above, letting the existing hedge grow unchecked appears to have the intention of hiding the development, whereas the right design in the right place should not need to be hidden.
- 4.18 The 1993 Kingsleane development immediately to the east of the application site was extremely well considered and is a positive introduction to the landscape and conservation area. It is considered that this careful scheme would be visually compromised by the development of the currently open field to the west as a more suburban form would be introduced. This is despite the much more appropriate designs that have been introduced to the scheme, in comparison to earlier submissions.

- 4.19 The impact on the settings of the grade II* and II listed buildings near the site would however be only slightly adverse. This is partly due to the maturity of the landscaping immediately surrounding the various buildings. However it is considered that the wider setting would be altered, in that the balance would change between open space and built form. The linking of West Town to Kingsleane would remove the distinction between the two nodes, to the detriment of the local character.
- 4.20 The scheme is considered to be contrary to policy LD4 as it would not protect, conserve or enhance the conservation area of Kingsland; it would not contribute to the character and local distinctiveness of the townscape, particularly in terms of the balance between areas of built form and open space between them. The retention of the hedges is applauded but they should not be used to hide built form that is considered to be in an inappropriate place, especially when the height of the hedge then starts to appear out of place.
- 4.21 My Building Conservation Officer colleagues and I have been consistent in our advice and comments on this site, and indeed on the Fire Station expansion scheme across the road, that there would be a highly negative effect on the Kingsland Conservation Area at this point and to a much reduced extent to the grade II listed buildings in West Town, Kingsland House (grade II*) and The Lees (grade II). This latest scheme, in terms of heritage, does not comply with the principle of development in the conservation area, regardless of the merits of the design and details, or otherwise.
- 4.22 The recent Draft Neighbourhood Plan for Kingsland supports the retention of the “clear separation between Kingsland village and West Town” in Policy KNDP 6.2f. The application site is not within the DNP Settlement Boundary and scheme does not respect the original form of development within the Conservation Area (as opposed to the later 20th century, cul de sac developments).
- 4.23 It is noted that the DNP states that 44 houses are required within Kingsland village during the Plan period up to 2031 and that of these, 7 have already been built and a further 33 have existing permissions. That leaves only 4 houses required to fulfil the quota. There would seem little need therefore to grant permission for 12no. houses on a site which is in a particularly sensitive and pivotal location within the Conservation Area.
- 4.24 In terms of assessing the proposed scheme against the NPPF, in paragraph 131 bullet point three, it is required that we should take account of “the desirability of new development making a positive contribution to local character and distinctiveness”. However the nature of the proposed scheme is to turn its back on the public road, only creating a street frontage onto the development’s cul de sac. This is not typical of development along a road in Kingsland, only where development goes deep into a plot of land away from a road. As a result the scheme does not add enhance the character and appearance of the Conservation Area. Rather, it provides a built form linkage between the Kingsleane buildings and West Town which is contrary to the character and local distinctiveness of the Conservation Area.
- 4.25 Whilst it is considered that the scheme would cause “less than substantial harm” to the character and appearance to a fundamental element of the designated heritage asset of Kingsland Conservation Area, that harm is considered to be at the higher end of the scale. Therefore the proposal should be assessed under NPPF paragraph 134 where that harm should be weighed against the public benefits.

4.26 The Conservation Manager (Archaeology) raises no objections.

4.27 The Conservation Manager (Landscape)

I note the revised soft landscape proposals plan submitted in conjunction with landscape consultants comments dated February 2016.

The application in essence remains unchanged from that submitted in 2014, therefore refer the applicant to my earlier comments:

- The particular location of the site means that it performs a dual function; forming part of the open countryside that enhances the setting of the settlement of Kingsland, as well as maintaining a clear visual gap between the built form of West Town and Kingsleane.
- The site lies within the Kingsland Conservation Area. The settlement pattern of which is ribbon development that has extended along North Road. The proposal is visually separate from the village and most closely relates to the 1990's development of Kingsleane; a distinct development which has been designed in sympathy with its particular surroundings around the curvature of the road.
- Given the particular location of this proposal and the function it performs as part of the setting of the rural settlement of Kingsland, it is considered that development in this location will impact upon the setting of Kingsland and whilst I note the landscape consultants comments, my professional view is that the proposed development will permanently alter the historic field pattern, be unsympathetic with the distinct layout of Kingsleane and will not relate to the settlement pattern of either Kingsland or West Town serving to close the gap between the two settlements.
- *I note the proposed mitigation in particular the roadside hedgerow which is stated within the soft landscape proposals as being left to grow to 6-8m reduced annually to approximately 3.6m in the autumn, however I would suggest that this is in itself is somewhat at odds with the height of the adjacent privet hedgerow which forms the boundary vegetation at Kingsleane and is closely clipped to between 1-2m. In my view the mitigation should serve to assimilate a development into its surroundings and but not be required to obscure the proposal in its entirety.*
- *Following on from the recent adoption of the Core Strategy the scheme is not considered to demonstrate that the character of the landscape has positively influenced the design and site selection and does not enhance the rural setting of the settlement thereby conflicting with policy LD1.*

Further comment has been received as follows:- Further to our earlier conversation, a landscape appraisal was not submitted as part of the application, however Appendix 8 is a report submitted by the landscape consultant; John Challoner, which 'responds to the various consultee comments'. Mr Challoner concludes in his comments the overall impact and visual intrusion of the proposed development is negligible.

Whilst I agree that the visual intrusion is confined to near distance views; in the main from the C1036 Kingsland to Harbour Farm Road with potentially less significant views from KL1, in this instance the harm relates to the adverse effect upon landscape character.

As stated by both myself and in comments relating to an earlier application (P140534) by the Built and Natural Environment Service Manager; Juliet Wheatley, the field contributes to the rural setting of Kingsland as well as providing visual separation between West Town and Kingsland. Whilst the current layout allows for the retention of a small green space, the historic field pattern will have been further altered to allow for the proposal and in my view further development will be difficult to withstand.

The layout of the proposal is focussed around a new access road taken off Kingsleane, but neither takes its context from the layout of Kingsleane or that of its landscape character type; Principal Settled Farmlands, for these reasons therefore I would conclude that the potential effect on the landscape character is substantially adverse which conflicts with LD1 of the Core Strategy.

- 4.28 The Conservation Manager, (Ecology), has responded with reservations about the ecological planning history in relationship to the site and indicates '*I am bound to accept the recommendations for enhancement proposed by the ecological report given the substantial and unrealistic prospect of re-creating and maintaining the habitat for which the site was designated.*' The response recommends the attachment of a condition in order to ensure ecological mitigation is carried out as proposed.
- 4.29 The Strategic Housing Manager raises no objections.
- 4.30 The Parks and Countryside Manager raises no objections indicating that the final mix of housing has changed and the market housing now consists of 5 x 3 bed and 2 x 4 bed which has been acknowledged in the draft heads of terms and contributions including that for off-site play provision have been amended accordingly and are in accordance with the SPD on Planning Obligations. The initial response indicated that a contribution towards play facilities at the Millennium Green is in accordance with UDP policy requirements, the Play Facilities Study and Investment Plan and the SPD on Planning Obligations for a development of this size.
- 4.31 The Land Drainage Manager raises no objections subject to provision of detailed surface water management design, infiltration test results, groundwater level data, drainage calculations, demonstration that the soakaways are located more than 5m from building foundations, and consideration of adoption, maintenance and siltation control.
- 4.32 The Schools Organisation and Capital Investment Manager raises no objections subject to appropriate contributions in line with the Council SPD Planning Obligations as identified in the Heads of Term.
- 4.33 Neighbourhood Planning Manager

With regards to your request for a position on the Kingsland Neighbourhood Plan, I hope the following is of use;

The Kingsland Neighbourhood Plan was submitted under Regulation 15 on 2 November 2015. The consultation is under 17 November 2015 to 4 January 2016. A high volume of representations were made during this period from the local community. There were also concerns that the plan did not conform to the Core Strategy with regards to the ability to meet proportional growth requirements within Policy RA2. For this reason a Decision Document was issued on 15 January recommending that the plan did not progress to examination and additional consultation (under Regulation 16) should be undertaken.

As a result, the parish council have commissioned additional evidence base to demonstrate the capacity within the settlement boundary is achievable in light of heritage issues and this will be publically available when the plan is re-consulted upon in due course.

The direction of travel of the plan is to provide the proportional growth within three defined settlement boundaries at Kingsland, Cobnash and Shirl Heath in accordance with policy KNDP14, 15 and 16. This approach is unlikely to change in the revised submitted plan. It is anticipated that a revised Kingsland Neighbourhood Plan (Reg16) will be received in the near future.

5. Representations

- 5.1 Kingsland Parish Council met on 26 April 2016 to consider the additional planning document and agreed that the reason for objecting to the application remains; namely that the proposed site is outside the settlement boundary for the village of Kingsland, and is contrary to the Neighbourhood Development Plan which has progressed to Regulation 16.

Previously Kingsland Parish Council has responded to the application indicating:

In response to the amended plans received their response states:

'Kingsland Parish Council met yesterday evening, Monday 5 January 2015, in an extraordinary meeting to consider the amendments to planning application P1432522/F Land adjoining Kingsleane, Kingsland.

The parish council agreed that the amended plans do not change the comments provided on 27 November 2014. The parish council remains opposed to the planning application. However, in the event that the application is approved, the parish council supports the amended plans (dated 5 December 2014) in preference to the original application.

Their initial response indicated:

'On 25 November 2014, Kingsland Parish Council voted to oppose the planning application on the following grounds:

- The proposed site for development falls outside the current settlement boundary. The parish plan for Kingsland shows clear support for most new homes to be built within the settlement boundary or using brownfield sites.*
- The emerging neighbourhood plan for Kingsland, which is in its final stages, and will shortly be submitted to Herefordshire Council, anticipates that the proposed site for development will remain outside the settlement boundary. One of the planning policies in the draft Kingsland neighbourhood plan is to conserve the traditional separation between West Town and Kingsland village – building on the proposed plot will undermine this policy.*
- Herefordshire Council's SHLAA designates the proposed site for development as having "no potential during the plan period".*

- *As the proposed site is not within or adjacent to the built up area of the village it is contrary to policies in the NPPF, UDP and the emerging Core Strategy.*
- *Since 2011, 40 houses have been built or given planning permission in Kingsland, which means the village is on track to achieve the development guideline of 14 percent, or 44 houses, in Herefordshire Council's Core Strategy.*

5.2 60 letters in support/positive comments in relation to the application have been received together with a petition with 85 signatures. Key issues raised in support of the application can be summarised as follows:

- The location is considered a sustainable location with consideration to the services the village provides.
- Impact on surrounding built environment area is considered acceptable.
- No detrimental impact on public highway matters.
- The High Court confirmed that the Council had given proper weight to the heritage issues and permission should be granted
- The site is available for immediate delivery with a housing association engaged to provide 5 much needed affordable dwellings
- Will provide valuable open market and affordable housing which is required in the village to retain young people and those on low income.
- No impact on the setting of the Conservation Area or Listed Buildings
- The site cannot be seen from the listed buildings -The Lees and Kingsland House
- Developing the spaces within the centre of the village will have a greater impact on the Conservation Area.
- S106 money will benefit the whole community
- Objections have been made to the exclusion of this site from the Neighbourhood Plan
- The scheme compliments the existing development and enhanced landscaping will ensure this sits well within the area.
- The proposed housing and mix will enhance the provision within the village and are of a good design and layout
- The site is a commitment site in the Neighbourhood Plan

5.3 Kingsland Primary School Headteacher supports the application

5.4 6 Letters of objection have been received

The key objections can be summarised as follows:

- Proposal is in conflict with the Kingsland Neighbourhood Plan.
- Location is not considered sustainable in relationship to access to local services, with poor public transport provision.
- The overall scale, design and layout of the development is considered poor and not in accordance with advice as set out in paragraph 56 (requiring good design), of the NPPF. Proposed solar panels will look prominent and are an untraditional feature within a Conservation Area.
- Detrimental impact on the character of the surrounding Conservation Area in which the site is located within.
- Proposed development does not compliment the historic field pattern of the area in which Kingsland is located within and will have an urbanisation affect on the character of the surrounding area.

Further information on the subject of this report is available from Mr K Bishop on 01432 260756

- The site forms part of a field that was until recently a species rich wildflower meadow, a special wildlife site that appears to have been destroyed.
- The application site is not considered to be adjacent to the settlement boundary of the village of Kingsland.
- Not enough sufficient need for the development in Kingsland.
- The village Primary School is at full capacity and is always oversubscribed for places.
- Local employment prospects are unfavourable.
- The survey recently conducted for the Kingsland Parish Plan has identified that the majority of residents favour new housing units to be built on brown field and infill sites and within the village boundary. In addition the results of the Housing Needs Survey have not yet been analysed.
- The expansion of the built environment at this location would detract from the essential character of the area. It would significantly reduce the separation between West Town and Kingsleane and therefore be counter to the character of the area. It would be a form of ribbon development in a part of the area where it is important to retain the open fields as the local setting to the village.
- The proposed development would link Kingsleane with the fire station and significantly increase the overall scale and impact of the built form.
- The proposed Kingsland Fire Station training block and associated buildings which would have significantly altered the appearance of the conservation area has been shelved and will now not be built. Consequently there is still a characterful conservation area worth protecting. In their proposal the applicant attempts to use the Fire Station development to mitigate the effect of and therefore to support their application.
- The proposed development by virtue of its location and prominent position would be harmful to the landscape quality of the area.
- The site is designated as a Site of Special Wildlife and is a site of special interest for nature conservation. It is recognised as an unimproved hay meadow and despite the loss of the original nature of the hay meadow, it still forms part of the Green Wildlife Corridor that connects sites within the village. This corridor would disappear if it were to be developed for housing. The wildflower meadow could also be re-established.
- The proposal would result in unacceptable overloading of the waste water system in this area of Kingsland. Welsh Water have been categorical in their assessment that no further waste water or surface runoff can be introduced into the current system.
- Winter flooding from the drains, including foul sewage, has historically been and still is, a regular occurrence on this road. This results in flooding on the corner and the filling of the adjacent ditch. During this winter particularly, the water has flowed across our land and entered the Lugg River drainage system via the stream which connects with the Pinsley Brook.
- Comments are also made about further affordable housing on a site alongside an existing affordable housing development.

- The short term economic benefits of granting planning permission are outweighed by the significant long term harm that would prevail

5.5 Herefordshire Campaign for the Protection of Rural England has responded to the application recommending refusal of the application indicating:

Landscape

5.6 The application site is a green field outside the main village envelope of Kingsland. The site, together with the adjacent fields forms part of a green corridor to the western edge of the village. Until recently the site was part of a Special (local) Wildlife Site, NC4 and NC6, listed in the UDP as SO 46/12, categorised as an unimproved hay meadow, one of a rapidly vanishing number in Herefordshire. It was that designation that ensured that an application in 2009 to build on the site was refused. No prior warning of its destruction by ploughing was given by the owner (the present applicant). Although it is now stated that the meadow was ploughed after the designation had lapsed, the action demonstrates a lack of concern for the locality's biodiversity and ecological heritage. The original designation could have been renewed.

We therefore object because we consider the proposed development will be an intrusion in the visual landscape of a green area outside the village envelope.

We also object because the development will further reduce the biodiversity on this old meadow. The land has been reseeded with grass and if left alone and cut for hay, some of the previously identified meadow flora will probably re-emerge. If built over they most certainly will not.

Neighbourhood Plan

5.7 We understand that the Kingsland Neighbourhood Plan is well advanced and does not identify this site as one that the community wishes to see developed for housing. Sites are identified elsewhere that are of sufficient area to satisfy the stated housing needs and the requirements of the new Herefordshire Local Plan. Thus the application, in terms of its location, is contrary to, and in conflict with the expressed wishes of the local community. If the site is developed it will result in over-development for the village and a disregard for the democratic principles that underpin the present government's legislation that encourages Neighbourhood Planning.

Housing Land Supply

5.8 In line with many other recent proposals for developing on green-field sites in Herefordshire, the applicant refers to Herefordshire Council's shortfall in producing a 5 year supply of housing land, using the strictures of the NPPF to support the case for development on the site.

However, the NPPF does not state that each and every green space should be built on to provide a contribution to the 5 year supply.

The NPPF is very clear that sustainable development should be the aim of every development plan.

"Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment....moving from a net loss of bio-diversity to achieving net gains for nature..." Paragraph 9

We consider that the present application fails to comply with those principles.

The NPPF, section 7, requires good design, and indicates ways in which that might be interpreted with concepts of layout and building design that are sympathetic to local architectural vernacular. We consider that the proposal fails to do this.

- 5.9 Given the success of the Kingsleane development that has been judged to integrate well into its location, it is puzzling why the present application has not followed a similar path. The houses with attached garages are wide on their plots and result in a bulky aggressive street scheme. It is a scheme that might be suitable as part of a large suburban development but is totally unsympathetic to the conservation area of a village with very old origins.

We do not agree with the Design & Access statement in section 4. That the layout "is reflective of the local built environment".

NPPF , Para 64 states "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area... "

H13 "Proposals for residential development at all scales... will be expected to .. take an integrated and comprehensive approach to design , layout and landscape which respects the townscape and landscape context of the site and the distinctive character and appearance of the locality"

- 5.10 HCPRE considers that the proposal does not comply with H13.

HCPRE considers that the proposed design and layout will be a highly undesirable addition to Kingsland, and will moreover have a directly negative effect on the neighbouring Kingsleane.

From the details of the house designs it is unclear whether the "massive external chimney stacks" function as usable chimneys.

We are surprised that all 4 affordable properties have only 2 bedrooms. Many villages in Herefordshire are in need of affordable family homes with at least 3 bedrooms. The designs portray extremely small dwellings, with no internal storage space. Had the designs of the market houses been more similar to other properties within the village, more space might have been available for larger footprints for the 4 affordable houses.

HCPRE welcomes the proposal in 4.2 to provide solar thermal panels to all plots on the roof slopes.

In the light of the list of aspects of the application that are not in compliance with either the NPPF or Herefordshire Council's Planning principles we consider it should not be allowed.

- 5.11 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=143252&search=143252>

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 This application is a re-submission of a previous application (reference P140534/F), refused planning permission on 25th June 2014 following a Planning Committee site visit where members resolved that the proposed development by reason of its design and layout did not enhance or preserve the Conservation Area and therefore would have a detrimental impact on the setting of the settlement. The proposed development was considered contrary to Policies HBA6, LA3 and H13 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework. The current application under consideration seeks to address these issues.
- 6.2 The site for the proposed development adjoins an affordable housing development(Kingsleane) comprising ten dwellings which itself is adjacent to the former settlement boundary for Kingsland.

Further information on the subject of this report is available from Mr K Bishop on 01432 260756

6.3 The application is presented back to Planning Committee following a Judicial Review of the original decision. The challenge to the decision was based on three main areas; contrary to the emerging Neighbourhood Plan, Heritage Matters and five year housing land supply. The appraisal will cover these matters and those raised as part of the consultation process.

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

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

6.5 In this instance the Development Plan for the area is the Herefordshire Local Plan - Core Strategy (CS). A range of CS policies, referred to above (section 2) are relevant. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms that proposals that accord with the policies of the CS (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

The Principle of development

6.6 As per the NPPF, the delivery of sustainable housing development to meet objectively assessed need is a central theme of the CS. Policy SS2 ‘Delivering new homes’ confirms that Hereford, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable *“where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community.”*

6.7 Equally it is clear that failure to maintain a robust NPPF compliant supply of housing land will render the housing supply policies of the CS out-of-date. Policy SS3 ‘Ensuring sufficient housing land delivery’ thus imposes requirements on the Council in the event that completions fall below the trajectory set out in Appendix 4 of the CS.

6.8 Despite relatively recent adoption of the CS, it is clear that the Housing Land Supply deficit persists. The Examination Inspector concluded that there was a marginal but realistic five-year housing land supply on the basis of the Core Strategy provisions. The supply was assessed at 5.24 years. Housing land supply has been further examined in recent Inquiries in the County in respect of appeals for proposed housing developments at Leintwardine, Ledbury and Bromyard. The Inspectors have concluded in relation to all of these appeals that the Council is unable to demonstrate a robust five-year supply of deliverable housing sites sufficient to meet its identified needs. This view was reached on an assessment of the amount of housing reasonably likely to be delivered on the strategic sites allocated in the Core Strategy. The Inspectors’ conclusions as to the lack of a robust five-year housing land supply have also been accepted by the Council for the purposes of the most recent Public Inquiry at Bartestree (143771, May 2016) where it was agreed with the appellants that the supply stood at 3.63 years; this figure taking into account the contribution to supply arising from the allowed appeals at Leintwardine and Ledbury.

6.9 The Core Strategy sets out a number of policies in chapters 3, 4 and 5 for the supply of housing which are relevant to the present application. As a consequence of the housing land supply position, the policies in the Core Strategy relating to the supply of housing are out of date by reason of paragraph 49 of the NPPF. Although these policies are out of date, the weight that they should receive is a matter of planning judgment for the decision-maker. This is a matter that has been reinforced in recent case law, Suffolk Coast / Hopkins Homes.

- 6.10 Core Strategy policy SS2, Delivering new homes, makes an overall provision for the delivery of a minimum 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. Of these, just over two thirds are directed to Hereford and the market towns, with a distribution of a minimum 5,300 homes (32%) to rural settlements. Here, new housing development will be acceptable where it helps to meet housing needs and requirements, support the rural economy, local services and facilities, and is responsive to community needs.
- 6.11 Policy SS3, Ensuring sufficient housing land delivery, sets out a range of measures to be undertaken should a material shortfall in the rate of housing delivery be identified through the annual monitoring process. The policy addresses the relationship between the delivery of strategic housing sites and key elements of infrastructure.
- 6.12 Policy RA1, Rural housing distribution, explains that the minimum 5,300 new dwellings will be distributed across seven Housing Market Areas (HMAs). This recognises that different parts of the County have differing housing needs and requirements. Kingsland lies within the rural part of the Leominster HMA, which is tasked with an indicative housing growth target of 14% (65 dwellings).
- 6.13 The policy explains that the indicative target is to be used as a basis for the production of Neighbourhood Development Plans (NDPs). The growth target figure is set for the HMA as a whole, rather than for constituent Neighbourhood Areas, where local evidence and environmental factors will determine the appropriate scale of development. The Inspector's Report on the Core Strategy Examination makes clear that a flexible and responsive approach is necessary to deliver the level of development sought, whilst recognising and respecting the rural landscape. The Modification proposed, and now incorporated within the adopted Core Strategy, leaves flexibility for NDPs to identify the most suitable housing sites.
- 6.14 RA2, Housing in settlements outside Hereford and the market towns, identifies the rural settlements which are to be the main focus of proportionate housing development in the rural areas (fig. 4.14) and other settlements where proportionate housing is considered appropriate (Fig. 4.15). In these locations, housing growth will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the communities concerned. Policy RA2 seeks to support housing growth in or adjacent to these settlements and confirms that the indicative targets established in policy RA1 will be used to inform the level of development in the identified settlements. The expectation of this policy is that NDPs will define appropriate settlement boundaries or reasonable alternatives or will allocate land for new housing or otherwise demonstrate delivery by indicating levels of suitable and available capacity.

Kingsland Neighbourhood Plan

- 6.15 The site lies within the Parish of Kingsland, and within its designated Neighbourhood Area but outside of the settlement boundary as proposed by the emerging Neighbourhood Plan.
- 6.16 Kingsland NDP acknowledges in its objectives, the need to promote a level of housing growth to meet the indicative housing target for Herefordshire that is proportionate to the size of Kingsland Parish and its settlements so that the parish retains its essentially rural character. The Kingsland NDP is currently held at Reg 16 as confirmed by the Neighbourhood Planning Manager due to the high volume of representations, issues surrounding conformity with the CS and heritage issues relating to the capability of the settlement area to accommodate the proportionate growth required by the CS. It is however clear that the emerging settlement plan identifies this site as being outside of the settlement boundary as indeed is the adjoining Kingsleane development and it is unlikely that this will change albeit that there are unresolved objections to the plan.

- 6.17 The Neighbourhood Plan does not allocate sites for housing but does identify settlement boundaries with criteria policies. There is a current shortfall of 35 dwellings from the proportional growth requirement.
- 6.18 However, paragraph 216 of the NPPF highlights that the extent to which there are unresolved objections to relevant policies should also be taken into account when determining the weight to be attributed emerging plans. There are unresolved objections to the Kingsland NDP as identified above and whilst the direction of travel of the Plan is that the site lies outside of the emerging settlement boundary, it is officer's opinion that only limited weight could be attributed in the decision making process.

Impact on the Character of the Surrounding Conservation Area and Listed Buildings

- 6.19 Under Section 66 (1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Herefordshire Council, as the local planning authority, is required, when considering development which affects a listed building or its setting or a Conservation Area:

S 66 "to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

S72 "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area"

The "*special regard*" to which Section 66(1) refers has been tested in recent appeals and Court cases. The Courts have held that the desirability of preserving the settings of listed buildings should be given "*considerable importance and weight*" when the decision-maker carries out the balancing exercise, not simply consideration. The following cases have had a particular influence on this.

- *South Lakeland DC v Secretary of State* [1992];
- *East Northamptonshire DC v Secretary of State* [2013] (the Barnwell Manor case, considering the effect of a proposed wind turbine on the setting of a nearby Grade I listed building); and
- *R (Forge Field Society) v Sevenoaks DC* [2014].
- *Forest of Dean District Council v Secretary of State for Communities and Local Government & Anr.*

In *South Lakeland*, it was held that "preserving" means doing no harm. And in the two more recent cases the courts held that having "special regard" to the desirability of preserving the setting of a listed building under section 66.

- 6.20 It follows that the duties in section 66 do not allow a local planning authority to treat the desirability of preserving the setting of listed buildings merely as material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm "*considerable importance and weight*".
- 6.21 Importantly, this does not mean that an authority's assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or "less than substantial" and to harm that it considers would be "substantial".

However, as the Court of Appeal emphasised in *East Northamptonshire*, (often referred to a Barnwell Manor) that said;

“a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering”.

- 6.22 The more recent Forest of Dean case expands and confirms the findings of the Barnwell Manor case and Forge Field Society cases. In his decision Judge Coulson referred to the Court of Appeal comments in *Barnwell* and in Para 28 of Sullivan LJ judgement in *Barnwell* said:

“Even if the harm would be “less than substantial”, the balancing exercise must not ignore “the overarching statutory duty imposed by section 66(1), which properly understood ... requires considerable weight to be given ... to the desirability of preserving the setting of all listed buildings, including Grade II listed buildings

Based on the above, where the authority concludes that a proposed development will cause harm to the setting of a listed building or to a conservation area, a grant of permission can only be justified if there exist other material considerations of comparable importance and weight, sufficient to override that strong presumption. This does not amount to an absolute prohibition on all new development in such circumstances; but it does mean that it will need to be very clearly justified.

- 6.23 The Court in *Forge Field Society* also considered the question of alternative sites. It held as follows:

“... this was a case in which possible alternative sites for the development had to be considered. ... If there is a need for development of the kind proposed, which in this case there was, but the development would cause harm to heritage assets, which in this case it would, the possibility of the development being undertaken on an alternative site on which that harm can be avoided altogether will add force to the statutory presumption in favour of preservation. Indeed, the presumption itself implies the need for a suitably rigorous assessment of potential alternatives.”

- 6.24 The NPPF reinforces this as one of its core principles being that planning should “conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations”. Chapter 12 (Conserving and enhancing the historic environment) gives further guidance on how the planning system should deal with heritage assets. This is a very important factor in the consideration of this planning application and the relevant paragraphs of the NPPF are set out below.

- 6.25 *129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking into account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.*

- 6.26 *131. In determining planning applications, local planning authorities should take account of:*

- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- *the desirability of new development making a positive contribution to local character and distinctiveness.*

- 6.27 132. *When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*
- 6.28 133. *Where a proposed development will lead to substantial harm to or loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply;*
- *the nature of the heritage asset itself prevents all reasonable uses of the site; and*
 - *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
 - *conservation by grant funding or some form of charitable or public ownership is demonstrably not possible; and*
 - *the harm or loss is outweighed by the benefit of bringing the site back into use.*
- 6.29 134. *Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."*

The definition of "significance" in the NPPF is:

"The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting".

And the definition of "setting" is as follows:

"The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral".

- 6.30 It may be noted that the distinction between para 133 and 134 relates to the degree of harm to the significance of the asset as a whole. The High Court in *Bedford BC v Secretary of State* recently considered the meaning of "substantial harm", and held that

"Significance may be harmed through alteration of the asset [listed building], ie physical harm, or development within its setting, ie non-physical or indirect harm. Significance may be lost through the destruction of the asset or, in a very extreme case, development within its setting. ... What the inspector was saying was that, for harm to be substantial, the impact on significance was required to be serious such that very much, if not all, of the significance was drained away."

- 6.31 137. *Local Planning Authorities should look for opportunities for new development within Conservation Areas and World Heritage sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.*

- 6.32 The Court accordingly accepted the formula adopted by the inspector in that case, namely that for harm to be “substantial” in the terms of the NPPF, it would have to be “something approaching demolition or destruction” – in the context of non-physical or indirect harm, it would have to be an impact that would have such a serious effect on the significance of the asset that its significance was spoiled altogether or very much reduced.
- 6.33 However, both paragraphs require that the decision-maker balance the public benefit arising from a proposal against the harm to the significance of any heritage assets affected – para 133 requires a substantial benefit to outweigh substantial harm; whereas para 134 requires public benefit, albeit to outweigh less than substantial harm.
- 6.34 So, either way, there needs to be a balancing exercise. Even where there is less than substantial harm, the decision in *East Northamptonshire* makes it plain that there is still a presumption against the grant of planning permission; and the more recent decision in *Forge Field* and *Forest of Dean* emphasises the strength of that presumption.

Local Plan Policy

- 6.35 Policy SS6 Environmental quality and local distinctiveness, sets the strategic approach to the conservation and enhancement of those environmental assets that contribute to the County’s distinctiveness such as settlement pattern, landscape, biodiversity and heritage assets. The policy is underpinned by more detailed sets of policies, including those dealing with local distinctiveness (LD1) and set out in chapter 5 of the Core Strategy. Here, it is recognised that “Locally distinctive assets ... are finite and irreplaceable and any detrimental impacts can carry cultural, environmental, economic and social costs.” LD1 further requires that development proposals should “*conserve and enhance the natural, historic and scenic beauty of important landscapes and features...including conservation areas.*”
- 6.36 Policy LD4 is applicable to heritage assets throughout Herefordshire whether formally designated e.g. listed buildings and conservation areas, or not, ranging from individual structures and their settings, archaeological remains, to larger neighbourhoods of historic value, parks, gardens and other green spaces of local interest.

Policy LD4 states:

Development proposals affecting heritage assets and the wider historic environment should:

- 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.

- 6.37 The historic environment and heritage assets are significant contributors to sustainable development. Important local buildings have a social value and can act as focal points for local communities. The historic environment is of cultural value as it illustrates the historical development of Herefordshire.
- 6.38 Heritage assets also bring economic benefits as Herefordshire's well preserved historic environments a major factor in its tourism industry and the county's quality of life can also serve to attract and retain investment. The sustainable re-use of existing buildings can also help mitigate climate change through reducing development pressures on greenfield sites, reducing demand for construction energy and materials and by minimising construction waste.

Built Heritage

- 6.39 As can be seen from the assessments provided by the statutory consultee, Historic England, and the Councils Conservation Manager, the assessment of the impacts and effects on both the built environment and buried assets have been undertaken. Historic England have identified the key heritage assets namely Kingsland Castle (A scheduled Ancient Monument), Kingsland House a Grade 2* listed building and Kingsland Conservation Area which the Council need to be satisfied are not adversely affected. In addition the Conservation Manager has identified The Lees a Grade 2 listed building.
- 6.40 The impacts of the development upon the significance of the designated heritage assets vary between applicant, supporters and objectors to the scheme. However, the Council's Conservation Manager confirms that in relation to the listed buildings the impact is only slightly adverse due to the landscaping that surrounds the listed buildings. However there wider settings would be changed in that the balance would be altered between open space and built form to the detriment of the distinctive local character underpinning the conservation area designation. In assessing this impact in relation to Para 131 of the NPPF it is considered that the development does not make a positive contribution to local character and distinctiveness and creates a built form linkage between the Kingsleane development and West Town. The harm is considered to be 'less than substantial' albeit on the higher end of the scale and therefore the proposal needs to be assessed under NPPF para 134 where the harm is assessed against the public benefits.
- 6.41 This is particularly important when considering the proposal and how to apply the guidance of the NPPF (para 133 and 134) and the local development plan policies.
- 6.42 Once that level of detail has provided the understanding, it is then possible to make the assessment as to the degree of harm to the significance of the asset as a whole and establish whether paragraphs 133 or 134 of the NPPF would apply.
- 6.43 The High Court in *Bedford BC v Secretary of State* considered the meaning of "substantial harm", and held that
- "Significance may be harmed through alteration of the asset [listed building], ie physical harm, or development within its setting, ie non-physical or indirect harm. Significance may be lost through the destruction of the asset or, in a very extreme case, development within its setting. ... What the inspector was saying was that, for harm to be substantial, the impact on significance was required to be serious such that very much, if not all, of the significance was drained away."*
- 6.44 The Court accordingly accepted the formula adopted by the inspector in that case, namely that for harm to be "substantial" in the terms of the NPPF, it would have to be "something

approaching demolition or destruction” – in the context of non-physical or indirect harm, it would have to be an impact that would have such a serious effect on the significance of the asset that its significance was spoiled altogether or very much reduced. The bar is set high.

- 6.45 Since the proposed site is not actually causing the loss of historic fabric, only harm to the setting, the relevant NPPF Paragraph is considered to be 134, which deals with “less than substantial harm”, rather than the “substantial harm” of 133. The Conservation Manager has confirmed that the degree of harm to be “less than substantial” although in respect of the conservation area on the higher end of the scale.
- 6.46 Paragraph 134 requires “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.” It is crucial to note, as per the Forest of Dean, that paragraph 134 is a restrictive policy, which in the context of NPPF paragraph 14 requires application of the ‘limb 2’ test. That is an unweighted test where it is not necessary to demonstrate that adverse impacts significantly and demonstrably outweigh the benefits of the scheme. Rather, it is a straight-forward unweighted test where if it is held that harm outweighs the public benefits, development should be restricted; which in this case translates to a recommendation for refusal.
- 6.47 Detailed representations received challenge this view, and maintain, through detailed analysis that there is no adverse impacts of the heritage asset. Conversely objectors maintain a contrary view.
- 6.48 Many of the comparisons made between heritage assets within the applicant’s documentation seem to make no distinction between the relative values of those assets. Whilst “great weight” should certainly be given to their conservation, care has to be given to balance the significance of one asset against another appropriately.
- 6.49 Even where there is less than substantial harm, the decision in *East Northamptonshire* makes it plain that there is still a presumption against the grant of planning permission; and the more recent decision in *Forge Field* and *Forest of Dean* emphasises the strength of that presumption in that merely because a development proposal will cause less than substantial harm, that does not amount to a less than substantial objection.
- 6.50 Paragraph 129 of the NPPF requires the LPA to identify and assess the particular significance of any heritage asset that may be affected by the proposal taking account the available evidence and any necessary expertise. This assessment should be taken into account when considering the impact of a proposal on any heritage asset, to avoid or minimise conflict between the heritage assets conservation and any aspect of the proposal.
- 6.51 In making this assessment it is considered necessary to ensure that all possible alternatives have been explored to ‘avoid or minimise conflict’. This was emphasised in the *Forge Field Society* case. It is therefore necessary to see whether there is any way in which it is possible to solve the problem without causing significant harm (whether “substantial”, in NPPF terms, or “less than substantial”) to the heritage asset or its setting or indeed any other heritage asset or its setting.
- 6.52 Core Strategy Policies, identified above, require development proposals affecting heritage assets and the wider historic environment to ‘*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*’
- 6.53 In considering the impact upon built heritage, and recognising the identified potential impacts, the proposed development cannot be said to ‘protect, conserve or... enhance’ the heritage

asset. As such, it would fail to comply with the requirements of policy LD4 of the Herefordshire Local Plan – Core Strategy. This policy does not include a ‘balancing exercise’ to be undertaken. Nonetheless, the NPPF is a material consideration in the determination of this application and does require a balance to be made having regard to paragraph 134. As identified above, this is an unweighted balancing exercise.

- 6.54 Having recognised the level of harm, and the conflict with the policy, it is necessary to weigh this harm to the significance of the designated heritage assets against the public benefits of the proposal.

Benefits Arising From the Proposal

S38(6) of the Planning and Compulsory Purchase Act necessitates review of other material considerations alongside the provisions of the Development Plan in exercising the ‘planning balance’. The main material consideration in the context is the National Planning Policy Framework, As such the acknowledged shortfall in deliverable housing sites represents a consideration of significant weight in favour of the scheme. The scheme would also boost the supply of housing as well as contribute towards addressing the current need for affordable housing within the parish. In terms of the economic dimension of sustainable development, the development would introduce investment in jobs and construction in the area.

S106 contributions of £80,079 have been confirmed. It is agreed that contributions towards education infrastructure, open space, and waste/recycling facilities and sustainable transport strategies are compliant with the CIL regulations (122(2)). In this respect the scheme complies with CS policy ID1, the Planning Obligations SPD and the Framework.

Other Matters

Ecological Status of the Site

- 6.55 Objections have been received from Herefordshire Campaign for the Protection of Rural England, (HCPRE), as well as comments made in a letter of objection from a member of the public, with regards to the ecological interests of the site, which is a designated special wildlife site.
- 6.56 The former UDP identified the site as a special wildlife site, (ref: SWS 46/012). In accordance with planning approval reference 92 418 dated 4th February 1993, the applicants agreed to a Section 39 agreement under the Wildlife and Countryside Act 1981 and the Town and Country Planning Act 1990 in consideration of the affordable housing. The Section 39 agreement was to ensure that the adjoining meadow was managed for a period of 10 years in order to retain the variety of flora on the land to the east of Harbour House, (including the site subject to this application).The agreement allowed the production of hay on site and stated that the applicants must control notifiable weeds in accordance with good agricultural practice and that surrounding hedgerows were to be retained and managed. This agreement expired on 3rd February 2003 as confirmed in a letter from the Council to the applicant dated 2nd March 2005.
- 6.57 The Planning Ecologist has responded indicating he accepts the recommendations for enhancement proposed by the ecological and amended landscape reports submitted in support of the application given the substantial and unrealistic prospect of fully re-creating and maintaining the habitat for which the site itself was originally designated. It is recommended that a condition is attached to any approval notice issued as recommended by the Conservation Manager(Ecology) in order to ensure ecological mitigation as proposed is carried out.
- 6.58 It is considered that a refusal based on ecological issues could not be sustained.

Drainage Issues

- 6.59 A letter of objection received raises concerns about flooding and drainage issues.
- 6.60 Welsh Water have responded to the application with no objections recommending conditions be attached to any approval notice issued with regards to foul and surface water drainage from the site. The Land Drainage Manager also raises no objections subject to provision of detailed surface water management design, infiltration test results, groundwater level data, drainage calculations, demonstrating that the soakaways are located more than 5 metres from building foundations and consideration of adoption maintenance and siltation control.
- 6.61 It is considered that drainage issues can be adequately addressed via the attachment of suitable worded conditions.

Kingsland Primary School

- 6.62 Concerns have also been raised about the capacity of Kingsland Primary School and its ability to accommodate more children as a result of the development. The Planning Obligations Manager raises no objections in respect of the Draft Heads of Terms submitted in support of the application which makes a contribution towards local infrastructure requirements which includes Kingsland Primary School. It is also noted that a letter of support for the application from the headteacher of Kingsland Primary School has been submitted.

Transportation

- 6.63 Issues have also been raised about public transport issues. It is noted that the Transportation Manager raises no objections. As indicated earlier in this report the site is considered sustainable being located alongside existing residential development that forms part of the village.

Design

- 6.64 Design and layout has also been raised as an issue in that the development does not appear significantly different to the previous refused application and that solar panels as proposed are a prominent and untraditional feature that appear incongruous in this part of the Conservation Area. The layout still retains a road dominated arrangement and that parking arrangements for vehicles in relation to the affordable housing appears dominant.
- 6.65 With consideration to the surrounding built environment and landscape which includes reference to the heritage assets, the revised plans submitted indicate a layout, design and scale of development which is a significant improvement on the previous refused application. It should also be noted that a substantial number of letters in support and a petition has been submitted many of which make reference to the requirement for dwellings of a scale and design as proposed. Regarding solar panels it is understood these are as a result of member comments to the previous refused planning permission. However the consultation responses from the Conservation Manager provide a significant counter view where objection are raised on design and landscape. These concerns are such that they should be given significant weight in the decision making process.

Kingsland Fire Station

- 6.66 Reference is made to Kingsland Fire Station which is located on the opposite side of the C1036 road alongside the southern side of the site and a previous planning approval for training facilities. This approval is still valid and was subject to a Judicial Challenge which was dismissed by the High Court. However it is understood that this development will not now proceed.

Further Housing Development

- 6.67 Comments with regards to land to the west of the site are noted and members are reminded that each application has to be considered on its own merits. Dwelling construction standards will have to be in accordance with Building Regulation standards and it has been established that development of the site is sustainable.
- 6.68 A Draft Heads of Terms drawn up in accordance with the Town and Country Planning Act 1990 on planning obligations has been submitted in support of the application to which no objections are raised. They provide for a raft of contributions amounting to £80,079 details of which are appended to this report.

7. Conclusion / Planning Balance

- 7.1 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing supply policies (in this instance SS2 and SS3) of the Core Strategy are therefore considered to be out of date and the full weight of the NPPF is applicable. The remaining Core Strategy policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. As detailed above, Policy RA2 of the Core Strategy positively seeks growth consistent with the aims of the NPPF to encourage growth in sustainable locations and can be attributed significant weight. This proposal would support this objective and is considered to accord with the requirements of policy RA2. As discussed above, the site would lie outside of the settlement boundary defined by the emerging Kingsland NDP but due to the extent of the unresolved objections to the NDP with regards to the settlement boundary only limited weight can be attributed to this policy at this time. A refusal on this ground, at this time, could not be sustained.
- 7.2 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. Policy SS1 of the Core Strategy acknowledges this and mirrors the guidance at paragraph 14 of the National Planning Policy Framework. When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged.
- 7.3 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged. Likewise S106 contributions and the New Homes Bonus should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development. However the significance of these benefits is tempered by the adverse impacts on the Conservation Area, Listed Buildings and the landscape setting of Kingsland.
- 7.4 For the reasons identified above, the scheme's inability to contribute positively to preserving and enhancing our natural, built and historic environment undermines any claim that the development is sustainable. Therefore in terms of heritage impacts the proposal must be considered in the context of NPPF guidance which directs the decision-maker in the context of the restrictive policies at paragraph 133 and 134. The Conservation Manager's comments confirm that the level of harm to the significance of the designated heritage asset (Kingsland Conservation Area) falls at the upper end of the 'less than substantial' spectrum and needs to be weighed against the public benefits of the proposal. In this instance, the development of the open field would remove what is regarded as valuable and locally significant open space within the Conservation Area and erode the space between the setting of the built environment creating a coalescence of development to the detriment of the setting of the listed buildings; this harm also requiring consideration against NPPF 134. In any event, it is concluded that the

proposal is contrary to LD4 of the CS and paragraph 134 of the NPPF. As such, applying the unweighted test prescribed by NPPF 134, the harm to the significance of the designated heritage assets is considered to outweigh the public benefits of the proposal to the extent that limb 1 of the paragraph 14 test is not engaged.

- 7.5 The scheme is also in conflict with CS Policy LD1, RA2 (3) and NPPF paragraph 137. The scheme would not preserve an important part of the setting of the Conservation Area and listed buildings and nor would it conserve or enhance the natural, historic or scenic beauty of the Conservation Area. This in turn confirms conflict with RA2 (3) in that the proposal is not considered to result in a high-quality scheme appropriate to its context or capable of making a positive contribution to the surrounding environment and the landscape setting of the settlement.
- 7.6 Mitigation for the significant harm caused by the residential proposal would not be possible due to the fundamental nature of the harm, ie removal of the rural character and separation and its replacement with suburban development. It is an objection 'in principle' to development at this location rather than against the detail of the application per se.
- 7.7 Technical matters in respect of drainage have been considered and are found to be acceptable and in accordance with the requirements of the relevant policies of the Core Strategy. The key concern locally relating to highways capacity have also been considered carefully, and whilst acknowledging the constraints and concerns, the application has successfully demonstrated that the additional traffic can be accommodated within the local highway network in accordance with policy MT1 of the Core Strategy and in accordance with the requirements of paragraph 32 of the National Planning Policy Framework..
- 7.8 When assessed against the policies of the NPPF and the CS it is considered that the foregoing assessment to represent demonstrable proof of the significant and demonstrable adverse impacts that would arise in the event that planning permission is granted and that these adverse impacts outweigh any benefits arising; particularly on application of the limb 2 test of paragraph 14 – that is the unweighted balance that is applicable when a restrictive policy is relevant. The effect is that planning permission should be refused.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The proposed development fails to preserve or enhance the character and appearance of the Conservation Area by eroding the open space and thereby coalescence of the built form contrary to policy LD4 and RA2 of the Herefordshire Local Plan – Core Strategy and NPPF.**
- 2. The proposed development by virtue of its location and prominent position is considered to be harmful to the landscape quality by impact detrimentally to the setting and approach to Kingsland contrary to Policy LD1 of the Herefordshire Local Plan - Core Strategy.**

INFORMATIVE:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reasons for the refusal, approval has not been possible.**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

DRAFT HEADS OF TERMS

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

Planning Application – P143252/F

SITE:

Land adjoining Kingsleane, Kingsland, Leominster, Herefordshire

PROPOSAL:

Proposed development of 12 dwellings consisting 5 affordable and 7 open market. Works to include new road and landscaping.

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1st April 2008, and Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended).

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£33,466.00 (index linked)** to provide enhanced educational infrastructure at Kingsland Primary School and Wigmore Secondary School. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of **£22,609.00 (index linked)**. The contribution shall provide 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:

- improvements to the public right of way network within the vicinity of the development;
- improved crossing facilities between the application site and village facilities and;
- improved bus infrastructure within the vicinity of the development

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

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£560.00 (index linked)**. 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.
4. 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

Further information on the subject of this report is available from Mr K Bishop on 01432 260756

commuted sum calculated in accordance with the Council's tariffs over a 60 year period

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£14,278.00 (index linked)** for off-site play facilities (provision and maintenance). The contribution would be used towards improving the existing play facilities in Kingsland as identified in the Neighbourhood Plan and in consultation with the Parish Council. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£9,166.00 (index linked)** for outdoor sports. The money shall be used by Herefordshire Council in accordance with priorities identified in the playing pitch assessment and the outdoor sports investment plan at Mortimer Park. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
7. The developer covenants with Herefordshire Council that 40% (5 units on basis of a gross development of 12) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H1 of the Herefordshire Core Strategy or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
8. The developer covenants with Herefordshire Council that of the 5 affordable houses, 2 shall be for social rented tenure, 2 shall be for intermediate tenure and 1 low cost market.
9. 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.
10. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-:
 - 10.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
 - 10.2. satisfy the requirements of paragraphs 9 & 10 of this schedule
11. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
 - 11.1. a local connection with the parish of Kingsland
 - 11.2. In the event of there being no person having a local connection to the parish of Kingsland a person with a local connection to Shobdon, Eardisland, Monkland and Stretford, Eyeton, Lucton, Croft and Yarpole, Aymestry and the Leominster North ward
 - 11.3. in the event of there being no person with a local connection to any of the parishes referred to in 11.2 then 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 20 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.
12. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - 12.1. is or in the past was normally resident there; or
 - 12.2. is employed there; or
 - 12.3. has a family association there; or
 - 12.4. a proven need to give support to or receive support from family members; or

Further information on the subject of this report is available from Mr K Bishop on 01432 260756

12.5. because of special circumstances;

13. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 5 and 6 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.
14. The sums referred to in paragraphs 1, 2, 3, 5 and 6 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
15. 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.
16. 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.



MEETING:	PLANNING COMMITTEE
DATE:	13 JULY 2016
TITLE OF REPORT:	160741 - SITE FOR PROPOSED DWELLING AND GARAGE AT LAND ADJACENT TO GALEN HOUSE, CHERRY ORCHARD, KINGS ACRE, HEREFORD, HR4 0SG For: Mr Matthews per Mr John Phipps, Bank Lodge, Coldwells Road, Holmer, Hereford, Herefordshire HR1 1LH
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160741&search=160741
Reason Application submitted to Committee – Applicant is related to a Member	

Date Received: 9 March 2016

Ward: Credenhill

Grid Ref: 346792,241546

Expiry Date: 9 June 2016

Local Member: Councillor RI Matthews (Councillor WLS Bowen has fulfilled the local ward member's role for this application.)

1. Site Description and Proposal

- 1.1 The application site lies to the south side of the A438, Kings Acre Road, to the west of Hereford City but within the Parish of Breinton. The site is in agricultural use and comprises a rectangular shaped portion of land (20m x 31m) that lies to the north east corner of a field. The field lies at the southern end of a private road known as Cherry Orchard. Access to the site is via Cherry Orchard and the existing field gate.
- 1.2 This application seeks outline planning permission for a single dwelling and garage with all matters reserved except for access. Access would be via Cherry Orchard, a private road that currently serves six other dwellings. The submission includes details that indicate improvements to this, including widening and provision of passing places. Cherry Orchard accesses directly onto the A438 (Kings Acre Road)
- 1.3 The application is supported by an Ecological Appraisal and indicative plan. Amended plans were supplied as part of the application process that extended the application site to the adopted highway (A438) and identified the proposed improvements to the access.

2. Policies

2.1 National Planning Policy Framework (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

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

Section 11 - Conserving and Enhancing the Natural Environment

2.2 Herefordshire Local Plan – Core Strategy

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS3 - Releasing Land for Residential Development
- SS4 - Movement and Transportation
- SS6 - Environmental quality and local distinctiveness
- RA1 - Rural Housing Distribution
- RA2 - Housing in Settlements Outside Hereford and the Market Towns
- H1 - Affordable Housing – Thresholds and Targets
- H3 - Ensuring an Appropriate Range and Mix of Housing
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Wastewater Treatment and River Water Quality
- ID1 - Infrastructure Delivery

2.3 National Planning Practice Guidance.

2.4 Breinton Parish Neighbourhood Area was approved in January 2014 and has since progressed to Regulation 16 stage. The relevant plan is currently the Reg. 16 Re-submission Draft 2016. Examination commenced on the 27th June 2016.

The relevant policies are:

- B1 - Housing Development in Defined Breinton Settlements
- B2 - Kings Acre Road
- B3 - Housing in the Countryside and Rural Exception Sites
- B5 - Ensuring an Appropriate Range and Tenure of Sizes of Houses
- B6 - Sustainable Design and Energy Efficient
- B15 - Local Distinctiveness

At this stage, where compliant with the Core Strategy, weight can be attributed to this document in the decision making process.

However, there are unresolved objections to the Breinton Neighbourhood Development Plan (BNDP) with regards to the settlement boundary and policy for the Kings Acre Road Area and consistency with that of the rural settlements (B1 and B2). These surround the use of the term 'within' the settlement boundary for Kings Acre Road but 'within and adjacent' for the rural settlements.

2.5 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 None

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water raise no objection and recommend a condition be imposed on any planning permission.

Internal Council Consultations

- 4.2 The Transportation Manager made the following comment on the original submission:

Access visibility

The access onto the A438 is within a 40 mph speed limit, the visibility in either direction is good from a 2.4m set back.

The width at the entrance tapers to 3.9m from 5m from the kerb line, the width remains as such for 48m which then widens to 5m to the boundary fence. The useable width appears to remain as such to the turning head which is 16m x 6.4m.

There is on recorded accident in the vicinity of the access lane though this was a vehicle exiting Breinton Lane, this could not be associated with the proposed development.

Trips

The trips generated along the lane would be roughly 5 x 6 trips which = 30, the additional property would add another 6 trips per day.

The site is currently served by service vehicles such as refuse, post, deliveries etc, the core of these will not increase due to the proposal.

What is unknown is the use of the field and trips currently serving the site and those post, if approved.

Works required

The access is demarked as a junction, the access would be better served by continuous footpath, this would assist in giving pedestrians priority.

Further Information Required

The extent of land that can be used for the access, parking and turning?

Who maintains the lane and to what standard?

If, as suggested by the application, improvements can be made, how will these be maintained?

Conclusions

The proposal is unacceptable but **can** be made acceptable by way of the following amendments to the deposited application:-

If the additional information is confirmed and acceptable, the access lane will need to widen from 48m to the end to the max width to accommodate passing and visitor parking where this could be an issue.

The entrance will need to be altered to accommodate a continuous footpath.

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

Internal layout will need to accommodate sufficient parking and turning, if the garage is to be used for parking, this will need to be internal dimensions of 3m x 6m.

- 4.3 Following receipt of amended plans, the Transportation Manager has made the following comments:

The proposed improvements as per the plans submitted in dwg number 434.10 are almost acceptable, the passing place to the north needs to extend to the narrowing. This isn't a problem and I am content this can be conditioned.

The intensification is minimal though any further development in this location will require substantial improvements to the lane due to the servicing and vehicle movements.

*If you are minded to approve, please add the following conditions:
CAL, CAP, CAZ and CB3 for a construction TMP due to the constraints of the site.*

Please add the informative for the works on the public highway to be notified to BBLP prior to any works being undertaken to co-ordinate the works and enable supervision to comply to HC standards. There is a fee to cover our service providers costs for the supervision

- 4.4 The Conservation Manager (Ecology) has made the following comments:

Having looked at the supplied preliminary ecological appraisal (by Just Mammals dated March 2016) I am happy that there are no ecological concerns associated with the application. I would like to draw the applicants attentions to the recommendations of the report (10.1 to 10.10) and would strongly support the inclusion of these recommendations in the final designs and landscaping – in particular the need for a carefully thought out lighting plan to avoid night time disturbance of wildlife commuting and foraging in the area and additional light being directly or indirectly thrown up in to the wider sky.

5. Representations

5.1 Breinton Parish Council

- 1. Breinton Parish Council considered this application at their meeting on 23rd March 2016. Members of the public have provided comments which the Parish Council considered in arriving at their decision. No doubt the local residents will also be responding individually to this application.*
- 2. The Parish Councillors have asked that I respond to oppose this proposed development for the following reasons: -*
- 3. Access into and out of Cherry Orchard is not good. Residents have cited several occasions when vehicles have met accessing and exiting the lane, which has resulted in the vehicle on Kings Acre Road having to stop suddenly and has led to following vehicles braking suddenly. A dangerous situation.*
- 4. The access to the site has no provision for pedestrians and/or cyclists along the lane and so does not offer safe, sustainable alternatives to the car. Despite comments in the application there is currently no cycleway along Kings Acre Road despite this being a long held request of the Parish Council. The effect of more vehicles entering and exiting this site, along with larger numbers of vehicles accessing the entrances to Breinton Lee; Cherry Orchard is a concern to the Parish Council as a cumulative impact on the local infrastructure and safety of all road and footpath users.*

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

5. *The lane into the site is very narrow, resulting in cars having to reverse back up to the top of the lane if they meet another vehicle coming the opposite way. Larger service vehicles can only turn around at the top of the lane, where the applicant proposes to develop. Currently the refuse lorries have to reverse into this lane from Kings Acre Road, which concerns the Parish Council if there are more families and children living in the area.*
6. *The proposed development of a 4-bedroom property is not the type of housing required according to the Local Housing Needs Survey. All recent planning approvals have been for 4 bedroom properties and these do not reflect the Local Housing needs for the area, which identified smaller properties being required.*
7. *Residents also commented on the inadequate sewerage infrastructure for the existing properties along Cherry Orchard, Breinton Lee and in the surrounding area. The Parish Council are concerned about the cumulative impact of all the agreed developments in the last 2 years impacting further on local residents and any other future developments in the area. so any further development will only exacerbate the problem.*
8. *The applicant's relationship with Ward Councillor Bob Matthews was not disclosed on the application form.*
9. *This is just one development on a much larger agricultural field. Due to the lack of transport and utility infrastructure to support further development in the area, and the cumulative impact of recently approved developments, Breinton Parish Council would request that should this application be approved that further development would not be permitted on this site, other than for the proposed application.*
10. *As it is an outline application, if the Planning Officer is minded to grant permission to develop the property, Breinton Parish Councillors request that the reserved matters are referred back to the Parish Council, and not dealt with under delegated powers*

Supplementary Response:

Further to recent communication, I attach a supplementary response to the above planning application from Breinton Parish Councillors.

The Breinton Neighbourhood Development Plan (NDP) will complete a second period of Regulation 16 consultations on Tuesday 19th April. At this point some weight can be attached to its proposed policies.

Breinton is a rural parish. The NDP's main housing policy (B1) proposes boundaries for both of the main hamlets – Breinton Common and Lower Breinton in the Parish and supports proportionate development within, or adjoining these defined rural settlements subject to certain criteria. This conforms to Core Strategy policy RA2. The rest of the Parish, including the application site, is therefore covered by Core Strategy policy RA3 which is supported by NDP policy B3 locally. The Parish council does not believe that this application is meets the criteria of policy RA3 or B3.

The exception to the defined settlements and open country covered by policies RA2/B1 and RA3/B3 respectively is King's Acre Road. The NDP has a separate policy (B2) covering Kings Acre Road and the area covered by this policy is also defined by a boundary. The application site lies outside this boundary.

The reason for separate policy is that Kings Acre Road is a finger of 'ribbon development' sitting within the open countryside defined by the policies mentioned above. Being 'ribbon development' the defined area is not identified as a settlement

under policy RA2/B1. However; there is a clear need for a policy to manage its future development which policy B2 seeks to do in a very sensitive way so as to retain the last few remaining gaps in the Kings Acre frontage; to retain brief glimpses of the countryside beyond; to limit any further westward expansion of ribbon development and any further southward encroachment onto open countryside that would not be sustainable.

In line with Core Strategy RA1, the NDP contains local evidence and documented environmental factors that will determine the appropriate scale of development in Breinton. Accordingly, NDP Policy B2 supports new housing development within the Kings Acre boundary but not beyond it. It should be noted that potential development sites do exist within this boundary and one has recently obtained approval for three houses. Furthermore, approval has already been given in the past for sites beyond the proposed boundary totalling 29 houses. Taking approvals, existing windfalls and projected future windfalls (at a rate that Herefordshire Council have confirmed is reasonable) together; Breinton is already 74% towards meeting the indicative housing growth target of 18% with 15 years of the Plan period remaining. Like this application, the bulk of the approvals are already along Kings Acre Road. It should be further noted however; that the 18% target is not just for Breinton but for the entire Hereford rural housing market area (HMA) and that Breinton is not designated as a main focus for proportional housing development in the HMA.

As described in Core Strategy policy RA2, Breinton's NDP was expected to 'allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets by indicating levels of suitable and available capacity'. This was done with a capacity study – one of the supporting documents published alongside the NDP. This examined all the known sites (from the Strategic Housing Land Availability Study (SHLAA) and the more recent Housing and Economic Land Availability Study (HELAA)) along with known smaller sites excluded by the two studies. The application site is not contained in either study, was not known and is thus excluded from the capacity study. The application is for a four bed house, as are many of the recent approvals, which do not meet the local needs for smaller accommodation as demonstrated by the current housing needs survey (February 2012) and perpetuates the current imbalance in the range of tenures, types and sizes of houses locally. (NDP Policy B5 refers).

In conclusion; the Parish Council does not believe that the relatively small economic benefit of the single additional house is sufficient to disregard the emerging NDP policies even if all the objections of local people and those contained in our previous letter were ignored.

5.2 12 Letters of objection/concern have been received:

The issues and concerns raised in these letters can be summarised as follows:

Highway safety and parking

- Very narrow single track dust lane that cannot cope with any other vehicles on it;
- Lane is only 3m in width at entrance to first house
- Poor visibility onto the main road in both directions;
- Problems with traffic speeds on Kings Acre Road;
- Vehicle have to wait on main road to wait for cars to exit the lane or reverse all the way back up;
- The improvements proposed won't improve matters as track is already full extent;
- Residents do park on the track due to limited number of car parking spaces at the dwellings. These improvements will remove these parking spaces;
- Proposal will remove turning area;

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

- Loss of the spaces will impact on residential amenity;
- Parking will be displaced to Four Acres or surrounding areas;
- Comments that agricultural / equestrian traffic could use land are misleading / untrue.
- No lighting or footways;
- Track not wide enough for a car and pedestrian / cyclist to pass at same time;
- Track in use 24 hours a day;
- Fatality around 30 years ago;
- Refuse Lorries cannot access without reversing in from Kings Acre Road;
- Land has been left fallow for about 20 years with no traffic movements associated with it.
- Traffic along lane has increased in recent years;
- Additional gas deliveries;
- How would construction traffic be managed?

Impact upon Amenity and character of the area

- Construction and proposed use will impact upon quiet serenity, general condition, access, security and peaceful living.
- Residents of Cherry Orchard will be affected negatively throughout the duration of the building and then with an increased volume of traffic and movement.
- Proposal will demonstrable harm the amenities enjoyed by neighbours;
- Large plot – could accommodate more, why not shown?
- Building of a dwelling in Cherry Orchard will destroy its character.
- Visual impact from property on Four Acres

Other matters

- Approval would be a contravention of Article 8 of the Human Rights Act;
- Previous planning permission on this plot refused;
- Concern about relationship of applicant to Elected ward Member;
- Land has Environmental value – wildlife. Bats habitat;
- Drainage issues – have had to ‘rod out’ over last three years;
- No permission has been given from the removal of hedge at Bramley House or Tara.

5.3 5 Letters of Support have been received:

The issues and concerns raised in these letters can be summarised as follows:

- Infill development; between two properties;
- Would tidy up the land;
- Planning permission recently granted on adjoining land;
- Utility services are readily available;
- Complies with Core Strategy Policies;
- Only concern being highways – careful attention needed.

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=160741&search=160741>

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."

6.2 In this instance the Development Plan for the area is the Herefordshire Local Plan - Core Strategy (CS). A range of CS policies, referred to above (section 2) are relevant. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms that proposals that accord with the policies of the CS (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

The principle of development

6.3 As per the NPPF, the delivery of sustainable housing development to meet objectively assessed need is a central theme of the CS. Policy SS2 'Delivering new homes' confirms that Hereford, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable *"where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community."*

6.4 Equally it is clear that failure to maintain a robust NPPF compliant supply of housing land will render the housing supply policies of the CS out-of-date. Policy SS3 'Ensuring sufficient housing land delivery' thus imposes requirements on the Council in the event that completions fall below the trajectory set out in Appendix 4 of the CS.

6.5 Despite relatively recent adoption of the CS, it is clear that the Housing Land Supply deficit persists. The Examination Inspector concluded that there was a marginal but realistic five-year housing land supply on the basis of the Core Strategy provisions. The supply was assessed at 5.24 years. Housing land supply has been further examined in recent Inquiries in the County in respect of appeals for proposed housing developments at Leintwardine, Ledbury and Bromyard. The Inspectors have concluded in relation to all of these appeals that the Council is unable to demonstrate a robust five-year supply of deliverable housing sites sufficient to meet its identified needs. This view was reached on an assessment of the amount of housing reasonably likely to be delivered on the strategic sites allocated in the Core Strategy. The Inspectors' conclusions as to the lack of a robust five-year housing land supply have also been accepted by the Council for the purposes of the most recent Public Inquiry at Bartestree (143771, May 2016) where it was agreed with the appellants that the supply stood at 3.63 years; this figure taking into account the contribution to supply arising from the allowed appeals at Leintwardine and Ledbury.

6.6 The Core Strategy sets out a number of policies in chapters 3, 4 and 5 for the supply of housing which are relevant to the present application. As a consequence of the housing land supply position, the policies in the Core Strategy relating to the supply of housing are out of date by reason of paragraph 49 of the NPPF. Although these policies are out of date, the weight that they should receive is a matter of planning judgment for the decision-maker. This is a matter that has been reinforced in recent case law, Suffolk Coast / Hopkins Homes.

6.7 Core Strategy policy SS2, Delivering new homes, makes an overall provision for the delivery of a minimum 16,500 homes in Herefordshire between 2011 and 2031 to meet market and

affordable housing need. Of these, just over two thirds are directed to Hereford and the market towns, with a distribution of a minimum 5,300 homes (32%) to rural settlements. Here, new housing development will be acceptable where it helps to meet housing needs and requirements, support the rural economy, local services and facilities, and is responsive to community needs.

- 6.8 Policy SS3, Ensuring sufficient housing land delivery, sets out a range of measures to be undertaken should a material shortfall in the rate of housing delivery be identified through the annual monitoring process. The policy addresses the relationship between the delivery of strategic housing sites and key elements of infrastructure.
- 6.9 Policy RA1, Rural housing distribution, explains that the minimum 5,300 new dwellings will be distributed across seven Housing Market Areas (HMAs). This recognises that different parts of the County have differing housing needs and requirements. Breinton lies within the rural part of the Hereford HMA, which is tasked with an indicative housing growth target of 18% (1870 dwellings).
- 6.10 The policy explains that the indicative target is to be used as a basis for the production of Neighbourhood Development Plans (NDPs). The growth target figure is set for the HMA as a whole, rather than for constituent Neighbourhood Areas, where local evidence and environmental factors will determine the appropriate scale of development. The Inspector's Report on the Core Strategy Examination makes clear that a flexible and responsive approach is necessary to deliver the level of development sought, whilst recognising and respecting the rural landscape. The Modification proposed, and now incorporated within the adopted Core Strategy, leaves flexibility for NDPs to identify the most suitable housing sites.
- 6.11 RA2, Housing in settlements outside Hereford and the market towns, identifies the rural settlements which are to be the main focus of proportionate housing development in the rural areas (fig. 4.14) and other settlements where proportionate housing is considered appropriate (Fig. 4.15). In these locations, housing growth will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the communities concerned. Policy RA2 seeks to support housing growth in or adjacent to these settlements and confirms that the indicative targets established in policy RA1 will be used to inform the level of development in the identified settlements. The expectation of this policy is that NDPs will define appropriate settlement boundaries or reasonable alternatives or will allocate land for new housing or otherwise demonstrate delivery by indicating levels of suitable and available capacity.
- 6.12 The dwellings that lie in the vicinity of the application site lie within the Parish of Breinton, and within its designated Neighbourhood Area. The Neighbourhood Development Plan describes Breinton: *The parish is not conventional in the sense that it neither has one larger village nor a distinct centre. The parish is very rural and consists of a series of dispersed hamlets: including Lower Breinton, Breinton Common, Cranstone and Warham, as well as significant ribbon development, backing on to open fields, along the south side of the A438 - Kings Acre Road.*
- 6.13 Breinton NDP acknowledges in its objectives, the need to promote a level of housing growth to meet the indicative housing target for Herefordshire that is proportionate to the size of Breinton parish and its settlements so that the parish retains its essentially rural character. The Breinton NDP is currently at examination stage, therefore material weight can be attributed to the plan.
- 6.14 The Neighbourhood Plan does not allocate sites for housing but does identify settlement boundaries with criteria policies (B1 and B2). There is a current shortfall of 19 dwellings from the proportional growth requirement and it has been recommended (through the Reg 16 consultation) that additional wording is added to clarify the reasoning (i.e. the route of the relief road is still to be determined and the proximity of the Three Elms urban extension which may cater for the housing needs of the Kings Acre Road).

- 6.15 However, paragraph 216 of the NPPF highlights that the extent to which there are unresolved objections to relevant policies should also be taken into account. There are unresolved objections to the Breinton NDP with regards to the settlement boundary and policy for the Kings Acre Road Area and consistency with that of the rural settlements (B1 and B2). These surround the use of the term 'within' the settlement boundary for Kings Acre Road but 'within and adjacent' for the rural settlements. It should be noted that there is also a level of support for the policies as written. However, it is anticipated that this will be a matter for the examination which commenced the 27 June. Having regard to this, it is officer's opinion that only limited weight could be attributed to policies B1 and B2 in the decision making process and that refusal of an application on the grounds that the site lies outside of the settlement boundary defined by these policies could not be upheld at this time.
- 6.16 It is, however, considered that some weight could be attributed to the NDP in that the 'Kings Acre' area has been defined as a built up area of the Parish. As such the aims of policy RA2 in that new development should *be located within or adjacent to the main built up area. In relation to smaller settlements identified in fig 4.15 proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement*'. The site clearly lies adjacent to this built up area of Kings Acre, and would support housing growth in accordance with the requirements of policies RA1 and RA2 of the Core Strategy and key objectives of the Breinton Neighbourhood Development Plan (February 2016 submission) in the delivery of housing. These, in turn are consistent with the aims of the NPPF and as such, can be given significant weight in the decision making process.

Impact upon the character of the area

- 6.17 Kings Acre is often described as being linear ribbon development but is interspersed with cul-de-sacs and historic developments that emerge southwards such as those on Cherry Orchard, Yew Tree Gardens and Four Acres. The proposal, whilst in outline, would extend the development along Cherry Orchard to its east side. It is therefore considered that this site is well related to the built form of the surrounding area and with sensitive landscaping and design could be integrated, as organic growth, into the surrounding area in accordance with the requirements of the relevant Core Strategy Policies.
- 6.18 The application is outline only with all matters except for access reserved. Whilst an indicative plan has been submitted with the application, the layout, scale, appearance and landscaping would form part of a Reserved Matters application and this application seeks to establish the principle of development. There are no significant concerns about impact upon amenity relating to its relationship with neighbouring properties and the sensitive landscaping could address the subdivision of the field to provide the proposed application site.

Drainage and water consumption

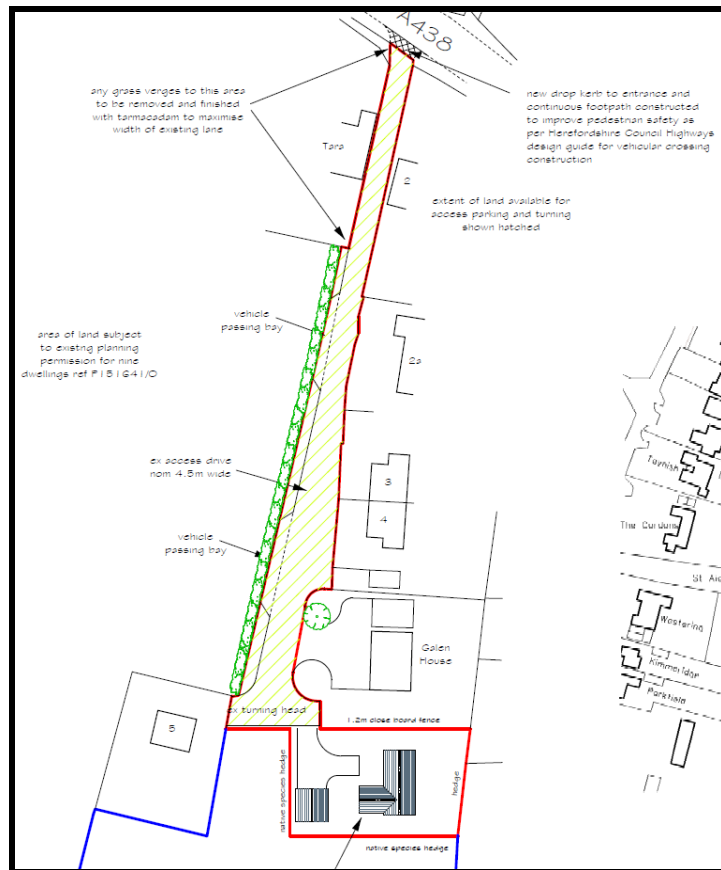
- 6.19 In addition to this Core Strategy policy SD1 (Sustainable Design and Energy Efficiency) seeks to secure high quality design and well planned development, that positively contribute to the character of the area and that development successfully integrates into the existing built, natural and historic environment. This policy also seeks the inclusion of physical sustainability measures, including orientation of buildings, provision of water conservation measures, storage for bicycles and waste, including provision for recycling and enabling renewable energy and energy conservation infrastructure. Policy SD3 deals specifically with water consumption and a condition is recommended to address this requirement. The use of sustainable construction methods is also pursued in this policy. These requirements must be considered alongside those of residential amenity in the progression of any approval.
- 6.20 The comments of a number of representations about drainage capacity are noted but the Statutory Consultee, Welsh Water, have raised no objection to the proposed development.

Surface water drainage plans would also need to be supplied and considered and a condition is recommended. As such, the requirements of policy SD4 in respect of Foul Sewerage can be met.

- 6.21 Officers are satisfied, that whilst this application is in Outline form only at this stage, this is a small scale development that can, through careful design and consideration, be assimilated successfully into the locality, whilst providing a relatively modest, but important, number of dwellings to the parish that will count towards the minimum 18% increase in dwellings sought in the parish and Hereford Housing Market Areas by policy RA1 of the Core Strategy.

Access and Highway Safety

- 6.22 Policy MT1 of the CS requires that developments do not affect the free flow of the local network and that they achieve safe entrance and exit along with operational space and parking. The key concern and matter arising from the proposed development is the access to the site along Cherry Orchard, whether this, and the access onto the adopted highway (Kings Acre Road) is capable of accommodating the additional dwelling.
- 6.23 Access to the site is via the unmade land known as Cherry Orchard. The access is in private ownership and serves six existing properties. The access is single width, located between properties Tara to the west and 2 Cherry Orchard to the East that are both accessed from Kings Acre Road. The boundary to the west is a close board fence that extends approx. 37m along the residential boundary, before changing to native hedgerow along the field boundary (site recently obtained planning permission for 9 dwellings – 151641). The boundary to the east is a mature hedgerow along the residential boundary before reaching the first dwelling accessed of Cherry Orchard itself, here the track widens informally with the single track element extending approximately 47m from Kings Acre Road.
- 6.24 Amended plans were submitted to address the issues and queries raised by the Transportation Manager. The amended plans included the provision of a new drop kerb to the entrance and construction of a continuous footway across the frontage to improve pedestrian safety. Moving towards the site, the proposals include the removal of the grass verges and laying of tarmacadam in first single width section to maximise the width of the existing lane. Beyond this the proposals include the creation of two vehicle passing bays within the grass verge to the west of the Cherry Orchard. The hedge to the west that forms the boundary with the field would be retained. The turning head at the end of the lane would be retained. Access to the site itself is off of this turning head and parking for the dwelling would be provided within its curtilage. The access lane would be re-surfaced in its entirety with appropriate drainage provided (details of this would be controlled via conditions as suggested).
- 6.25 An extract of the plans are provided below with the area hatched in yellow being the extent of land available for the improvements to be made.



- 6.26 The Transportation Manager has considered the amended plans and has advised that one additional dwelling in combination with the improvements proposed would satisfy the requirements of policy MT1 of the CS by achieving safe entrance and exit (including improvements to footway crossing and definition of the access) and the appropriate operational and manoeuvring space. The intensification of the use is considered to be minimal and the local highway network could absorb the traffic impacts of the development without adversely affecting safe and efficient flow of traffic on the network. With reference to paragraph 32 of the NPPF the residual cumulative impacts of development cannot be considered to be severe and as such refusal could not be directed.
- 6.27 The concerns of the local residents are noted, however many of the issues raised are existing problems that will not be made significantly worse with the introduction of one dwelling. The improvements proposed will benefit all of the users of the lane. No 'informal' car parking will be lost as the hard surface area will actually be increased to help manoeuvring in the lane and sufficient parking can be provided within the curtilage of the new dwelling to prevent indiscriminate parking in the area. Refuse lorries will already be serving the dwellings and as such no additional trips will be necessary. The widening and improvements proposed, whilst not providing sufficient space for two-way traffic along its length should improve the space to manoeuvre and pass the larger vehicles.

Amenity

- 6.28 Representations also suggest that the new dwelling and its associated use would adversely impact upon amenities currently enjoyed by local residents. However, given the small scale and nature of the development, impact would be minimal and could not be considered a reason for refusal. Whilst design and siting of the dwelling have not been provided, officers are satisfied that a dwelling could be accommodated without detrimental impact upon residential amenity.

- 6.29 Noting the concerns in relation to construction phases, conditions are proposed in respect of hours of working and the management of construction phases in terms of traffic movements, parking and deliveries.
- 6.30 Having regard to the above, the proposals would comply with the requirements of policy SD1 of the CS and with guidance contained within the NPPF that seeks to protect the amenities of existing and proposed residents.

Ecology

- 6.31 The application is supported by an ecological report that has been considered by the Councils Service Manager Built and Natural Environment and would, with the appropriate conditions ensure compliance with the requirements of policy LD2 of the Core Strategy and guidance contained within the National Planning Policy Framework.

Conclusions and Planning Balance

- 6.32 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing supply policies (in this instance SS2 and SS3) of the Core Strategy are therefore considered to be out of date. The remaining Core Strategy policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. As detailed above, Policy RA2 of the Core Strategy and the emerging Breinton NDP positively seeks growth consistent with the aims of the NPPF to encourage growth in sustainable locations and can be attributed significant weight. This proposal would support this objective and is considered to accord with the requirements of policy RA2. As discussed above, the site would lie outside of the settlement boundary defined by policy B1 of the emerging Breinton NDP but due to the extent of the unresolved objections to the NDP with regards to the settlement boundary and policy for the Kings Acre Road Area and consistency with that of the rural settlements (B1 and B2) only limited weight can be attributed to this policy at this time. A refusal on this ground, at this time, could not be sustained.
- 6.33 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. Policy SS1 of the Core Strategy acknowledges this and mirrors the guidance at paragraph 14 of the National Planning Policy Framework. 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.
- 6.34 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 should be attributed significant weight. In providing a greater supply of housing and breadth of choice the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.
- 6.35 Technical matters in respect of drainage have been considered and are found to be acceptable and in accordance with the requirements of the relevant policies of the Core Strategy. The key concerns locally relating to highways capacity (and construction phases) have also been considered carefully, and whilst acknowledging the constraints and concerns, the application has successfully demonstrated that the additional traffic can be accommodated within the local and strategic highway network in accordance with policy MT1 of the Core Strategy and in accordance with the requirements of paragraph 32 of the National Planning Policy Framework. Conditions are recommended to address and manage the construction phase of development.
- 6.36 Officers conclude that the proposed development accords with the relevant policies of the Core Strategy and that there are no adverse impacts of granting planning permission that would

significantly or demonstrably outweigh the benefits when assessed against the policies of the National Planning Policy Framework taken as a whole. It is therefore concluded that the presumption in favour of sustainable development should be engaged and that planning permission should be granted subject to the completion of a legal undertaking and planning conditions detailed below.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. A02 - Time limit for submission of reserved matters (outline permission)**
- 2. A03 - Time limit for commencement (outline permission)**
- 3. A04 - Approval of reserved matters**
- 4. C06 - Approved Plans**
- 5. C01 - Samples of external materials**
- 6. G11 - Landscaping scheme - implementation**
- 7. Prior to the commencement of development, engineering details and plans (including drainage arrangements) for the proposed improvements to the access from the A438 to the application site, shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved plans and details and shall be completed prior to the first occupation of the dwelling hereby permitted.**

Reason: To ensure that an adequate and acceptable means of access is available before the dwelling is occupied and to provide improvements in the interests of highway safety having regard to the requirements of Policy MT1 of the Herefordshire Local Plan - Core Strategy.

- 8. H27 - Parking for site operatives**
- 9. H29 - Secure covered cycle parking provision**
- 10. I16 - Restriction of hours during construction**
- 11. H13 - Access, turning area and parking**
- 12. M17 - Water Efficiency - Residential**
- 13. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network**

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

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. **HN22 Works adjoining highway**

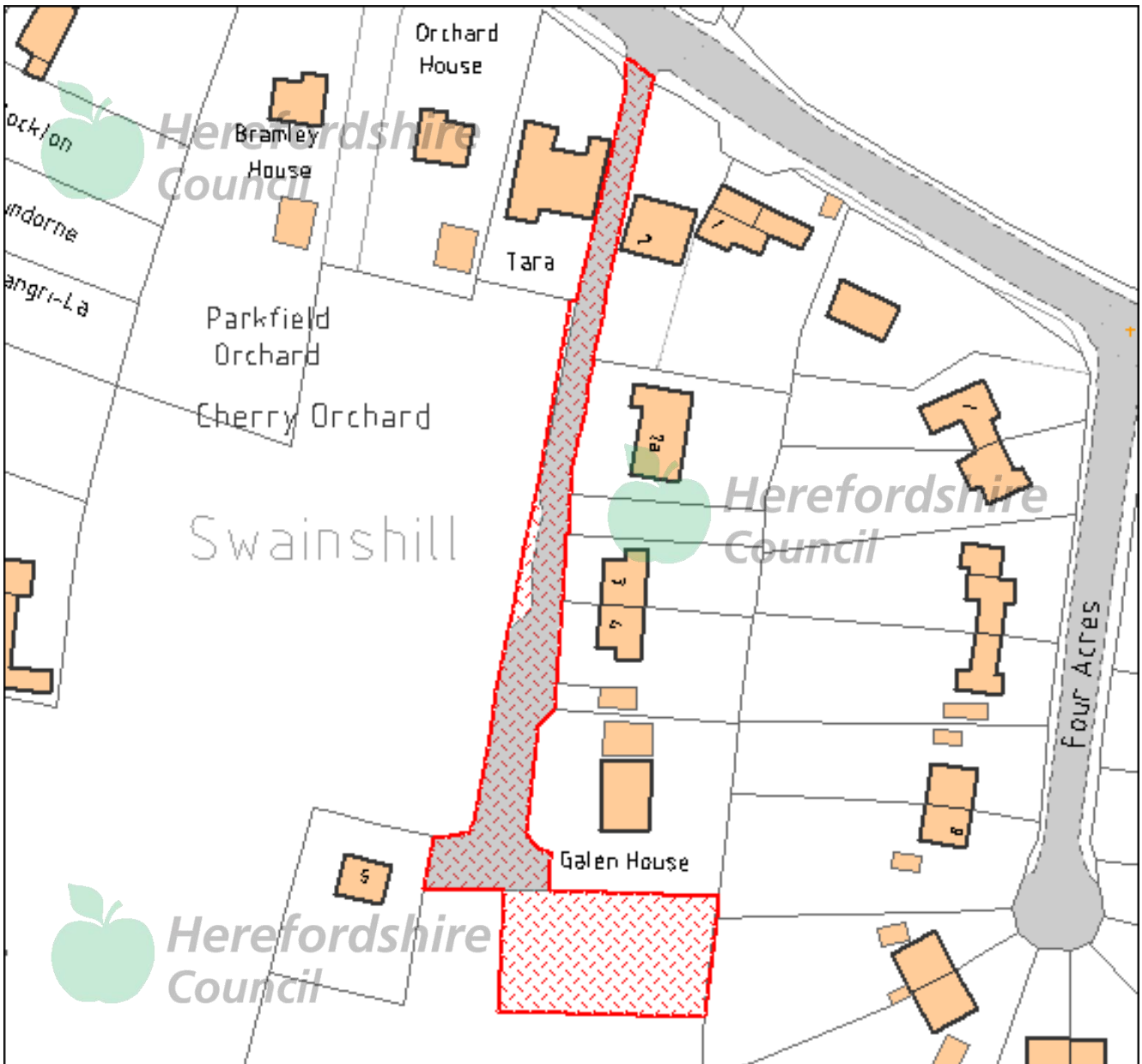
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 160741

SITE ADDRESS : LAND ADJACENT TO GALEN HOUSE, CHERRY ORCHARD, KINGS ACRE, HEREFORD, HR4 0SG

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