

AGENDA

Planning Committee

Date: **Wednesday 7 December 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.

For any further information please contact:

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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 FM Norman
	Councillor AJW Powers
	Councillor A Seldon
	Councillor WC Skelton
	Councillor D Summers
	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 meeting held on 2 November 2016.</p>	7 - 22
5.	<p>CHAIRMAN'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairman.</p>	
6.	<p>APPEALS</p> <p>To be noted.</p>	23 - 28
7.	<p>151983 - ROGERS FARM, BUSH BANK, HEREFORD, HR4 8EP</p> <p>Proposed erection of two poultry buildings, new access and conversion of building to house biomass boiler.</p>	29 - 56
8.	<p>162283 - RECORDS OFFICE, HAROLD STREET, HEREFORD, HEREFORDSHIRE, HR1 2QX</p> <p>Demolish existing building and construct a new boarding house to accommodate 49 pupils, nurse bedroom, houseparent accommodation, house tutors flat and overnight staff room.</p>	57 - 82
9.	<p>161859 - LAND WEST OF LARKSMEAD, BRAMPTON ABBOTTS, ROSS-ON-WYE, HR9 7JE</p> <p>Proposed residential dwelling.</p>	83 - 100
10.	<p>161522 - LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA</p> <p>Proposed 6 no. Detached dwellings and 4 no. Garages.</p>	101 - 132
11.	<p>161627 - PLOT 7 LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA</p> <p>Proposed dwelling and garage.</p>	133 - 138

12. **151584 - LAND ADJACENT TO BRICK HOUSE, LUSTON, HEREFORDSHIRE, HR6 0EB** 139 - 150

Proposed residential development for three detached and four semi detached dwellings with modified vehicle access to B4361.

13. **DATE OF NEXT MEETING**

Date of next site inspection – 10 January 2017

Date of next meeting – 11 January 2017

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- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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HEREFORDSHIRE COUNCIL

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

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

Councillors: BA Baker, CR Butler, PJ Edwards, DW Greenow, KS Guthrie, EL Holton, JA Hyde, TM James, FM Norman, AJW Powers, A Seldon, WC Skelton, D Summers, EJ Swinglehurst and LC Tawn

In attendance: Councillors WLS Bowen and PE Crockett

68. APOLOGIES FOR ABSENCE

None.

69. NAMED SUBSTITUTES

None.

70. DECLARATIONS OF INTEREST

Agenda item 7: 162264 – Land between Tillington Road and Roman Road Hereford.

Councillor J Hardwick declared a non-pecuniary interest because he knew members of the applicant's family.

71. MINUTES

It was noted that Councillor Norman had been present at the meeting but this had not been recorded.

RESOLVED: That the Minutes of the meeting held on 5 October 2016, as amended, be approved as a correct record and signed by the Chairman.

72. CHAIRMAN'S ANNOUNCEMENTS

None.

73. APPEALS

The Planning Committee noted the report.

74. 160048 - LAND BETWEEN TILLINGTON ROAD AND ROMAN ROAD, HEREFORD.

(Proposed outline planning application (all matters reserved except access) for the development of up to 50 residential dwellings with associated access.)

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr S Kerry, Clerk to Hereford City Council, spoke in opposition to the Scheme. Mrs M Stevens, a local resident, spoke in objection. Mrs E Warren, the applicant's agent, spoke in support.

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

She made the following principal comments:

- Burghill Parish Council, Hereford City Council and a number of local residents had objected to the application.
- The site was open pasture – a greenfield site in a rural area.
- Concerns raised in letters of objection included noise, light and traffic pollution.
- The site was not identified for development in the Burghill Neighbourhood Development Plan (NDP).
- There were concerns about water supply, sewerage and waste management.
- The impact on local amenity was significant.
- As noted in the objection of Hereford City Council the cumulative impact of developing the site was more than the area could reasonable bear.
- The existing GP surgery had no capacity and could not expand on its existing site. More infrastructure was required.
- She could not support the application given the major issues identified.

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

- The land was not particularly valuable for agriculture.
- The access was satisfactory.
- There were some concerns as to whether Welsh Water would be able to provide the necessary infrastructure. However, it was asserted that the development would not proceed if concerns about the water supply and sewerage could not be addressed.
- A number of concerns were expressed relating to the detail, including the suggestion that there was a culvert crossing the site and a public footpath, the location of the children's play area in the corner of the site, the transportation manager's comments on footways round the junction of Tillington Road and Roman Road; and arrangements for pedestrians to cross Roman Road. A request was made that consideration be given to an attenuation scheme rather than the SUDS being proposed, with provision of a wildlife zone. Consideration of a wet system was also suggested. It was also requested that the play area should be provided with outdoor gym equipment.
- Several Members thought that a development of fewer houses than the "up to 50" proposed would be preferable. A Member proposed a limit of 40. In response the Lead Development Manager commented that the final size of the development would be determined by the detailed layout and other requirements. The proposed density was within the range specified in the Core Strategy. The Committee had to determine the application before it.
- The development was sustainable.
- A large development was already proposed on the opposite side of the Roman Road. There had to be concern about traffic levels including HGVs. The junction of Tillington Road and Roman Road would become a blackspot.

- It was suggested that there may also be archaeological issues to address.
- The need to provide a new GP surgery was a further example of the absence of infrastructure required to support the development.
- The development would mean the loss of a valuable green space distinguishing Burghill Parish from the City. The Roman Road had traditionally been viewed as a boundary to the City's expansion.
- The significant housing development proposals in the area represented over development.
- The proposed mitigation of landscaping and tree planting would not be sufficient to address the increased traffic that would be generated.
- A concern was expressed about the weight the assessment of the site in the report gave to the fact that the site was well-related to Hereford City and the implications this might have for development in all areas adjoining the City. The Principal Planning Officer commented in response that the recent adoption of the interim position statement in relation to policy SS3 stated a clear preference for Strategic Housing Land Availability Assessment minor constraints sites such as the application site.
- The NDP might have achieved Regulation 16 status by the time that the reserved matters application was made.

The Transportation Manager confirmed that there had been no accidents recorded at the Tillington Road/Roman Road junction. There had been 3 recorded accidents on the sliproad to the A4110 and 1 at the junction with Hospital Farm which was not relevant to the application.

Officers confirmed that the housing land supply figure was 4.43 years. The Burghill NDP had been returned to the Parish Council because it did not comply with policy RA2. The Core Strategy provided for Burghill Parish to provide a minimum of 126 dwellings. Completed and committed sites currently provided 47 dwellings.

The Lead Development Manager commented that the Hereford Area Plan would address issues relating to housing provision in the City. He had attended a recent meeting with Welsh Water where it had been confirmed that the required investment for the City had been authorised and would be delivered by 2020. He also confirmed that there was no register of brownfield land in the City.

The following further points were then made:

- A member expressed consternation that there was no register of brownfield land when the Core Strategy prioritised development of such land.
- The application site did not form part of the Hereford Area Plan.
- The strategic housing site opposite the application site to the south of the Roman Road should be given priority.
- The development added to a number of proposals that were premature given the pressure on the existing infrastructure

The local ward member was given the opportunity to close the debate. She reiterated her opposition to the proposal.

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

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. **H06 Vehicular access construction**
5. **H17 Junction improvement/off site works**
6. **H21 Wheel washing**
7. **No development shall commence or site huts, machinery or materials brought onto the site, 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**

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.

8. **H29 Secure covered cycle parking provision**
9. **H30 Travel Plans**
10. **E01 Site investigation – archaeology**
11. **G04 Protection of trees/hedgerows that are to be retained**
12. **None of the dwellings hereby approved shall be occupied before 31st March 2020, unless the upgrading of the public water supply system, into which the development shall connect has been completed and written confirmation of this has been issued to the Local Planning Authority**

Reason: To ensure satisfactory mains water supply is available to properties at all times. Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

13. Only foul water from the development site shall be allowed discharge to the public sewerage system and this discharge shall be made at or downstream of manhole reference number SO48428301 as indicated on the extract of the Sewerage Network Plan attached to this decision notice.

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 so as to comply with Herefordshire Local Plan – Core Strategy Policies SD1, SD3 and SD4.

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

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment so as to comply with Herefordshire Local Plan – Core Strategy Policies SD1, SD3 and SD4.

15. No development shall commence on site, or materials or machinery brought to the site for the purposes of development until the work method statements as outlined in the Ecology Report (Urban Green – October 2015) have been 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.

16. No new development shall commence on site until, based on the recommendations in the ecology report a detailed habitat & biodiversity enhancement scheme, including but not limited to type and location of bat roosting and bird nesting mitigation/enhancements, a lighting plan. This should be included in, or related to, a detailed landscape & planting proposal with an associated 5 year establishment and replacement plan. And be submitted to, and approved in writing by, the local planning authority. The mitigation/enhancement scheme and landscaping plan 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.

17. I51 Details of slab levels
18. I16 Restriction of hours during construction
19. I01 Scheme of noise attenuating measures
20. The development hereby approved shall be for no more than 50 dwellings

Reason: To define the terms of the permission and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

21. The development shall be carried out strictly in accordance with the approved plans contained in the following schedule except where otherwise stipulated by conditions attached to this permission:

Plan Description	Drawing number
Location Plan	EVW/102
Site Access Plan	CBO-0335-001

22. G19 Details of play equipment

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

(The meeting adjourned between 11.10 and 11.20 am.)

75. 162264 - LAND ADJACENT TO BROCKINGTON OFFICES, 35 HAFOD ROAD, BROCKINGTON, HEREFORD, HR1 1SH

(Two 4 bed and two 3 bed detached houses with allocated garages and one 3 storey apartment block consisting of four 2 bed apartments and a top floor pent house suite. With landscaping and civil works.)

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.

He concluded his comments by observing that in terms of the assessment of the impact of the proposal upon the Conservation Area, whilst the design and scale of the proposed buildings were considered to preserve the character and appearance of the Conservation Area, the loss of trees associated with the siting of the buildings resulted in an overall assessment of harm. However, the harm was considered to be limited and at the lower end of less than substantial and was mitigated in large part by the detailed replacement planting scheme.

Members broadly supported the scheme as sustainable development on a brownfield site.

A number of questions were asked about the loss of trees and the protection of the remaining trees during construction works. The Development Manager undertook to investigate a concern about a tree that had been planted as a memorial.

In response to a question about the height and setting of a three storey block at the front of the development the Lead Development Manager commented that it did reflect the character of the conservation area.

RESOLVED: That planning permission be granted subject to the following conditions and any further conditions considered necessary by officers:

1. **A01 Time limit for commencement (full permission)**
2. **B02 Development in accordance with approved plans and materials**
3. **C01 Samples of external materials**
4. **F08 No conversion of garage to habitable accommodation**
5. **F15 No windows in side elevation of extension**
6. **G04 Protection of trees/hedgerows that are to be retained**
7. **G11 Landscaping scheme - implementation**
8. **H06 Vehicular access construction**
9. **H09 Driveway gradient**
10. **H13 Access, turning area and parking**
11. **H27 Parking for site operatives**
12. **H29 Secure covered cycle parking provision**
13. **I16 Restriction of hours during construction**
14. **M17 Water Efficiency - Residential**
15. **I20 Scheme of surface water drainage**

16. L02 No surface water to connect to public system
17. K4 Nature Conservation - Implementation
18. K5 Habitat Enhancement Scheme

Informatives:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. HN10 No drainage to discharge to highway
3. HN05 Works within the highway

76. 161522 - LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA

(Proposed 6 no detached dwellings and 4 no. garages.)

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. He clarified that the application was separate from the subsequent agenda item on application 161627. The changes made to the layout were considered to make the scheme acceptable.

In accordance with the criteria for public speaking, Mrs B Nurse of Yarpole Group Parish Council spoke in opposition to the Scheme. Mr B Barnett, a local resident, spoke in objection. Mr D Brammer, a solicitor acting on behalf of the applicant, spoke in support.

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

He advanced a number of grounds of objection to the application including the opposition of the Parish Council and many local residents, concerns about flooding and evacuation of the site in event of that or other emergency, poor pedestrian access, the need for the diversion of public rights of way before any building commenced, the inadequacies of the sewer network and the design and suburban layout of the proposal. He was particularly concerned about highway safety and requested that the Committee undertake a site visit.

Members of the Committee indicated their support for a site visit.

RESOLVED: That consideration of the application be deferred pending a site visit.

77. 161627 - PLOT 7 LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA

(Proposed dwelling and garage.)

The Committee noted that whilst this was a separate application almost all the relevant considerations were the same as for application 161522, the previous application on the agenda.

RESOLVED: That consideration of the application be deferred pending a site visit.

78. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix 1 - Schedule of Updates

The meeting ended at 12.20 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 2 November 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

162264 - TWO 4 BED AND TWO 3 BED DETACHED HOUSES WITH ALLOCATED GARAGES AND ONE 3 STOREY APARTMENT BLOCK CONSISTING OF FOUR 2 BED APARTMENTS AND A TOP FLOOR PENT HOUSE SUITE WITH LANDSCAPING AND CIVIL WORKS AT LAND ADJACENT TO BROCKINGTON OFFICES, 35 HAFOD ROAD, BROCKINGTON, HEREFORD, HR1 1SH

For: Mr Evans per Mr Abz Randerer, 5 The Triangle, Wildwood Drive, Worcester, WR5 2QX

OFFICER COMMENTS

It is considered necessary to clarify the assessment of the impact of this proposal upon Conservation Area having regard to paragraphs 6.16, 6.17 and 6.21 of my appraisal. For the avoidance of any doubt, whilst the design and scale of the proposed buildings are considered to preserve the character and appearance of the Conservation Area, the loss of trees associated with the siting of the buildings results in an overall assessment of harm, but this is considered to be less than substantial.

Accordingly in reaching the planning balance it is necessary for the decision maker to give considerable importance and weight to the limited harm identified when setting this against the public benefits. The harm is considered to be at the lower end of less substantial and is mitigated in large part by the detailed replacement planting scheme.

NO CHANGE TO RECOMMENDATION

161522 - PROPOSED 6 NO. DETACHED DWELLINGS AND 4 NO. GARAGES AT LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA

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

ADDITIONAL REPRESENTATIONS

Transportation Manager- Due to the site having highways objections in the past, which have been dismissed by the appeal officer with the evidence that was to hand, I have had to weigh this one up very carefully, so as to limit the challenge on our comments.

Having visited site and reviewed the appeal document, where the inspector dismissed Highway concerns, I believe the supplied traffic survey to be questionable based upon my actual observations on site and would prefer to see another traffic survey. This is not possible at this stage. The only information made available to me from the applicant indicates a much lower 85th percentile wet speed of 23.3mph meaning that a visibility splay of 33m is acceptable under Manual for streets. This doesn't sit comfortably with me as I was on site for an hour yesterday and recorded 33 vehicles traverse the main road at speeds considerably above the suggested 23.3mph. whilst I do not have the exact speeds, the volume of passing traffic and its apparent speed was of a concern to me.

The applicant has quoted manual for streets for the required distances with a 33m visibility made available for the looking left from the site splay. Additionally the applicant will need to attain the required nearside left hand visibility splay this will involve clearance of the established tree line pretty much the whole length of the front of the site on the applicants boundary to the highway and I am not sure that this has been included in the ecology.

Reviewing the criteria for using Manual for streets, despite observations regarding actual vehicle speeds, volume and the nature of the traffic, hgv and agricultural vehicles witnessed at the site, I would have preferred to utilise manual for streets 2, but the lack of any accident records, the rural location and the appeal dismissing my colleagues objections makes it hard to justify mfs2. (This was despite the tree canopies, the brook and possible flooding risk proximity, the geometric layout of the road being a 90 degree bend shortly after a national speed limit and possible concerns over the provided survey regarding the actual speeds. Using mfs2 a 2.4 x 38m vis play would be needed if we settled for the figures offered on the second survey with an 85th percentile 23.3mph wet speed and I don't believe that this would be achieved).

Conclusion.

In light of the actual information put before me and the Inspectors review I cannot object to the application with the following conditions:

- **CAB - Visibility splays**

Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 33 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

(This is particularly important inline with pedestrians walking in the carriageway is promoted by the applicant and referred to in the appeal regarding connectivity) See attached sketch for required splays.

- **CAE - Vehicular access construction**

Before any other works hereby approved are commenced, the construction of the vehicular access shall be carried out in accordance with a specification to be

submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

- **CAH - Driveway gradient**

Prior to the first occupation of the development hereby approved the driveway and/or vehicular turning area shall be consolidated and surfaced at a gradient not steeper than 1 in 8. Private drainage arrangements must be made to prevent run-off from the driveway discharging onto the highway. Details of the driveway, vehicular turning area and drainage arrangements shall be submitted to and approved in writing by the local planning authority prior to commencement of any works.

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

- **CAJ - Parking - estate development (more than one house)**

Prior to the first occupation of any dwelling to which this permission relates an area for car parking shall be laid out within the curtilage of that property, in accordance with the approved plans which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any other purpose than the parking of vehicles.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan

- **CAL - Access, turning area and parking**

The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan

- **CAO - Parking/unloading provision - submission of details**

The development hereby permitted shall not be brought into use until areas for the maneuvering, parking, loading and unloading of vehicles have been laid out, consolidated, surfaced and drained in accordance with a scheme to be submitted to and approved in writing by the local planning authority and such areas shall thereafter be retained and kept available for those uses at all times.

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan

- **CAQ - On site roads - submission of details**

Development shall not begin 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.

Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

- **CAS - Road completion in 2 years**

All roadworks shall be completed within a period of 2 years, or other period agreed in writing with the local planning authority, from the commencement of work on the site. This will entail the making good of surfacing, grassing and landscaping in accordance with a specification submitted to and approved in writing by the local planning authority. (Nothing in this condition shall conflict with any phasing scheme, in which respect it will be interpreted as applying to the particular phase being implemented).

Reason: In the interests of highway safety and convenience and a well co-ordinated development and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

- **CAT - Wheel washing**

Development shall not begin until wheel cleaning apparatus has been provided in accordance with details to be submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved.

Reason: To ensure that the wheels of vehicles are cleaned before leaving the site in the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

- **CAY - Access location**

Means of vehicular access [for construction traffic] to the development hereby approved shall be from [street/road] only.

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

- **CAZ - Parking for site operatives**

Development shall not begin until parking for site operatives and visitors has been provided within the application site in accordance with details to be submitted to and approved by the local planning authority and such provision shall be retained and kept available during construction of the development.

Reason: To prevent indiscriminate parking in the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

- **CB1 - Public rights of way**

Development shall not begin until an Order has been made to allow the existing public right of way crossing the application site to be diverted or stopped up.

Reason: To ensure the public right of way is not obstructed and to conform with the requirements of Policy T6 of Herefordshire Unitary Development Plan

- **CB2 - Secure covered cycle parking provision**

Before the development is commenced 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.

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 with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

OFFICER COMMENTS

The Inspector fully considered implications of the access in the previous appeal and considered this could be safely achieved, therefore subject to the inclusion of the above conditions there is no change to the recommendation.

CHANGE TO RECOMMENDATION

Inclusion of conditions as set out above.

**161627 - PROPOSED DWELLING AND GARAGE AT PLOT 7
LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6
0BA**

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

ADDITIONAL REPRESENTATIONS

As per application 161522.

OFFICER COMMENTS

As per application 161522.

CHANGE TO RECOMMENDATION

Inclusion of conditions as set out above.

MEETING:	PLANNING COMMITTEE
DATE:	7 DECEMBER 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

Application 153778

- The appeal was received on 31 October 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 Mrs Collett
- The site is located at Land adjacent to Tudor House, Moors Lane, Brimfield, Herefordshire
- The development proposed is Proposed erection of one house with garage
- The appeal is to be heard by Written Representations

Case Officer: Mr Andrew Prior on 01432 261932

Application 152779

- The appeal was received on 31 October 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 Pallas Ventures Ltd
- The site is located at Land adjoining Orchard Farm, Eardisland, Herefordshire
- The development proposed is Proposed construction of 5 no dwellings with garages. Formation of new access and private drive and close existing. Demolition of outbuilding, steel framed barn, wind tunnel and greenhouse.
- The appeal is to be heard by Written Representations

Case Officer: Mr Nick Hall on 01432 261808

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

Application 160624

- The appeal was received on 10 November 2016
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Lawful Certificate
- The appeal is brought by Mr S Williams
- The site is located at Wyeside Eign, Outfall Works Road, Hereford, HR1 1XY
- The development proposed is Certificate of lawful development for the existing use of the land as B2 and B8 use.
- The appeal is to be heard by Hearing

Case Officer: Mr M Tansley on 01432 261815

Application 161127

- The appeal was received on 22 November 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 Davies
- The site is located at Land to the west of Up The Road, Preston Wynne, Herefordshire, HR1 3PE
- The development proposed is Site for proposed single dwelling and detached garage.
- The appeal is to be heard by Written Representations

Case Officer: Mrs Charlotte Atkins on 01432 260536

APPEALS DETERMINED

Application 143771

- The appeal was received on 20 July 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 Gladman Developments Ltd
- The site is located at Land at Longworth Lane, Bartestree, Hereford, Herefordshire, HR1 4BA
- The development proposed was Site for development of up to 100 dwellings with associated open space and community orchard with all matters reserved, except for access.
- At the inquiry the Council only maintained its first, second and fourth reasons for refusal. As a result, I have concluded that the main considerations in this appeal are:
 - a) The effect of the proposed development on the settings of designated heritage assets and on any non-designated heritage assets;
 - b) Its effect on the character and appearance of the surrounding area;
 - c) Its effect on areas of ecological or nature conservation interest;
 - d) The weight which should be given to policies for the supply of housing, in light of the Council's position regarding its 5 year supply of housing land;
 - e) The weight which should be given to policies in the emerging BLNDP;
 - f) Other matters raised by interested persons, including the effect of the proposed development on the safety and convenience of users of the nearby highways, and its effect on the living conditions of nearby residents;
 - g) Whether the appeal proposal should be seen as representing sustainable development, in the terms of the Framework; and
 - h) How the planning balance, involving the benefits and disbenefits of the proposed development, should be assessed.

Decision:

- The application was Refused under delegated powers on 31 March 2015
- The appeal was Dismissed on 26 October 2016

Case Officer: Mr Edward Thomas on 01432 260479

Application 152240

- The appeal was received on 21 June 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 David Stokes
- The site is located at Land at Fernleigh, Eau Withington, Hereford, Herefordshire
- The development proposed was Proposed erection of a replacement dwellinghouse and the erection of 1 no. new dwellinghouse within the curtilage
- Main issues: since the refusal of the application, the Council has approved a replacement dwelling on the site identical to the one shown in this proposal. Thus the reason for refusal in relation to the proposed replacement dwelling has been overcome, and I shall confine my consideration only to the proposed new dwelling. In its appeal statement the Council raised landscape concerns about the proposal, which were not referred to in the decision notice, but subsequently withdrew them.

Thus, the main issues are:

- i) whether the proposal would accord with the Council's housing strategy;
- ii) whether occupiers of the proposed dwelling would have satisfactory access to services and facilities, and
- iii) the effect of the proposal on highway safety.

Decision:

- The application was Refused at Planning Committee on 18 November 2015
- The appeal was Allowed on 3 November 2016

Case Officer: Mr Simon Withers on 01432 260612

Application 153349

- The appeal was received on 1 July 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 C Poultney
- The site is located at The Fodder Store, Church Road, Whitbourne, Worcester, Herefordshire, WR6 5RS
- The development proposed was Removal of Condition 4 of Planning Permission DCNC2004/2013/F.
- The main issue is whether the disputed condition is reasonable or necessary having regard to the living conditions of a) neighbouring occupiers in terms of privacy and overlooking and b) future occupiers of the Fodder Store in respect of an adequate outlook.

Decision:

- The application was refused under delegated powers on 28 January 2016.
- The appeal was allowed on 3 November 2016
- An Application for the award of Costs, made by the Appellant against the Council, was dismissed

Case Officer: Mr Fernando Barber-Martinez on 01432 383674

Application 160795

- The appeal was received on 12 October 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission (Householder)
- The appeal was brought by Mr & Mrs G Lee
- The site is located at Yew Tree House, Stretton Grandison, Ledbury, Herefordshire, HR8 2TS
- The development proposed was Proposed garden room to rear.
- The main issue in this appeal is the effect of the proposed extension on the character and appearance of the area.

Decision:

- The application was Refused under delegated powers on 29 April 2016.
- The appeal was Allowed on 7 November 2016.

Case Officer: Mr Fernando Barber-Martinez on 01432 383674

Application 142410

- The appeal was received on 23 September 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 MLN (Land and Properties) Ltd
- The site is located at Land adjacent to B4222, Lea, Ross on Wye, Herefordshire
- The development proposed was Proposed outline consent for the erection of up to 38 dwellings

Decision:

- The application was refused at Planning Committee on 11 February 2015
- The appeal was withdrawn on 9 November 2016
- An Application for the award of Costs, made by the Appellant against the Council, has been forwarded to the Inspectorate's Cost Team

Case Officer: Mr A Banks on 01432 383085

Application 153661

- The appeal was received on 14 July 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 J Hickton
- The site is located at Land south of B4221 and north of Lovers Walk, Gorsley, Herefordshire
- The development proposed was Proposed residential development of 26 homes (10 affordable)
- The main issues were:
 - i) the effect of the proposal on the character and appearance of the surrounding area;
 - ii) the effect of the proposal on highway safety;
 - iii) the effect of the proposal on flood risk and the health of nearby residents, and whether the proposal would be a sustainable form of development having regard to national and development plan policies in respect of the delivery of new housing in the light of the Council's inability to demonstrate a 5 year supply of deliverable housing land.

Decision:

- The application was Refused under Delegated Powers on 4 February 2016
- The appeal was Dismissed on 17 November 2016

Case Officer: Mr Roland Close on 01432 261803

Application 141964

- The appeal was received on 22 December 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Non determination
- The appeal was brought by Gladman Developments Ltd
- The site is located at Land off, Madley Road, Clehonger, Herefordshire, HR2 9TE
- The development proposed was Site for residential development of up to 90 dwellings with access, parking, public open space with play facilities and landscaping.
- The main issues were:
 - i) the impact of the development on Clehonger Waste Water Treatment Works and consequent impact on the Cage Brook Valley SSSI and River Wye SAC/SSSI;
 - ii) the impact of the development on the character and appearance of the surrounding area;
 - iii) the benefits of the development in terms of the provision of housing including affordable housing, in light of an agreed shortage of available housing land in accordance with the National Planning Policy Framework (the Framework)

Decision:

- The appeal was Allowed on 17 November 2016

Case Officer: Mr Edward Thomas on 01432 260479

Application 160671

- The appeal was received on 31 August 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 David James Hufton
- The site is located at The Barn, Hampton Charles, Tenbury Wells, Worcestershire, WR15 8PZ
- The development proposed was proposed live/work dwelling with extension to garage.
- The main issue(s) were:
 - i) whether or not the proposal would be in a suitable location for a dwelling, having regard to the principles of sustainable development;
 - ii) the planning balance having regard to housing provision

Decision:

- The application was Refused under Delegated Powers on 24 May 2016
- The appeal was Dismissed on 18 November 2016

Case Officer: Mr Andrew Prior on 01432 261932

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



MEETING:	PLANNING COMMITTEE
DATE:	7 DECEMBER 2016
TITLE OF REPORT:	151983 - PROPOSED ERECTION OF TWO POULTRY BUILDINGS, NEW ACCESS AND CONVERSION OF BUILDING TO HOUSE BIOMASS BOILER AT ROGERS FARM, BUSH BANK, HEREFORD, HR4 8EP For: G T Williams per Mr Graham Clark, Newchurch Farm, Kinnersley, Hereford, Herefordshire HR3 6QQ
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151983&search=151983
Reason Application submitted to Committee - Redirection	

Date Received: 6 July 2015

Ward: Weobley

Grid Ref: 344947,252366

Expiry Date: 8th December 2016

Local Member: Councillor MJK Cooper

1. Site Description and Proposal

- 1.1 Planning permission is sought for the erection of 2 no. broiler units, new access with 250 metre track and conversion of existing farm building to house a biomass boiler at Rogers Farm, Knapton. The farm extends to approximately 44.70 acres (18.09 hectares) located to the east of the A4110 at the southern end of the hamlet of Knapton.
- 1.2 The proposed poultry houses would be situated in what is presently an arable field immediately to the south east of the existing farm buildings and would accommodate approximately 82,500 birds (combined). Access to the site will be gained via a new proposed farm track off the A4110 public highway. The site slopes down from the north-east and it is intended to cut the buildings into the slope so that level access can be provided.
- 1.3 The chicks will be brought in at one day old, as a 50:50 mix of males and females. There will be a maximum of 41,250 chicks in each building, generating a total stocking number of 82,500. The chicks will be brought in from a hatchery with the average crop cycle being 33 - 37 days plus the clean-out period. At the end of the growing period the birds will be collected and transported to a processing plant. The sheds would then be empty for a period of around 10 days during which a full clean-out will take place. There will be on average around 7 - 8 crop cycles per year although this could be slightly less if the turn-around period is longer.
- 1.4 Before the chicks arrive the bedding is put in the buildings, which consists of wood shavings to a depth of around 2cm. The houses are warmed to a temperature of around 34°C. The buildings will be heated using the biomass boilers. The temperature is reduced as the birds grow older and the ventilation rate conversely increases. The feed will be supplied by the processing company. It will be mixed according to the birds requirements at each stage of growth and fed

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

ad lib. The protein and phosphorous levels are reduced as the birds get larger. The water will be supplied by nipple drinkers which offer water on demand but minimise spillage.

- 1.5 The poultry buildings will each measure 97.5m x 18.3m with a height to the eaves of 2.5m and 5.25m at the ridge. Each building will include a control room, with the northern building including a staff/office room and the southern building including a chemical store.
- 1.6 The buildings will be insulated with fibre glass insulation to the walls and roofs to a U value of <math><0.4 \text{ W/m}^2 \text{ }^\circ\text{C}</math>. This will eliminate condensation on the inner lining of the buildings and minimise any solar heat gain. The buildings will be ventilated by a computer controlled mechanical system.
- 1.7 The ventilation will be of a 'conventional' design with roof mounted variable speed fans and air drawn in at the sides of the building. The fans will operate at a variable rate dependent upon the age of the birds. There will also be 4 emergency fans built into an end wall of each building. It is stated that for the majority of the year the roof fans will provide adequate ventilation and the gable fans will only be needed in very hot weather.
- 1.8 There will be 4 feed bins situated to the front (south-west) of the buildings which will have a capacity of 30 tonnes, with each bin measuring 6.6 metres in height and 2.8 metres diameter. An existing building will be converted to house the biomass boilers used to heat the buildings. A hardstanding area for maintenance access will be situated around the buildings with a yard area in front of the buildings to allow vehicle access and turning. A further, smaller area will allow access to the rear of the sheds.
- 1.9 It is proposed to keep lighting on the site to a minimum to ensure the safe operation of the site but to reduce any light spill outside the unit. Each shed will have a low-wattage, low intensity light above the openings to allow safe working during normal working hours during the winter. Additional lighting may be required during the removal of birds but this will be carried out in low light levels to avoid causing unnecessary stress to the birds. There will be no use of high intensity lighting.
- 1.10 During hours of darkness the buildings will be lit internally to around 0.4 lux for bird welfare. As the buildings will be clad with high density metal profile sheeting there will be no light spill outside the building. The doors will be shut and windows shuttered at night to stop light spill.
- 1.11 The closest residential property to the site is Rogers Farmhouse which is owned by the applicant. The closest residential property not connected to the farm business is Yew Tree Cottage to the north of the site, which is approximately 100 metres away from the nearest boundary of the site. Various other residential dwellings are located along the edge of the A4110 beyond Yew Tree Cottage, the next nearest dwelling being Micklegarth.
- 1.12 It is proposed that surface water is collected and piped in a sealed system to Honey Lake Brook to the north of the application site with outfall to mimic the existing green-field run-off rate. Dirty water would be collected in a sealed dirty water system consisting of a tank buried beneath the yard. All dirty water would be removed from site for treatment.
- 1.13 The manure management plan concludes that all spent litter will be removed from the site; there being inadequate land upon the holding to utilise the quantity of manure produced. Moreover, the farm lies within a Nitrate Vulnerable Zone (NVZ), which restricts both the location and concentration of nitrogen that can be spread upon the holding. Vehicle movements associated with this have been accounted for in the revised Transport Statement.
- 1.14 The site is in Flood Zone 1 and is not subject to any landscape or heritage designation.

Environmental Impact Assessment

- 1.15 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 define projects that may require the submission of Environmental Statements. The application is Schedule 2 development. Accordingly the application is accompanied by an Environmental Statement which assesses the magnitude, severity and potential for mitigation and reversibility of environmental impacts associated with the construction and operation of the broiler enterprise.
- 1.16 Upon receipt of the application it became apparent that version 1 of the Environmental Statement had omitted to take account of the potential for cumulative impacts arising in conjunction with the egg-laying operation at Garnstone, some 0.5km to the west of the application site. As a consequence the applicants revisited the submission and in May 2016 submitted version 2; updated to reflect the presence of the Garnstone egg-laying operation and the comments of others, including Marches Planning & Property Consultancy, who were commissioned to make representations to the application on behalf of Mr & Mrs Pritchatt at Micklegarth Cottage, Knapton.
- 1.17 This report and recommendation is based, therefore, on the revised Environmental Statement (May 2016).
- 1.18 The Environmental Statement contains chapters on all of the main issues, including noise, odour, air quality, health and climate and transport and these are supported by technical studies including:-
- Odour Assessment: AS Modelling & Data Ltd
 - Noise Assessment: NVC (Noise & Vibration Consultants Ltd.)
 - Flood Risk & Drainage Assessment: Woodsyde Developments Ltd
 - Transport Statement: Badingham Transport and Infrastructure Consultants
 - Manure Management Plan: Berrys
- 1.19 Mindful of the close proximity to third party properties, the Council commissioned an independent review of the submitted odour report and the findings are reported in the Environmental Health Manager's comments at 4.5 and in the Officer Appraisal at Section 6.

Environmental Permit

- 1.20 The proposed development will comprise 82,500 birds, which is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. This is administered by the Environment Agency.
- 1.21 According to the Agency, the Environmental Permit (EP) controls day-to-day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed.
- 1.22 Should the site operator fail to meet the conditions of a permit the Environment Agency would take action in-line with their published Enforcement and Sanctions guidance.
- 1.23 In this case the applicant applied for a bespoke permit for Rogers Farms Limited on 18 December 2014. This permit was made on 17 April 2015. The applicant therefore holds an EP to operate an intensive farm for 82,500 broiler places and a biomass boiler that will not exceed a thermal output of 0.360 MWth.

2. Policies

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

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS5	-	Employment Provision
SS6	-	Environmental Quality and Local Distinctiveness
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
RA6	-	Rural Economy
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel

2.2 National Planning Policy Framework

The NPPF has the pursuit of sustainable development as a golden thread running through both plan-making and decision-taking. The NPPF identifies three dimensions to sustainable development; economic, social and environmental. 12 core planning principles are outlined at paragraph 17, including, in the context of this application to "proactively drive and support sustainable economic development" and "always seek a good standard of amenity for all existing and future occupants of land and buildings."

In the context of the EP described above, paragraph 122 identifies that local planning authorities should:

"focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves when these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively."

2.3 National Planning Practice Guidance: Planning Practice Guidance contains advice on noise and emissions to air.

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 Reference is made at various points of the application documentation to the potential for cumulative impacts arising from 150602/F - Proposed erection of a barn egg-laying unit (4 sheds) on land west of the A4110, approximately 500m from the current application site. Permission 150602 is now fully operational and was itself an amendment to an earlier permission 133504; which was for 6 no. broiler units.

4. Consultation Summary

Statutory Consultations

4.1 Environment Agency: No objection

Environmental Permitting Regulations: The proposed development will comprise 82,500 birds, which is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. The EP controls day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed.

4.2 Based on our current position, we would not make detailed comments on these emissions as part of the current planning application process. It will be the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc. Should the site operator fail to meet the conditions of a permit we will take action in line with our published Enforcement and Sanctions guidance.

4.3 For your information Mr. Williams (the operator) applied for a bespoke permit for Rogers Farms Limited on 18 December 2014. This permit was duly made on 17 April 2015. He now therefore holds an EP to operate an intensive farm for 82,500 broiler places and a biomass boiler that will not exceed a thermal output of 0.360 MWth. The license number is JP3739WQ. In order to be granted this permit the site had to undergo ammonia screening and impact assessments. The site has submitted a coherent odour management plan as well as an accident plan where any risk to the environment through an accident such as fire or flooding is addressed in detail. In order to comply with Schedule 5, the operator submitted an environmental risk assessment, a summary of environmental management systems, technical standards, energy efficiency, amenity risk assessment, raw materials inventory, odour management and noise management plan. All emission point sources have been highlighted and their impact and effect on the environment risk assessed. The Permit has been signed off by the area and approved by the Agency.

4.4 For the avoidance of doubt we would not control any issues arising from activities outside of the permit installation boundary. Your Public Protection team may advise you further on these matters.

4.5 **Flood Risk:** The site is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Map. Whilst development may be appropriate in Flood Zone 1 a Flood Risk Assessment (FRA) is required for 'development proposals on sites comprising one hectare or above where there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off.'

Under the Flood and Water Management Act (2010) the Lead Local Flood Authority (LLFA) should be consulted on the proposals and act as the lead for surface water drainage matters in this instance. We would also refer you to our West Area Flood Risk Standing Advice – 'FRA Guidance Note 1: development greater than 1ha in Flood Zone 1' for further information.

4.6 **Manure Management (storage/spreading):** Under the EPR the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done within the applicants land ownership. Information submitted within the Design, Access & Planning Statement proposes

that poultry manure will be removed from the buildings, loaded directly into sheeted trailers and transported off site.

The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.

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

The construction phase in particular has the potential to cause pollution. Site operators should ensure that measures are in place so that there is no possibility of contaminated water entering and polluting surface or ground waters. No building material or rubbish must find its way into the watercourse. No rainwater contaminated with silt/soil from disturbed ground during construction should drain to the surface water sewer or watercourse without sufficient settlement. Any fuels and/or chemicals used on site should be stored on hardstanding in bunded tanks.

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

- 4.9 **Comments in Respect of Surface Water Drainage:** Similar to most of Hereford and the surrounding area, Rogers Farm is located on a Secondary A Aquifer. The site is not located upon a Principal Aquifer or within a designated Source Protection Zone, although the presence of the adjacent well [serving Micklegarth] has been acknowledged and considered within the amended drainage design. We would not object to pipework within a Secondary A Aquifer.

As stated in my previous response I understanding, through discussion with my Permitting colleagues, that the agent has amended the drainage plan to change the proposal away from a swale to a hydraulic brake and outlet pipe which will be 20 metres away from the drinking water well in the field. This would meet our "Best Available Techniques" (BAT) requirement and so would be acceptable (Ref: EPR 6.09 Sector Guidance Note).

- 4.10 Natural England: No objection

The Wildlife and Countryside Act 1981 (as amended)

The Conservation of Habitats and Species Regulations 2010 (as amended)

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

- 4.11 **Statutory Nature Conservation Sites – no objection**

Natural England has assessed this application using the Impact Risk Zones data (IRZs) and is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which Wellington Wood has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

- 4.12 **Protected Species**

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the

determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

4.13 **Local Sites**

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

4.14 **Sites of Special Scientific Interest Impact Risk Zones**

The Town and Country Planning (Development Management Procedure) (England) Order 2015, which came into force on 15 April 2015, has removed the requirement to consult Natural England on notified consultation zones within 2 km of a Site of Special Scientific Interest (Schedule 5, v (ii) of the 2010 DMPO). The requirement to consult Natural England on "*Development in or likely to affect a Site of Special Scientific Interest*" remains in place (Schedule 4, w). Natural England's **SSSI Impact Risk Zones** are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments *likely to affect a SSSI*. The dataset and user guidance can be accessed from the gov.uk website.

4.15 Welsh Water: No objection

Internal Council Consultations

4.16 Transportation Manager: No objection subject to conditions

I have reviewed the amended Transport Statement in regards to the Transportation both in and out of the site, from source to the end of the process and can agree with the assessment that the movements in combination with other operation would be lower than the maximum of the formerly approved 6 broiler units on the opposite side of the road and well within the capacity of the local highway network.

We originally raised concerns in regards to sight lines, turning Radii and passing places, (Mid September 2016). The applicant resubmitted amendments to their proposals following our site visit in October that meet with our approval.

The proposal is now acceptable subject to conditions.

4.17 Environmental Health Manager: Qualified comment.

The comments reported below describe the sequence of events that have taken place in relation to the assessment of odour and noise in particular – referred to in paragraphs 1. and 2. below. These relay the Council's commissioning of an independent review of the applicant's odour assessment and further clarification sought in relation to the assessment of noise. Thus, the comments of the Environmental Health Manager need to be read sequentially, with the comments of 26th July 2016, being supplemented by further comments in August and September following further queries and clarification being raised by objectors and the applicant.

4.18 Environmental Health Manager's comments 26th July 2016

The most likely causes of concern for neighbours from operational activities associated with this type of development are:-

1. Odour, directly from the poultry houses which will vary during a growing cycle but is particularly elevated during harvesting and cleaning operations and can be a problem associated with the storage, disposal and associated manure spreading activities. Officers had particular concerns with this application because of the relatively close proximity of residential properties and with the cumulative effect due to a nearby newly developed Garnstone Farm egg laying chicken houses.
2. Noise from ventilation systems, deliveries and harvesting.
3. Dust from ventilation systems.
4. Insect and rodent infestations.

4.19 The application has addressed these matters in the following manner:

1. A Dispersion Modelling Study of the impact of Odour from the Proposed Broiler Chicken Rearing Housed at Rogers Farm and the nearby Garnstone Farms Egg Laying Chicken Houses, near Bush Bank in Herefordshire, prepared by AS Modelling and Data Ltd., dated 13th October 2015 has been submitted in support of the application. This report concludes that the modelling indicates that odour concentrations that could be attributed to the poultry houses would be below the Environment Agency's benchmark for moderately offensive odours, i.e. a 98th percentile hourly mean of 3.0ou_E/m³ over a one year period.

The Marches Planning and Property Consultancy wrote on behalf of residents on the 25th January 2016 raising a number of concerns about this assessment which have in the main been answered by the applicant's consultant.

Due to officer concerns about the risks posed by odour, Herefordshire Council also instructed Redmore Environmental to firstly undertake a peer review of the applicants odour assessment and then to carry out another independent Odour assessment. The review, whilst highlighting some weaknesses, particularly as regards the limited justification for the use of certain assumptions on input data and absence of reference to the Institute of Air Quality Management (IAQM) guidance, was satisfied with the assessment methodology and the assessment criteria used.

Redmore Environmental was then instructed to undertake an independent Odour Assessment. The odour dispersion modelling used ADMS - 5.1 (V5.1.2.0) software, which matched that used by A S Modelling and Data Ltd. This report concluded that 'The predicted odour concentrations were below the relevant EA odour benchmark at all receptor locations for all modelling years. The significance of predicted impacts was defined as **negligible** at all receptors. In accordance with the stated guidance, the overall odour effects as a result of the proposed poultry unit are considered to be **not significant**' (the stated guidance being IAQM). The Redmore Environmental report predicted 98th percentile odour concentrations to be generally lower than those predicted by AS Modelling, levels being lower at 24 receptors and higher at 6. The report advises that:

'it is considered that variations in emission rates and meteorological data are likely to have produced the most significant differences in model outputs, with terrain inputs anticipated to be very similar. The dispersion modelling adopted by both Redmore Environmental and AS Modelling and Data Ltd would generally be acceptable to the Environment Agency and include a number of conservative assumptions. As such neither set of results are considered more accurate, with actual odour concentrations likely to lie between the two predictions.'

Redmore Environmental was also requested to independently consider the above mentioned concerns raised by the Marches Planning and Property Consultancy and responded entirely independently of the applicant's response. Where they were able to answer they generally concurred with the AS Modelling and Data Ltd response, in many cases they deferred to AS Modelling advising that they should clarify, but advised that should the points that they identified be satisfactorily addressed, it is considered that a reasonable amount of weight can be applied to the Odour Assessment results.

It might be of assistance in the determination of this application if the applicant has not already had opportunity to is given opportunity to consider and respond to both the peer review, and the Redmore Environmental review of the Marches Planning and Property Consultancy representations.

A review of odour and dust chapters of the Environmental Statement by Environmental Pollution Management Lt for Marches Planning and Property Consultancy is critical of the applicants odour analysis but does not provide it's own assessment. It might be appropriate to seek the applicant's views of the criticism.

2. A noise impact assessment report dated the 18th September 2014, has been submitted with the application. The report has been questioned by the Environment Agency and the response dated 2nd March 2015 also submitted. This [noise assessment] was questioned by the Marches Planning and Property Consultancy in the same correspondence as the odour assessment. The concerns have been answered and an addendum to the Noise Impact Assessment dated 2nd February 2016 submitted with the application. I have given all these submissions due consideration and I am satisfied that the predicted noise levels are acceptable. I would however seek clarification from the applicant as regards noise generated by the gable fans which do not appear to be included in the assessment and confirmation of the likely sound levels and the expected impact on the predicted noise levels. Also catching of birds is likely to occur at night and the report advises that Continuous Equivalent Sound (L_{Aeq}) levels would be within the World Health Organisation Guidelines . These guidelines also include advice on individual sound events expressed as maximum levels (L_{Amax}) I would appreciate confirmation that these levels will not be exceeded.
3. Concerns have been raised regarding dust and fine particulate emissions including bio aerosols which are airborne particles that contain living organisms or were released by living organisms e.g. spores, pollens, bacteria etc.

Whilst it is recognised that fine particulates can travel long distances, small particulate matter (PM_{10}) have been found to be reduced to background levels within 100m from the poultry houses. I am not aware of any nationally accepted advice that specifies the separation distance of poultry houses from receptors. The DEFRA screening assessment advice for Local Air Quality Management indicates that there would be no significant risk of exceeding the national; 24hr mean PM_{10} , objective as a consequence of this proposal. Therefore this does not raise concerns as regards local air quality.

4. Insect and rodent infestations do not appear to have been addressed by the supporting documentation however good husbandry and appropriate control measure will ensure that problems do not occur. However, should there be any future problems the Local Authority has adequate powers available as provided by the Environmental Protection Act 1990 and The Prevention of Damage by Pests Act 1949 to require that the appropriate controls are implemented.

This proposal will fall within the scope of the environmental permitting legislation, which considers all forms of pollution to air, land and water, including odour and noise and it will

require a permit from the Environment Agency. The legislation covering the permitting regime allows for a refusal to grant a permit should the applicant not be able to demonstrate that the process can operate without causing undue harm. Also once a permit has been granted, as is the case here, it is an offence not to comply with its requirements which can be varied if necessary or the permit may be suspended and/or withdrawn.

If the matters I raise in 1 and 2 above can be satisfactorily addressed then I suggest that it would be difficult to defend any refusal on the grounds of odour, noise and dust.

Finally if it is minded to grant permission I would suggest that conditions are included as regards, prior approval of any external lighting, covering of vehicles when removing manures from site and, as the noise assessment includes working time restrictions as mitigation measures for certain activities, that these are also conditioned.

4.20 August 2016

Pursuant to receipt of the comments above, Marches Planning & Property Consultancy raised further queries in an email dated 1st August 2016:

"I have seen Aris Trezins' response to the Knapton broiler unit application in which he refers to an odour assessment by Redmore Environmental. Please would you advise whether the Redmore Environmental report modelled the odour impact of clean-out and removal of birds and will this report be published?"

Mr Trezins' point 2 makes no reference to night time noise from bird removal or noise generated by clean-out operations.

Mr Trezins in his point 3 says the DEFRA screening advice indicates there would be no risk of exceeding the national 24hr mean for PM10. He does not show this screening. How has he arrived at this conclusion? It contradicts the findings of Environmental Pollution Management Ltd. This is a critical point given there are receptors within 50m of the site (two residential gardens), including the garden of Mrs Pritchatt whose breathing is already compromised.

While Mr Trezins says he is not aware of any nationally accepted advice that specifies the separation distance of poultry houses from receptors he should be aware that both the Town and County Planning (General Permitted Development) Order 2015 and the Environmental Permitting Regulations (England and Wales) 2010 require detailed scrutiny of intensive livestock units if they are within 400m of sensitive receptors. This is because this is the distance over which impacts likely to affect health and amenity are expected to spread."

Marches Planning & Property Consultancy 1st August 2016

4.21 These queries were further addressed in the Environmental Health Manager's comments dated 5th August 2016, which are reported below:-

- See section 3.4.6 [of the Redmore Environmental Odour Assessment dated 8th January 2016].
- I have considered noise at all times of night and day and I have made specific comment on night time operations including the suggestion for planning conditions
- The closest residence to the proposed poultry units is Rogers Farm House. Although the resident might not be considered as protected for planning purposes, the Local Air Quality Management regime requires that air quality is considered. My assessment is for Rogers Farm house using the Defra screening tool provided in their technical guidance 2016. This considers the number and type of bird, separation distance and indicates that PM₁₀ levels

would be below the nationally prescribed standard. I have read Environment Pollution Management's report which raises concerns about the Environmental Statement provided with the application, making reference to the older Technical Guidance LAQM.TG (09). It does not appear to undertake any assessment.

It is my understanding of LAQM.TG(09) that at a bird capacity of 82,500 this proposed development is under the threshold for the requirement of a detailed air quality assessment and therefore I presume not considered likely to be problematic. Using this guidance, a detailed assessment would only be required for poultry housing of 400,000 birds or more. I apologise if I have overlooked the relevant section in the report and if so perhaps I can be directed to it.

- I am aware of the planning requirements in respect of detailed scrutiny of intensive livestock applications. However, such scrutiny is not intended to prohibit this type of development.

4.22 Environmental Health Manager's final comments – September 2016

I have now had opportunity to consider the submissions from AS Modelling & Data Ltd. and Noise and Vibration Consultants Ltd provided in response to the matters raised in my consultation response dated 26th July 2016 and can confirm that they have satisfactorily addressed these matters. Objectors have also raised concerns about particulate emissions and I would take this opportunity to direct you to my comment in the above consultation response and subsequent reply dated 5th August 2016, to concerns raised by Marches Planning and Property Consultancy.

4.23 Whilst I have some reservations due to the relatively close proximity of this proposal to neighbours, the technical information provided with and commissioned by the Planning Authority has addressed these matters. It must also be recognised that this facility will operate with a benefit of an 'Environmental Permit' issued by the Environment Agency that should ensure that unacceptable pollution is not caused. I therefore conclude that subject to the conditions suggested in my response of the 26th July 2016 it would be difficult to defend refusal of this proposal for reasons of pollution.

4.24 Conservation Manager (Ecology): No objection

Having looked at the original ecological report and recommendations made by Dr Rob Widdicombe and the additional/updated ecological reports dated July 2016, I am happy that the original comments, which recommended a condition, remain relevant and details of enhancements and mitigation should be supplied. Following the updated Great Crested Newt report I recommend that an additional condition be included to cover the identified small potential for GCN to be found on site. These conditions are set out below.

Nature Conservation - Protection

4.25 The Great Crested Newt 'reasonable avoidance measures' detailed in Section 2 of the ecology (Great Crested Newt) report by Star Ecology dated July 2016 shall be implemented and remain in place for the duration of the construction phase unless otherwise agreed in writing by the planning authority.

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.

Nature Conservation – Mitigation and Enhancement

- 4.26 The recommendations set out in Sections 12 and 13 of the ecologist's report from Star Ecology dated June 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a mitigation and habitat enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

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

Reason: To ensure that all species are protected and habitats enhanced 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.

- 4.27 Conservation Manager (Landscape): No objection

I have read the amended LVIA within Appendix 4 of the submitted Environmental Statement. I note the amended landscape proposals Rev B and I am satisfied they are as discussed following my meeting with the landscape architect.

- 4.28 Having read the amended plans and noted the recent representations I am satisfied that the visual impact will not be of a substantial nature. As previously stated the ridge height of these buildings is at 5.2m. The proposals are to be cut in, in order to locate them at the existing ground level of adjacent units which is practical and also allows for the buildings to be read as one complex.

- 4.29 Views from residences to the north west of the proposal will be filtered by vegetation and intervening built form and are not of a substantially adverse nature in my view. Whilst there will be localised impact upon character, this has been mitigated where possible and the residual effects are not to such a degree as to warrant a landscape objection. Notwithstanding the above, a topographic survey outlining the proposals would be helpful in order to fully illustrate construction details.

- 4.30 Conservation Manager (Historic Buildings): No objection

There are listed buildings approximately 850m – 1,000m away from the proposed site. These include the grade I listed St Peter's Church in Birley, the grade II* listed Swanstone Court situated to the north-west of the site and the grade II Hyde Field to the south-west. There are no closer listed buildings or nearby conservation areas. Nevertheless, the setting of these buildings taken into account particularly where there are larger buildings that may have an impact on the ability to read, appreciate and understand the significance of a listed building and its setting. With relevant local and national policy in mind, any assessment of the impact of such proposals should determine whether any aspects of the proposals causes harm to the setting of listed buildings – thereby impacting on the significance of the listed building itself.

- 4.31 Setting is a complex issue defined by a number of factors which are helpfully set out in The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning: 3, published by Historic England. This document and its guidance on how to assess the impact of a scheme on setting has been taken into account in forming this response. There are a number of ways in which to judge the effect of a scheme on setting – one of the most important is to consider views and the inter-visibility between sites. It is also important to consider listed buildings within their immediate and wider setting and the significance of this relationship and to determine whether a proposal that relates to a site between approx. 850 - 1000m away would upset or affect this

relationship in any way. The question to be asked is would the proposed scheme cause harm to the significance of the listed buildings and their setting?

- 4.32 All of the listed buildings noted above are some distance from the proposed site. In addition to this, each has its own particular immediate setting, the significance of which is reinforced by adjoining development or has been diminished through later development. For example St Peter's Church's setting is strengthened by surrounding historic buildings which reinforce the village core and Swanstone Court's original immediate setting has been changed through the erection of largescale farm buildings.
- 4.33 In addition to this, given the location of the site and its distance from the listed buildings noted above, there is no visual link between the listed buildings and the proposed site. The lack of any visual connection arises through the distance, intervening development, and landscape features such as trees and hedgerows. The topography is also an important factor - in the case of Swanstone Court, the undulating land between the listed building and the site further emphasises the lack of visual connection. Swanstone Court is not visible from the road.
- 4.34 With these factors in mind, I would consider that while the proposed scheme would represent a change in the very much wider setting of the listed buildings, I would not consider the proposal to cause harm to the setting of the listed buildings which in each case are relatively well defined and have their own characteristics. I would therefore not consider the proposals to cause harm to the significance of the listed buildings. I therefore have no objection to the proposals from a designated historic environment point of view.

4.35 Public Rights of Way Officer: No objection

4.36 Land Drainage Officer: No objection

The applicant has provided an exceedance flow paths and drainage calculations as well as a surface water management strategy, demonstrating that the proposed surface water drainage system can adequately manage and attenuate a 1:1 to a 1:100 rainfall event, including 20% increase in climate change. Through Drawing RF-DL-100 Rev C and MicroDrainage outputs provided

- 4.37 Greenfield run off rates for the site have been calculated and discharge to the watercourse downstream of the site has been restricted to better than Greenfield rates.
- 4.38 The applicant has undertaken infiltration testing in accordance to BRE 365. It is noted within the 'consultation response' letter submitted by the applicant; the clay nature of the soil impeded any infiltration of water over a 2 hour period. Infiltration techniques as highlighted by the applicant would not be viable within this poorly draining soil.
- 4.39 In principle we do not object to the proposed development on flood risk and drainage grounds. It is however noted within the applicant submission, drawing RF-DL-100 Rev C that an existing highway access will be closed off. As per Policy SD3 – Sustainable water management and water resources' the opportunity should be taken to remove the culvert at this location and restore the open ditch to aid the improvement of drainage and low flows within the area.

5. Representations

5.1 Birley with Upper Hill Parish Council: Objection

The Parish Council has commented on three separate occasions. Firstly and in response to the application as originally submitted, the Parish Council commented as follows:-

With reference to the above planning application the Parish Council has considered the application and support some of the concerns expressed by local residents. The main concerns are:-

- 5.2 **Local Amenity:** The unsuitability of the development for the area in general and the potential adverse impact on neighbouring properties in particular. The site is located in relatively close proximity to local residential properties with the nearest being just 120m away and the majority of properties in Knapton Green being within 300m.
- 5.3 **Highway Issues:** The increase in traffic movement not only from this proposed development but also from a previously granted similar planning application (105602) located on the opposite side of the A4110. Although the access is to be located on a straight length of road with a 50mph speed limit, this stretch of road provides one of a couple of overtaking opportunities within a 14 miles stretch of the A4110. Hence vehicles can often be seen travelling two abreast, very often in excess of 50mph, when overtaking along this straight section. The road through Knapton Green, on the north side of the access, is not sufficiently wide enough to allow two lorries to pass each other comfortably. Also this section of road is subject to a 40mph speed limit however the speeding problem cannot be addressed because the Police claim it to be 'too dangerous' to operate speed traps. It is also suggested that appropriate signage should be erected at Knapton Green and Bush Bank warning of heavy goods vehicles turning both left and right.
- 5.4 **Flooding Issues:** The main concern is the dispersal of the excess storm water running from the buildings and concrete aprons in addition to the normal water generated from the proposed development. To prevent all of this water flooding into the adjoining neighbouring properties and into the Honeylake Brook causing flooding to properties downstream, it is suggested that the water is channelled to the easterly side of the applicants land and then ditched into the brook at a point downstream of the houses in Knapton Green. Should the new access onto the A4110 be permitted it is suggested that the existing entrance be returned to its original state and a ditch be reinstated which will help alleviate the problem of surface water from the new roadway and adjoining land flowing onto the A4110.
- 5.5 **Odour:** With the close proximity of residential properties there is almost certainly going to be an odour issue at certain times. *Environmental Agency: Appendix 4 Sector Guidance Notes - 'care should be taken to site particularly odorous activities away from neighbours. Distance helps to dilute odours'. This guidance should be used for applicants who are in the process of planning for a new installation and there are sensitive receptors (neighbours) located within 400m of the installation.*
- 5.6 **Noise:** Concern also of the noise from ventilation systems, deliveries (especially when blowers are used to unload feed from lorries to the feed hoppers) and other onsite operations. Suggested that if planning is granted one of the conditions being that working hours, including vehicular movement, is limited to 7am to 7pm because of the close proximity of the new buildings to existing residential properties.
- 5.7 One final suggestion from the Parish Council is that a decision is deferred until the impact of Planning Application 150602 on the community is known. Especially with regard to traffic increase on this very busy and potentially dangerous stretch of road. Too often is heard the mantra 'an accident waiting to happen!'
- 5.8 On 27th January 2016 the Parish Council wrote to maintain its objection and also cited concerns regarding the dispersal of storm water which is proposed to run close to the well supplying water to Micklegarth.

5.9 Further comments were received on 20 June 2016:

The Parish Council noted the amended plans which appear to have addressed one or two of the original concerns. However there are still grave concerns that the site is unacceptably in close proximity to many residential properties in Knapton Green and Bush Bank. The majority of residential properties in Knapton Green are within 300m of the development with the closest being just 98m. A number of residential properties at Bush Bank are within 300m to 500m.

5.10 We understand that odour must be considered where there are 'sensitive receptors' i.e. residential properties located within 400m of the installation. For this reason the Parish Council considers that the problems of odour and noise have not been satisfactorily addressed or resolved.

5.11 The comments regarding a ditch being reinstated at the new entrance from the A4110 still apply. This would help to alleviate the problem of surface water from the new entrance and adjoining land flowing onto the A4110.

5.12 Pyons Group Parish Council: Objection. The adjoining parish council first objected on 2 September 2015. Comments received on 8 June 2016 are reported below and have been reiterated recently (2nd November 2016):-

Pyons Group Parish Council notes the amended documents. The parish council remains opposed to planning application 151983 Rogers Farm on the grounds of scale and over-development relative to the size of Knapton; increased traffic, including the impact on the A4110 at Canon Pyon of vehicles servicing the site; flood risk from water run-off to neighbouring properties; and odour given the proximity of neighbouring properties. The proposed poultry buildings would be across the road from another extensive poultry facility, and it is felt this application will lead to over-development. The parish council supports comments made by Birley and Upper Hill Parish Council.

5.13 Dilwyn Parish Council: Objection

1. Scale and over-development also on the increase of traffic, including the impact on the A4110
2. Odour must be considered where there are 'sensitive receptors' i.e. residential properties located within 400m of the installation.

5.14 There have been 27 letters of objection from local residents. The content is summarised below. Some of the comments were received prior to submission of the amended Environmental Statement, but are recorded as contextual background:-

- The relevant distances between the site and adjoining dwellings should be to the edge of curtilage not dwelling-house. People have a reasonable expectation to enjoy their garden areas;
- These broiler units are recognised by the Environment Agency as "industrial installations."
- The submitted noise assessment focuses on noise from the ventilation system and fails to recognise noise from machinery, cleaning, filling feed bins and associated vehicles.
- Digging the units into the site could cause noise to rebound towards nearby dwellings.
- The dispersion of odour is normally represented by concentric circles, but is not on this occasion. There is no explanation for this.
- The model also adopts lower emission rates per bird than for recent, similar applications. Again this is without explanation.

- The odour report accepts that odour concentration and impacts are greatest during the clean-out of the units. This exercise will take longer than the 1-2 hours stated.
- Birds are often caught at night. The noise associated with catching and transporting is not adequately accounted for.
- This is compounded by an under-reporting of the number of vehicles required for cleaning out.
- There is no assessment of the noise emissions of the biomass boiler, gas boiler, fuel hoppers, pumps and deliveries.
- Cleaning out is a noisy process giving rise also to dust and ammonia. On a 35-day cycle there could be 9 clean-outs a year, causing unacceptable disturbance to near neighbours.
- Poultry dust is defined as a substance hazardous to health. The Environmental Statement concludes that dust in potentially harmful concentrations will not travel more than 100m, but this is not supported by evidence.
- There is a very significant under-reporting of vehicle movements. Up to 450 movements a year are not accounted for.
- Given the concerns raised above, clarification was sought from the EA as to why an Environmental Permit was issued for the site. No response has been forthcoming.
- There is a contradiction in the application documents. At some points it is said that manure will be removed from site. In other places it says it will be stored and spread on the farm land.
- The amount of litter is under-reported, with implications for water resources and the potential for conflict with water quality objectives.
- The proposal will be unacceptable within the landscape.
- The proposal utilises Grade II agricultural land. This is contrary to CS & and NPPF paragraph 112.
- The proposal has not taken account of the nearby presence of ponds at Micklegarth and the potential presence of Great Crested Newts.
- The proposal will have the potential to disturb underlying aquifers and pollute or otherwise disturb the private water supply (well) serving Micklegarth.
- Emissions to air will have the potential to cause issues with human health and affect wildlife interests locally, including the orchard at Micklegarth.
- It is unreasonable that neighbours will have their amenity affected to such an extent. The proposal is far closer to neighbouring dwellings than the 400m within which the Environment Agency says that particular care should be taken when considering intensive livestock installations. Neighbours will have to keep windows closed to withstand the noise.
- Residents living within similar proximity to other units approved by the Council attest to significant noise and odour impacts. Highly (as opposed to moderately) offensive odour is present from day 15 of the cycle onwards and dust and feathers are regularly blown towards dwellings nearby.
- The cumulative impacts of this and the Garnstone egg-laying units are not fully understood and it is unreasonable for Knapton to have to suffer two such installations.
- The site is too close to Garnstone, posing unacceptable bio-security risks.
- The surface water drainage is a concern. Putting more water in the Honey Lake brook is not advisable.
- The roadside ditch should be reinstated where it is proposed to close off the existing access. Likewise the new access should not block the ditch.
- There are significant animal welfare issues with these installations.
- If approved, conditions should be imposed to restrict hours of working and lighting.

5.15 One of the objectors also commissioned a review of the applicant's odour assessment.

The Environmental Statement does not assess the existing background concentrations of particulate matter and the significance of impact of the additional contribution of particulates from the operation of the proposed broiler units on residential properties in the vicinity of the

units. As such, the Environmental Statement in respect of impacts on air quality, odour and noise assessment is considered insufficient.

- 5.16 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=151983&search=151983>

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 at section 2.1, 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.
- 6.3 SS4 is the strategic policy dealing with movement and transportation. It requires, *inter alia*, that the safe and efficient operation of the network is not detrimentally impacted. This policy is underpinned by MT1, a criterion-based policy requiring that development proposals operate safely and that traffic impacts can be absorbed on the highway network without adversely affecting the safe and efficient flow of traffic on the network.
- 6.4 SS5 Employment provision, confirms that the continuing development of the more traditional employment sectors, including farming and food and drink manufacturing will be supported.
- 6.5 SS6 Environmental quality and local distinctiveness, requires development proposals to conserve and enhance those environmental assets that contribute towards the county's distinctiveness. Of relevance to this application are considerations arising from landscape impact, biodiversity and local amenity, including air quality, the water environment and management of waste.
- 6.6 All of the detailed policies LD1-LD4 inclusive are relevant to the application as are SD1, SD3 & SD4. The 'LD' or local distinctiveness policies concern themselves with landscape, biodiversity, green infrastructure and heritage. LD1 requires that development proposals should demonstrate that character of the landscape has positively influenced the design, scale, nature and site selection, with incorporation of landscaping schemes to ensure development integrates appropriately into its surroundings.
- 6.7 LD2 sets out a hierarchical approach to the protection of nature conservation sites and habitats against a context that all development proposals should, where appropriate, restore and enhance existing biodiversity and geodiversity features on site and connectivity to wider ecological networks and create new biodiversity features and habitats. LD3 requires the protection, management and planning of green infrastructure.
- 6.8 LD4 requires development, in accordance with the NPPF and legislation, to protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance.

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

- 6.9 SD1 Sustainable design and efficiency is a criterion based policy requiring, *inter alia*, that developments safeguard residential amenity for existing residents and do not contribute to or suffer from adverse impacts arising from noise, light or air contamination or cause ground water pollution. SD3 Sustainable water management and water resources, deals with flood risk, drainage, water resources and water quality. In particular development should not cause an unacceptable risk to the availability or quality of water resources.
- 6.10 Having regard to the Environmental Statement, representations received and the provisions of the Statutory Development Plan and relevant material considerations, officers consider the key issues in the determination of the application are:-
- The impacts of the development upon the living conditions of adjoining residents, including assessment of odour, noise, dust, pests and bio-aerosols.
 - The impacts of the development upon the safe operation of the local highway network.
 - The impact of the development upon flood risk, surface water and private water supplies.
 - The impact of the development upon the character and appearance of the local landscape.
 - Whether, taking the above issues into account, the development is representative of sustainable development such that the positive presumption is engaged.
- 6.11 The report is structured to respond to these issues in turn, with an assessment against the relevant planning policy, national guidance and where relevant, industry standards, before drawing a conclusion in respect of whether the scheme can be held to contribute to the attainment of sustainable development.

Odour

- 6.12 The proposal is for the erection of 2 no. broiler units housing a total of 82,500 birds. The sheds are ventilated by uncapped, high speed ridge mounted fans, each with a short chimney. The birds would be reared from day old chicks to up to 33-37 days old and there would be circa 8 flocks per annum. It is understood that approximately 10 days are left between the end of one flock cycle and the beginning of the next for clean-out and preparation. Normally, for bio-security reasons, on farms with more than one poultry unit it is normal practice that all of the poultry units are cleared out at the same time (i.e. the flock cycles for each building is identical).
- 6.13 What is evident in considering a series of planning applications and appeals for poultry units throughout the County is that one of the prime concerns of the local community revolves around odour and the impact that odour has upon the amenities one would normally expect occupiers of dwellinghouses to enjoy both within their houses and within their gardens (especially during the summer months). In this regard the Local Planning Authority submits that odour is a particularly difficult area to accurately assess. It cannot be measured by a machine in the way, for example, that noise can. Whilst there are standard methodologies and modelling approaches adopted they have inherent limitations and involve subjective judgements. To elaborate on this point, where one has dwellinghouses (receptors) close to a proposed road (noise source) one can model the predicted noise at the dwelling houses, and when the road is subsequently built one can actually measure the noise at the dwelling houses with an instrument. One cannot do that with odour. Both proposed and existing scenarios (where poultry units are in-situ) are modelled.
- 6.14 The Institute of Air Quality Management's Guidance on the assessment of odour for Planning (May 2014) supports this view in that in the forward paragraph 3 it states:-

"The field of odour impact assessment is a developing one. It should be noted that Inspector's decisions on past planning appeals, though useful and often setting precedents, will have been based solely on the evidence that was presented to them, which may have been incomplete or of a different standard to current best practice: caution should therefore be exercised. This

guidance describes what the IAQM considers current best practice: it is hoped it will assist with and inform current and future planning appeals and decisions”

Furthermore paragraphs 5 and 6 state:-

“As experience of using the Guidance develops, and as further research relating to odour becomes available, it is anticipated that revisions of this document will become necessary. The use of some odour assessment tools in the UK suffers from sparseness of published evaluation of the relationship of effects / annoyance to exposure and what level of exposure can be considered to be acceptable. The IAQM is particularly keen to hear of examples of the use of these tools so they can be further evaluated and the presentation of such data to the air quality community will itself improve the practice of odour impact assessment. The guidance also advises on the use of FIDOR, in paragraph 2.2.2 table 1 which has regard to the subjective nature of the perception of odour.”

- 6.15 The application was accompanied by ‘A Report on the Atmospheric Dispersion Modelling Study of the Impact of Odour Emissions from the Proposed Poultry Units’ prepared by AS Modelling & Data Ltd. This was revised to take into account the Garnstone egg-laying units 500m to the west. Separately, and as recorded above, the Local Planning Authority commissioned Redmore Environmental to undertake a Peer Review Assessment and an independent Odour Assessment.
- 6.16 In essence, the Local Planning Authority accept that in terms of the Environment Agency’s (EA) H4 Odour Management guidance the statistic *generally* used in the UK for odour exposure is the annual 98th percentile hourly mean concentration. The EA’s H4 Odour Management guidance provides benchmark exposure levels for moderately offensive odours, which includes livestock rearing, set at 3.0 OU_E/M³. Normally one would not wish any receptor (dwellinghouse other than host Farmer’s) to exceed a maximum annual 98th percentile hourly mean concentration in excess of 3.0 OU_E/M³. In essence, it seems that the accepted guidance is that such levels are acceptable but that higher levels should be accepted in the countryside during the relatively brief periods that poultry units are cleaned out.

H4 – Odour Guidance

- 6.17 The EA published draft guidelines on odour regulation, assessment and control (IPPC H4: Horizontal Odour Guidance Parts 1 & 2) in 2002. The 2002 documents have now been withdrawn and various updated versions, for consultation purposes, have been produced in the interim period. The final version (H4: Odour management) was published in March 2011.
- 6.18 Odour detection thresholds and consideration of whether or not an odour is offensive is discussed in Appendix 2 of the updated H4. In Appendix 3 (of H4) modelled odour concentration benchmark levels are presented for odours of varying degrees of offensiveness. Expressed as a 98th percentile of the hourly mean odour concentrations over a one year period, a threshold of 6.0 European Odour Units per cubic metre of air OU_E/M³) is suggested in H4 as being appropriate for the least offensive odours. This means that a situation should be acceptable, provided that the value of 6.0 OU_E/M³ is not exceeded on more than 2% of occasions. **For moderately offensive and high offensive odours, the equivalent threshold values are 3.0 OU_E/M³ and 1.5 OU_E/M³ respectively.**
- 6.19 Odours from livestock housing are normally placed in the moderately offensive category and the target suggested in H4 for moderately offensive odours is an hourly mean concentration of 3.0 OU_E/M³ at the 98th percentile.
- 6.20 The Local Planning Authority consider that it is common ground and clearly established by a number of appeal decisions that applications for planning permission should be refused if the

odour level at a receptor, other than the host Farmhouse, exceeds 3.0 OU_E/M³ using the annual 98th percentile hourly mean concentration.

- 6.21 The report submitted by AS Modelling & Data Ltd. concludes that no dwellinghouse (other than Rogers Farm) would experience odour levels that exceed the aforementioned critical level of 3.0 OU_E/M³ using the annual 98th percentile hourly mean concentration. This conclusion is also drawn by the Redmore Odour Assessment, which reports that the significance of odour impacts as a result of the development was predicted to be **negligible** at all receptors.
- 6.22 The IAQM guidance¹⁶ states that only if the impact is greater than **slight**, the effect is considered **significant**. As such, impacts are considered **not significant**, in accordance with the stated methodology. The Redmore model returned results that predicted the 98th %ile odour concentrations to be lower than those provided within the AS Modelling & Data Ltd report at 24 receptors and higher at 6 locations. This may be for a number of reasons, including:
- Variations in emission rates;
 - Variations in meteorological data; and,
 - Variations in terrain data.
- 6.23 Overall, and as reported above, the odour issue has been independently assessed on the Council's behalf and the conclusion of both technical reports (AS Modelling & Data Ltd & Redmore Environmental) is that the 98th %ile odour concentrations, even when taking into account Garnstone, will not exceed the 3.0 OU_E/M³ benchmark at any residential property not associated with the holding. On the basis of the technical evidence submitted, it is the Environmental Health Manager's professional opinion that a refusal in relation to odour impacts would be difficult to sustain at appeal.

Noise

- 6.24 CS Policy RA6 confirms that planning applications which are submitted in order to diversify the rural economy will be permitted where they do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design, mass, noise, dust lighting and smell. SD1 adopts a position that requires developments to avoid adverse impacts arising from noise and other potential sources of nuisance.
- 6.25 National guidance is found in the Noise Policy Statement for England (Defra 2010) (NPSE) and this is reflected in the NPPF and NPPG, which makes it clear that whilst noise can be an overriding issue, the expectation remains that noise should not be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.
- 6.26 The NPSE sets out established concepts from toxicology that are currently being applied to noise impacts, for example, by the World Health Organisation. They are:

NOEL – No Observed Effect Level

This is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise.

LOAEL – Lowest Observed Adverse Effect Level

This is the level above which adverse effects on health and quality of life can be detected. Extending these concepts for the purpose of this NPSE leads to the concept of a significant observed adverse effect level.

SOAEL – Significant Observed Adverse Effect Level

This is the level above which significant adverse effects on health and quality of life occur.

- 6.27 It is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times. It is acknowledged that further research is required to increase the understanding of what may constitute a significant adverse impact on health and quality of life from noise. However, not having specific SOAEL values in the NPSE provides the necessary policy flexibility until further evidence and suitable guidance is available.
- 6.28 In relation to World Health Organisation guidance for sleep disturbance, noise levels within bedrooms should not exceed 45dB LAmax. The guidance advises that assuming a bedroom window open the attenuation allowed should be -15dB and therefore the maximum external level to the bedroom should not exceed 60dB LAmax. According to the applicant's analysis this results in the following predictions at nearest sensitive receptors relative to catching at night-time:

Catching & All Roof and Gable End Fans in operation at night-time Location	Predicted LAeq level from catching & all roof /gable fans [dB LAeq]	Predicted LAmax levels from catching & all roof /gable fans [dB LAmax]	WHO Guidelines For LAmax Levels outside Open Window dB	Level difference between predicted and WHO Guidelines LAmax dB
1. Property to NW	32	37 to 47	60	-23 to -13
4. Micklegarth Property	28	33 to 43	60	-15 to -5

- 6.29 The above table demonstrates LAmax levels are well below World Health Organisation guidelines and are therefore not shown to be significant. On this basis the Environmental Health Manager is content that all potential sources of noise have been assessed and that the results indicate that noise cannot be utilised as a basis for objection. It follows, that assessment demonstrates that noise impacts will not be significantly adverse and that the proposal is not, therefore, in conflict with CS policies RA6 or SD1 nor national guidance on the topic.

Dust

- 6.30 The Environmental Statement includes a chapter on Air Quality, Health and Climate. This confirms that as part of the Environmental Permitting application Ammonia screening was undertaken and the Environment Agency confirmed that no further assessment is required.
- 6.31 A report compiled by Environment Pollution Management on behalf of the occupiers of Micklegarth raises concerns about the Environmental Statement provided with the application, making reference to the older Technical Guidance LAQM.TG (09). This report does not appear to be based on an independent assessment, however. The Environmental Health Manager's observations in respect of LAQM.TG(09) are that an installation with a capacity of 82,500 birds is under the threshold for the requirement of a detailed air quality assessment and therefore considered unlikely to be problematic.
- 6.32 The closest residence to the proposed poultry units is Rogers Farm House. Although the residents might not be considered as 'protected' for Planning purposes, the Local Air Quality Management regime requires that air quality is considered nonetheless. The assessment undertaken by the Environmental Health Officer utilises the Defra screening tool provided in their published technical guidance 2016. This guidance considers the number and type of bird and separation distances involved. Application of the relevant criteria in this case indicates that PM10 levels would be below the nationally prescribed standard. In the circumstances, the results indicate that stocking numbers are well below the level where detailed assessment is required.

- 6.33 On the basis that the scheme accords with the relevant nationally prescribed guidance officers conclude there is no conflict with the Core Strategy or NPPF.

Highway Matters

- 6.34 Relevant transport policies are introduced above. The application is accompanied by a Transport Statement and highway matters are explained further in Chapter 9 of the Environmental Statement. The Transport Statement (TS) is available as Appendix 5.
- 6.35 The TS has been reviewed during the application process to respond to concerns raised that the level of vehicle movements associated with the development was under-reported insofar as it did not take account of trips associated with the removal of litter and deliveries. At 5.1 the revised TS includes a table summarising vehicular movements associated with the day to day operation of the broiler units utilising empirical evidence from similar sites. Movements associated with all facets of the crop cycle are accounted for and result in 58 vehicles visiting the site over the cycle, which equates to approximately 2 two-way trips a day. Having regard to planning policy there are two main points to be borne in mind. Firstly, the trip generations arising from this proposal and the four egg-laying units at Garnstone Farm are demonstrably fewer in combination than would have arisen had the earlier permission for 6 no. broiler units been implemented. This situation is recognised by the Traffic Manager, who also acknowledges that the network is capable of accommodating the additional trip generation without undue impacts on safety.
- 6.36 The southerly of the two existing vehicular accesses serving Rogers Farm i.e. that entering the arable land as opposed to the farmyard, will be stopped up and replaced by the new access and associated track further to the south. This will present the opportunity to reinstate the open ditch to the betterment of surface water conveyance.
- 6.37 The width of the junction onto the A4110 has been increased along with the radius in order to allow for two HGVs to pass simultaneously. The Traffic Manager is content that subject to detailed proposals which place the hedgerow to be removed behind the visibility splay, safe access will be provided and no conflict with the objectives with MT1 or NPPF guidance is found.

Landscape

- 6.38 It is a core planning principle of the NPPF that planning should take account of the *'different roles and character of different areas...recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.'* CS Policy LD1 and its objectives are introduced above.
- 6.39 The landscape hereabouts is not subject to any statutory landscape designation and is not considered a 'valued landscape' within the meaning of paragraph 109 of the NPPF. The Environmental Statement in considering possible alternatives to the scheme, as is required by the Environmental Impact Regulations, explains why the site has been chosen in favour of alternative locations within the holding. Principally it was determined that grouping with the existing farm complex is optimal insofar as minimising impacts within the landscape is concerned.
- 6.40 A Landscape and Visual Impact Assessment has been submitted together with a planting specification and management proposals.
- 6.41 The Conservation Manager (Landscape) is satisfied that the visual impact will not be substantial. In drawing this conclusion regard has been had to the proposals to cut the units into the sloping ground, which will reinforce the sense of containment with the existing farmstead and the formation of the vehicular access, which will necessitate the removal of a significant stretch of roadside hedgerow with replanting behind the visibility splay.

- 6.42 Views from residences to the north west of the proposal will be filtered by vegetation and intervening built form and are not considered to represent impacts that are significantly adverse. Whilst there will be localised impact upon character, this has been mitigated where possible and the residual effects are not to such a degree as to warrant a landscape objection and the requirements of LD1 are satisfied.
- 6.43 A landscape condition is recommended to ensure that the planting specification is implemented. On this basis officers considered that residual impact is adequately mitigated and that the scheme affords the potential for a net increase in green infrastructure and associated enhancement of bio-diversity in a manner consistent with Core Strategy Policies LD2 and LD3.

Drainage and Flood Risk

- 6.44 The land drainage officer has no objection to the proposal, but requests that where the existing field access it to be stopped up, the culvert under this access should be removed and the highway ditch reinstated. On this basis the scheme is considered to accord with CS Policies SD3 and SD4.

Ecology

- 6.45 The Council has screened the proposal against the Habitat Regulations and is content that there will be no likely significant effects on European sites. The Council's Ecological Advisor has also confirmed no objection in relation to the potential impact of the development upon protected species. Planning conditions are recommended and are attached to the recommendation. The scheme is considered to accord with Core Strategy Policies LD2 and LD3, these policies reflecting the equivalent policies of the NPPF.

Heritage

- 6.46 The detailed response of the Conservation Manager (Historic Buildings) highlights the heritage assets that have the *potential* to be affected by the development. However, the advice concludes that because of separation distances, landform and other intervening features it can be concluded that there will be no impacts, direct or indirect, on the significance of heritage assets and this matter need not be considered further or factored into the planning balance. The scheme does not, therefore, conflict with CS Policy LD4 of NPPF guidance; with which LD4 is consistent or the overarching statutory duty enshrined at S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impacts on Private Water Supplies

- 6.47 Objections made by and on behalf of the owners of Micklegarth concern the potential for disruption of the minor aquifer underlying Rogers Farm and consequent impacts for the availability and quality of water abstracted via the well serving that property. The well is some 78m from the corner of the north-west corner of the northern poultry unit.
- 6.48 Notwithstanding officers are of the view that this is a civil as opposed to planning matter, the Environment Agency has been approached by both the owners of Micklegarth and the Council for advice. It is understood the Environment Agency has advised the applicant to ensure that in order to avoid potential contamination, the sealed drainage system conveying the collected surface water to the Honey Lake Brook, is maintained at a sufficient distance from the private water supply.
- 6.49 As such, it is your officer's opinion that an objection on this basis is not sustainable and there is no discernible conflict with Core Strategy Policies SD3 or SD4.

Manure and Dirty Water Management

- 6.50 The application is accompanied by a manure management plan (Environmental Statement Appendix 11), which confirms that owing to the farm's comparatively small size and location within a Nitrate Vulnerable Zone (which reduces the concentration of Nitrogen that can be applied to land) all spent litter will be removed from site and spread elsewhere. As above, the vehicle movements associated with this (which will occur at the end of cycle and thus explain the increased vehicle movements associated with clean out operations), are accounted for in the revised TS.
- 6.51 Likewise, all dirty water, collected in the 6,000 gallon tank under the yard, will also be removed by tanker and treated elsewhere. Accordingly there will be no on-site storage of spent litter. A planning condition is recommended to ensure enforceability. On this basis the potential for leaching of nitrogen and ammonia within the NVZ will not occur.

7. Summary and Conclusion

- 7.1 S38 (6) requires that determination of planning applications must be in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 The Core Strategy and NPPF have the pursuit of sustainable development at their core and identify the three roles of sustainable development as, in the terms of the CS, Social Progress, Economic Prosperity and Environmental Quality. These roles are mutually dependent and to be pursued jointly. Impacts arising under these roles are weighed in the planning balance, having regard to the development plan and material considerations.
- 7.3 In this instance officers cannot dispute that the proposal is for farm diversification, with attendant economic benefits and modest social benefits arising from an increased ability for the UK to become self-sufficient as opposed to a net importer of chicken for human consumption.
- 7.4 As recorded above, the main issues arise in the environmental sphere. However, the careful assessment of impacts arising in relation to the main issues outlined in the appraisal, indicate that none of the adverse impacts would warrant that the application be refused. In particular, the Council's own independent review of the submitted odour assessment indicates that the applicant's report can be afforded weight and in fact regarded the applicant's assessment as over-stating the modelled impacts in relation to the majority of the receptors identified.
- 7.5 In reaching this conclusion, officers are mindful that the operation is subject of an Environmental Permit which regulates odour emissions, noise, vibration, pests and outputs from the biomass boiler. NPPF paragraph 122 reminds the decision-maker that local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. In particular "local authorities should assume that these regimes will operate effectively."
- 7.6 Overall, officers find net benefits arising in the economic sphere. Social and environmental impacts are conjoined in this case, but having regard to the available evidence and consultation responses, officers are content that the scheme fulfils the requisite objectives of policy such that refusal cannot be sustained.

RECOMMENDATION

That planning permission is granted subject to the conditions below and any other further conditions considered necessary by officers.

1. C01 Time limit for commencement (full permission)
2. C06 – Approved plans
3. C13
4. The Great Crested Newt ‘reasonable avoidance measures’ detailed in Section 2 of the ecology (Great Crested Newt) report by Star Ecology dated July 2016 shall be implemented and remain in place for the duration of the construction phase unless otherwise agreed in writing by the planning authority.

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.

5. The recommendations set out in Sections 12 and 13 of the ecologist’s report from Star Ecology dated June 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a mitigation and habitat enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

Reason: To ensure that all species are protected and habitats enhanced 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.

6. CAB - Visibility splays
7. CAC - Visibility over frontage
8. CAD - Access gates
9. CAE - Vehicular access construction.
10. CAG - Access closure
11. CAH - Driveway gradient
12. CAL - Access, turning and parking
13. CAN - Turning and parking: change of use – commercial
14. CAO - Parking/unloading provision - submission of details
15. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

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

- i) means of access for construction traffic and site operatives;**
- ii) the parking of vehicles of site operatives and visitors;**
- iii) a noise management plan;**
- iv) wheel washing facilities;**
- v) measures to control the emission of dust and dirt during construction;**
- vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;**
- vii) delivery, demolition and construction working hours;**

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

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.

- 16. CBN - Drainage in accordance with approved plans**
- 17. C96 - G10 Landscaping scheme**
- 18. Prior to the commencement of the development hereby permitted, full details of all external lighting to be installed upon the site (including upon the external elevations of the buildings) shall be submitted to and be approved in writing by the local planning authority. No external lighting shall be installed upon the site (including upon the external elevations of the buildings) without the prior written consent of the local planning authority. The approved external lighting shall be installed in accordance with the approved details and thereafter maintained in accordance with those details.**

Reason: To ensure light pollution is minimised in the interest of adjoining amenity and ecological interests so as to comply with CS Policies LD2 and SD1.

- 19. CBK – Hours of working**
- 20. CCK – Slab levels**
- 21. Ridge mounted high speed fans – minimum velocity requirement**

INFORMATIVES:

- 1. I09 Private apparatus within the Highway**
- 2. I11 Mud on the highway**
- 3. I45 Works within the Highway.**
- 4. I05 – No drainage to discharge to highway**
- 5. I43 – Protection of visibility splays on private land**
- 6. I51 – Works adjoining highway**
- 7. I47 – Drainage other than via highway system**

- 8. **I35 – Highways Design Guide and Specification**
- 9. **An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**
- 10 **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. 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.**

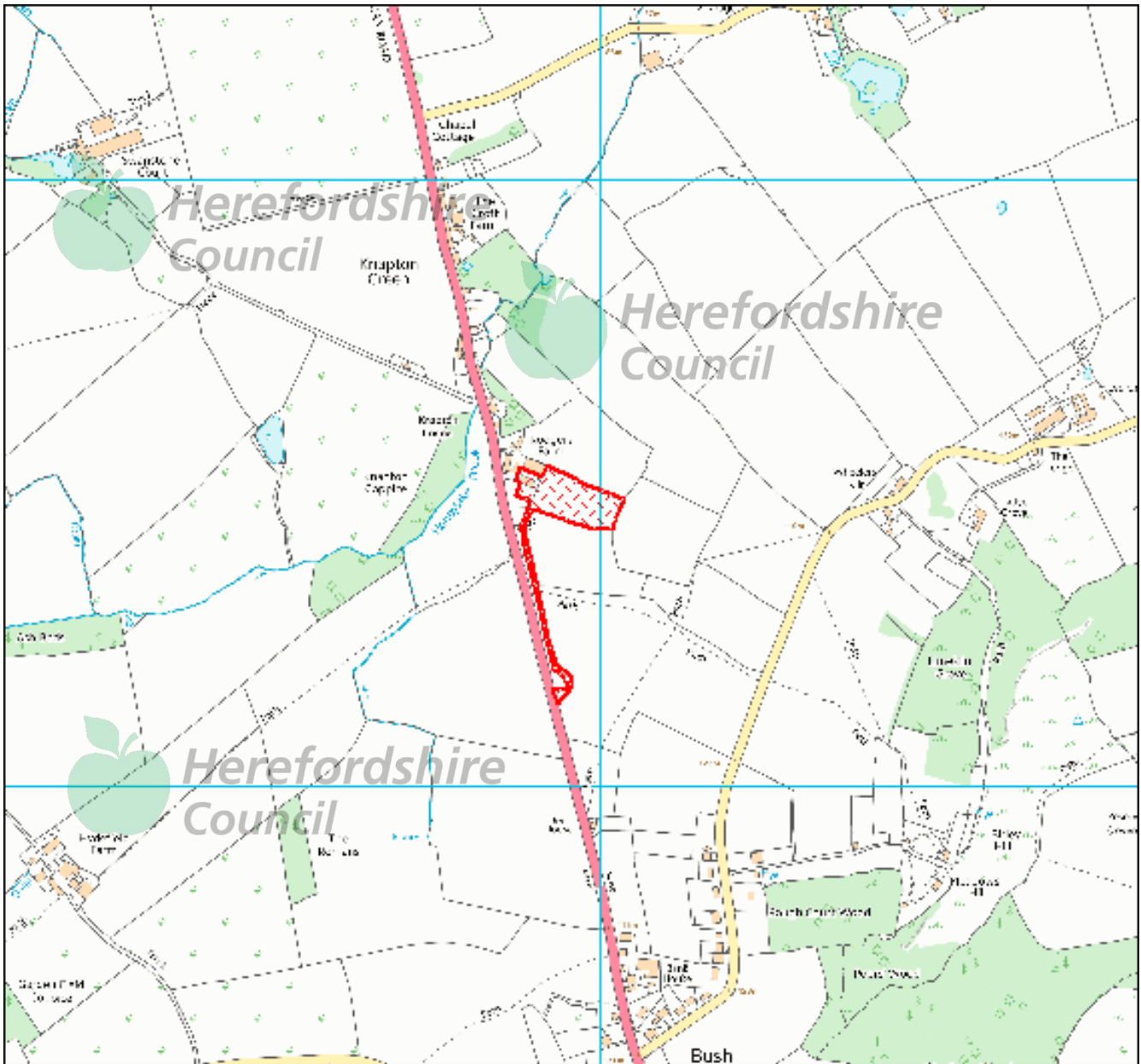
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 151983

SITE ADDRESS : ROGERS FARM, BUSH BANK, HEREFORD, HEREFORDSHIRE, HR4 8EP

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



MEETING:	PLANNING COMMITTEE
DATE:	7 December 2016
TITLE OF REPORT:	<p>162283 - DEMOLISH EXISTING BUILDING AND CONSTRUCT A NEW BOARDING HOUSE TO ACCOMMODATE 49 PUPILS, NURSE BEDROOM, HOUSEPARENT ACCOMMODATION, HOUSE TUTORS FLAT AND OVERNIGHT STAFF ROOM AT RECORDS OFFICE, HAROLD STREET, HEREFORD, HEREFORDSHIRE, HR1 2QX</p> <p>For: Mr Pizii per Dr Paul Harries, 1 Wilderhope House, Pountney Gardens, Belle Vue, Shrewsbury, SY3 7LG</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162283&search=162283
Reason Application submitted to Committee – Council Land	

Date Received: 20 July 2016

Ward: Central

Grid Ref: 351794,239428

Expiry Date: 8 November 2016

Local Member: Councillor LC Tawn

1. Site Description and Proposal

- 1.1 Detailed planning permission is sought for the demolition of the existing building and construction of a new boarding house to accommodate 49 pupils, nurse bedroom, houseparents' accommodation, house tutors flat and overnight staff accommodation on the site of the former County Records Office, Harold Street, Hereford.
- 1.2 The site is located on the south-side of Harold Street in the residential area of St James and Bartonsham. The Army Reserve Centre is located to the immediate west, with dwellings opposite and to the south (Park Street) and east, in the form of No.70 Harold Street.
- 1.3 The site is currently occupied by a two storey building used previously by Herefordshire Council as the County Records Office. The building has been vacant since the beginning of January 2014. The proposed site is not within a Conservation Area, nor are there any Listed Buildings on the site or within its immediate vicinity. The site is located north of the River Wye (within 450 meters to the nearest point). It is located within Flood Zone 1.
- 1.4 The submitted Design and Access Statement, describes the proposal as follows:-

"The boarding house is to be used by pupils at Hereford Cathedral School. It will be their residence for 36 weeks of the year. The proposal is to accommodate 49 pupils. The arrangement is to allow for segregation of sleeping accommodation between male and female pupils. A mix of twin rooms and single rooms is to be provided. The proposal is required to accommodate a near equal split between boys and girls with associated social and dining

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

spaces together with a separate kitchen and dining area. Further accommodation is required for pastoral care: houseparent accommodation, house tutors flat, a nurse's bedroom and overnight staff room. A catering kitchen and a laundry are also to be provided within the building. Externally there is a requirement for space for relaxation and recreation for the pupils with a secure cycle shelter. The houseparent accommodation should have a private garden. Parking provision for full time staff is also required."

- 1.5 Vehicle access to the site is from Harold Street. There are two existing vehicle entrances, one to the north-west of the site frontage and the other at the north-east. The entrance to the north-west leads to a car park containing about 12 car parking spaces and 2 disabled parking bays. The entrance to the north-east was a staff only entrance with 3 parking bays. There is a pedestrian right of way to the west of the site for access to the Army Reserve Centre. In the northern part of the site there is an electrical sub-station. The northern boundary of the site, facing Harold Street, is marked with a low brick wall. This is generally about 500mm high, increasing to about 1500mm by north-east access. This results in poor visibility at this entrance. The east side is bounded by a low hedge and shrubbery. The west side is bounded by 2m high palisade fencing. Along the southern boundary of the site, facing the back of the terraced housing on Park Street, there is a red brick wall, about 2m high.
- 1.6 Pedestrian access to the site is difficult as there is no pavement along the southern side of Harold Street. In addition there is no footpath on the opposite side of the road from Bartonsham Road junction heading east. A footpath is located adjacent to the north-west vehicle access from Bartonsham Road heading west.
- 1.7 The existing building was partly constructed in the nineteenth century and partly in the twentieth century. The original U-shaped building was the County Militia Barracks, constructed in 1856 (as stated in the Hereford Rapid Townscape Assessment dated March 2010). This originally faced out towards a Parade Ground – now occupied by the Army Reserve Centre. At some point during the late 1960/70s the original building was extended to accommodate the archival store, which is embraced by the original wings.
- 1.8 The original Militia Barracks building is two storey, with red facing brick walls and a series of slate hipped roofs. The extension is also in red brick with a pitched roof. In addition to the brick building, there is a single storey timber outbuilding to the south-west of the site.
- 1.9 The building was not designed to operate as an archives centre (for several years it suffered from temperature/humidity control issues) and it was decided that the buildings at Harold Street did not comply with the national archives standard (BS5454). A new archive building was constructed at Rotherwas. At this point the existing building became obsolete and has remained unoccupied in the interim.
- 1.10 The 'Hereford Rapid Townscape Assessment' refers to the character of the area neighbouring the proposed site as follows; Point 4.1 - *'Much of the area comprises small Victorian two-storey houses, including short terraces, on narrow plots, At several locations, particularly St James Road and parts of Harold Street and Park Street, larger Victorian detached and semi-detached houses occupy double plots. Most houses are of redbrick under slate roofs. Decorative and architectural elements include yellow and polychrome brick, and terracotta dressings, string courses, segmental brick arch lintels, keyed stucco lintels, bay windows and dormer windows'*.

The Proposal

- 1.11 The proposed boarding house has an L-shaped plan. The longer part of the 'L' shape runs from north to south on the site, it runs parallel to the existing Army Reserve Centre. The shorter part of the 'L' runs east to west on the site and is set adjacent to the road. This plan form encloses a private amenity space within the scheme.

- 1.12 The Design and Access Statement confirms that the L-shaped plan arrangement is intended to preclude the overlooking of residential properties. The block facing towards no. 70 Harold Street is set about 19m from the eastern boundary of the site and about 29 metres from the house. The shorter wing - facing out toward Harold Street does not directly overlook the back gardens of the houses on Eign Road. This short block – facing south toward Park Street, is set about 28 metres from the Southern boundary of the site, and about 55 metres from the backs of the houses on Park Street.
- 1.13 Vehicle and pedestrian entry to the site is from Harold Street – adjacent to the Army Reserve Centre; the arrangement serving to retain the pedestrian right of way across the site. The houseparents' accommodation is the first part of the new boarding house that visitors approach from the street. It is sited at the junction of the two wings – it faces north toward Harold Street and it is provided with a garden – also facing onto Harold Street. Its position near to the main access reinforces the security of the site via passive surveillance. It has an independent entrance, doors that open onto the garden and, within the boarding house, doors that connect into the pupil areas on the ground and first floor.
- 1.14 Adjacent to the independent entry into the houseparents' accommodation is the main access to the boarding house. The student boarding house will have one principal access point which will allow controlled access into the building for all student and visitors – once past this point students enter a secure zone (including the external recreation space at the rear of the building). The entrance is located on the south-west elevation along a newly proposed footpath with safe pedestrian crossing.
- 1.15 Along the south-west elevation there is an independent access for kitchen and laundry staff and a controlled gate for access to secure cycle storage. There is also a 'forward' bin store in this location. The main bin and recycling store is adjacent to the second existing vehicle access to the site – in the north-east corner. The intention is to stop the use of this access for vehicles but to utilise it as a pick up point for refuse and re-cycling. All rubbish and re-cycling is to be brought to this access point for collection.
- 1.16 The accommodation within the building is arranged over three floors. The ground floor comprises shared facilities for the pupils, staff accommodation relating to pastoral care, a catering kitchen, a laundry and a plant room. The shared student accommodation consists of a dining/common room area along with two sick bays (one of which doubles as a nurses bedroom) and a bathroom. The staff accommodation consists of the ground floor of the houseparent's house, a house tutor's flat, and an overnight staff room with en-suite. Directly adjacent to the main entrance is the housekeeper's office – which acts as a controlled access point and reception. There is visitor WC adjacent to the entrance lobby and direct access to the study area in the houseparent house for meetings etc. There is also some student accommodation on the ground floor – which could be either for boys or girls depending on the take up relative to gender.
- 1.17 It is proposed that boys are accommodated on the first floor and girls on the second floor. On each of the two floors all rooms are serviced off a central corridor with 11 single en-suite rooms, 5 twin en-suite rooms and a shared study zone and kitchenette/social space to allow students to prepare snacks etc. on each floor.
- 1.18 The DAS records the aim of the project, in architectural terms, is to create an architecture which is rooted in its context yet contemporary in its execution. It is stated the approach has been to echo the proportions and materials of the surrounding buildings without directly copying them. It is suggested that this is achieved by using a similar palette of materials to those presently used in the local area with windows following a similar proportion to those in the neighbourhood – with a strong vertical emphasis. Re-constituted stone string courses have been introduced to provide horizontality and order the façade.

- 1.19 The DAS states further that the scheme is carefully proportioned to reflect the traditional architecture in the vicinity, and the pitched slate roofs offer a further connection to the context. While much of this vocabulary has a traditional resonance, a contemporary quality is sought by placing strong emphasis on the elements of the building. The DAS explains that the building comprises five distinct elements that make up the general massing. The two 3 storey residential wings, the 2 storey houseparent's accommodation (that is the size and has the scale of a house on the street elevation), the glazed link that brings together and sets apart the masonry elements on the street façade, and the strong horizontal element in white brick that defines the main entrance. The forms of these separate elements are very simple and arranged in such a way to offer contrasts of scale and mass. On the street facade the gable end of the houseparent's accommodation contrasts with the eaves line of the residential block to the east of the site. It is said that this echoes the manner in which gable ends break the eaves line in nearby streets.
- 1.20 Overall, the DAS concludes that the composition of the façade is intended to represent a contemporary approach that sits comfortably within the content and at an appropriate scale to the surrounds.
- 1.21 A comparison of building heights does not appear to have been included in the DAS. For the avoidance of doubt, the proposed building is considerably taller than the existing building. The application is accompanied by a detailed survey of the existing building and proposed elevations, which enable a ready comparison.
- 1.22 On the Battlefield Land Survey Ltd drawing 06, Elevation 1 is the west-facing principal façade of the former Records Office/Military Barracks. The existing building is 7.8m tall at the highest (ridge) point. With the exception of single-storey accretions the existing building is, where two-storey, uniformly 7.8m tall. The proposed boarding house is 11.7m at the highest point (excluding cowl) on this elevation and this height is carried through onto the 'wing'.
- 1.23 Perhaps the easiest reference point for comparison is the houseparents' accommodation. This is 8.1m to the ridge, which is 300mm taller than the existing building. This is the subordinate part of the scheme.
- 1.24 The archival storage building is the tallest part of the existing structure at 9m. This is 400mm lower than the 3-storey linking structure (not visible on the image). On the Harold Street elevation the existing building's flank elevation extends for 21.5m. The proposed building extends for 30m (excluding the entrance).
- 1.25 The DAS records that an "informal public consultation" was held at the Army Reserve Centre on Harold Street between 5.30 and 6.30 pm on Monday 20rd June 2016. The event was publicised by Hereford Cathedral School who delivered leaflets by hand to 100 houses in the immediate vicinity of the proposed boarding house. These included houses in Harold Street that are in close proximity to the proposed site and houses on Park Street whose gardens are in close proximity to the proposed site.

2. Policies

Herefordshire Local Plan – Core Strategy

- 2.1 The Development Plan for the area is, in the main, the Herefordshire Local Plan – Core Strategy. The relevant policies are outlined and discussed briefly below:-
- 2.2 The CS pursues three themes and twelve objectives under the headings of Social Progress, Economic Prosperity and Environmental Quality. These are, in my view, equivalent to the three roles of sustainable development described in the National Planning Policy Framework (NPPF). CS Policy SS1 imports a similar decision-making test to that set out at Paragraph 14 of the

NPPF. In effect, development that accords with the CS should be approved without delay. Where policies are absent, silent or out-of-date, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in national policy taken as a whole or specific elements of national policy indicate that development should be restricted.

- 2.3 Policy SS4 is the strategic policy concerning movement and transportation, with developments designed and located to minimise the impacts on the transport network; ensuring that journey times and safe operation of the network are not detrimentally impacted. Where practicable, development should be accessible by and facilitate a genuine choice of modes of travel.
- 2.4 Policy SS6 underpins the CS objectives surrounding environmental quality and local distinctiveness. The policy requires development proposals to be shaped through an integrated approach to planning the identified environmental components from the outset. Of relevance to this proposal is townscape and local distinctiveness, historic environment and heritage assets and local amenity. The final paragraph to SS6 refers to the advent of other development plan documents and their role, in time, in defining local distinctiveness. A Hereford Area Plan (HAP) will be produced to complement the CS and add detail at the Hereford City level, but the production of an Issues and Options Paper is unlikely to take place until the new year and it is unlikely that the HAP will be in position to attract any weight for decision-making on planning applications for the foreseeable future.
- 2.5 Policy SS7 outlines the measures that development proposals will be expected to take in helping address climate change.
- 2.6 Underpinning these policies are the 'place-shaping' policies relating to Hereford. HD1 underscores the apportionment of housing via strategic allocations, existing commitments and windfall opportunities. HD2 refers to Hereford city centre, which is defined by the 'saved' Unitary Development Plan map found in the CS Appendices (Appendix 1, P.8). HD3 'Hereford movement' identifies measures to secure reduced reliance on the private motor-car.
- 2.7 MT1 is a criteria based policy outlining the aspirations around movement and echoes the objectives expressed in SS4 and HD3.
- 2.8 Of particular relevance to this proposal are the 'Local distinctiveness' policies LD1 Landscape and townscape, LD2 Biodiversity and geodiversity and LD4 Historic environment and heritage assets. LD1 requires that developments should demonstrate that character of the townscape has positively influenced the design, scale, nature of the proposal and site selection; whereas LD4 requires that developments should, where possible, enhance heritage assets and their settings in a manner appropriate to their significance. LD4 and the supporting narrative explain clearly that the policy is intended to apply equally to designated and non-designated heritage assets.
- 2.9 LD4 (2) asks that where opportunities exist, development proposals should contribute to the character and local distinctiveness of the townscape.
- 2.10 SD1 'Sustainable design and energy efficiency' is a criterion based policy covering a range of topics, including the requirement that residential amenity for existing and proposed residents is safeguarded. SD3 outlines water conservation measures, with specific water-consumption standards prescribed. SD4 deals with wastewater treatment and river water quality.

National Planning Policy Framework

2.11 The NPPF contains guidance on a number of issues. Relevant in this case is the approach to decision-making where the complete demolition of a non-designated heritage asset is proposed and how that should be factored into the planning balance.

2.12 Chapter 12 of the NPPF is entitled “Conserving and enhancing the historic environment.”

The Chapter discusses heritage assets, which are defined in the glossary as:-

“A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes, designated heritage assets and assets identified by the local planning authority (including local listing).”

2.13 Paragraph 126 requires LPA's to set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other risks. In doing so LPAs should recognise that heritage assets are “an irreplaceable resource” and should conserve them in a manner appropriate to their significance.

2.14 Paragraph 129 requires the LPA to identify and assess the particular significance of any heritage asset that may be affected taking account of the available evidence and 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.

2.15 Paragraph 131 defines 3 aspects that a local planning authority should take into account when determining planning applications:-

- *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; &*
- *The desirability of new development making a positive contribution to local character and distinctiveness.*

2.16 Paragraphs 132-135 then deal with the approach to decision-making according to the significance of the heritage asset and the degree of harm arising as a consequence of development. Paragraph 132 confirms that great weight should be given to the conservation of designated heritage assets. Paragraph 133 directs refusal, and is so a restrictive policy, where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. This is unless such harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss or where 4 exceptions criteria apply.

2.17 Paragraph 134 explains the approach to decision-making where less than substantial harm to the significance of a designated heritage asset would arise. It states that such harm should be weighted against the public benefits of the proposal, including securing its optimum viable use. 134 is thus also a restrictive policy i.e. the harm is considered in an unweighted balance as per the second part of the limb 2 test at NPPF paragraph 14.

2.18 Significantly, in this case, Paragraph 135 sets out the approach where a non-designated heritage asset is affected. It states as follows:-

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

2.19 It can thus be seen, and as is recorded in the CS, that the impact of development proposals on non-designated heritage assets is a material consideration in the determination of planning applications. An important distinction arises, however, between designated and non-designated assets; it being the case that harm to designated assets should be considered in an unweighted balancing exercise via the limb 2 test at paragraph 14 i.e. it is not necessary to consider whether the harm or loss *significantly and demonstrably* outweighs the benefits.

2.20 135 directs, however, that a balanced judgement will be required. In such cases harm or loss will be a material consideration, but presumably not of such weight (in most cases) in the planning balance as compared to where a designated heritage asset is involved. Scale of harm and significance of asset are the two critical factors.

2.21 The relevance of the foregoing is that CS Policy LD4, whilst attracting full weight, does not direct the decision-maker as to the ‘next steps’ when harm to an asset is identified. As recorded by Inspector Wildsmith in the Bartestree appeal (3051153) at paragraph 303 of his decision, it is necessary to refer to the NPPF for this guidance. This draw-back apart, the Inspector held that LD4 should attract full weight.

2.22 National Planning Practice Guidance

2.23 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 relevant

4. Consultation Summary

4.1 Welsh Water: Recommend conditions

4.2 Traffic Manager: Proposal is unacceptable but can be made acceptable by way of the following amendments to the deposited application, as discussed at pre application stage:-

Inclusion of a turning and loading/unloading area for service/delivery vehicles within the site. Provision of low level build out (to accommodate vehicle crossings) for pedestrians on north side of Harold Street between parking bays at proposed crossing point to reduce crossing distance and establish pedestrian waiting area with visibility past parked vehicles.

Proposal would then be acceptable, subject to the following conditions and / or informatives:-

CAE CAL CAZ CB2 and informatives I05 and I45

4.3 Environmental Health Manager (Contamination): Recommends conditions

4.4 Conservation Manager (Ecology): More information required.

I note at this stage that an ecological survey has been carried out on the buildings in question. The buildings are extensive and fall within a reasonable bat foraging zone as identified in the report. The report finds *the “likelihood of bats using the buildings to be small ...”* but *“recommends that a precautionary activity survey be carried out between May and September to confirm the absence of bats”*. Given that the buildings are to be demolished I would agree that activity surveys are necessary and if the surveys have been done I would be obliged if they could be forwarded to me. Without such surveys unidentified impacts of the development proposals on protected species or habitats cannot be ascertained. This information is required in order for mitigation to be devised for any impact from the demolition and cannot be left as a reserved matter or conditioned in case such mitigation affects any approved scheme.

4.5 The proximity to the River Wye SAC should be borne in mind and a Construction Environmental Management Plan should be secured by condition as follows:

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

Reasons:

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

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

4.6 Land Drainage Officer

Overall Comment

We recommend that the following information is provided prior to the Council granting planning permission for this development, agreement with Welsh Water / Dwr Cymru regarding the proposed management of surface water and discharge rates into the existing ‘main sewer’, calculations relating to the critical storm duration and rainfall rates and that the site is free from surface water flooding in a 1:1 year, 1:30 year and a 1:100 year + climate change rainfall event.

4.7 However, should the Council be minded to grant planning permission, we recommend that the submission and approval of detailed proposals for the management of disposal of foul water and surface water runoff from the development is included within any reserved matters associated with the permission / suitably worded planning conditions. The detailed drainage proposals should include:

- Provision of a drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- Calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event, and no increased risk of flooding as a result of development 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;

- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure that site-generated surface water runoff is controlled and limited to agreed discharge rates for all storm events up to and including the 1 in 100 year rainfall event, with an appropriate increase in rainfall intensity to allow for the effects of future climate change;
- Evidence that the Applicant is providing sufficient storage and appropriate flow controls to manage additional runoff volume from the development, demonstrated for the 1 in 100 year event (6 hour storm) with an appropriate increase in rainfall intensity to allow for the effects of future climate change;
- Evidence that the Applicant has sought and agreed permissions to discharge foul water and surface water runoff from the site with the relevant authorities;
- Evidence that the Applicant has sought and agreed allowable discharge rates for the disposal of foul water and surface water runoff from the site with the relevant authorities;
- Demonstration that appropriate pollution control measures are in place prior to discharge.
- Confirmation of the proposed authority responsible for the adoption and maintenance of the proposed drainage systems.

5. Heritage Responses

5.1 A very significant material consideration arising with this application is the proposed demolition of existing buildings on site. Consultation responses that focus on this single issue are set out below together for ease of reference. They include:

- The response of the Conservation Manager (Historic Buildings), Herefordshire Council;
- The response of the Woolhope Club;
- The response of the Victorian Society;
- The response of the Bartonsham History Group;
- The response of the Hereford Civic Society.

This section culminates in the Historic England response to the application made by a local interest group to add the building to the statutory list i.e. designate it a listed building.

5.2 Conservation Manager (Historic Buildings): Objection

It is proposed to provide a new boarding house and associated spaces for 49 pupils and various staff. Several pre-application discussions have been held and formal advice has been provided.

5.3 The application site lies to the south-east of Hereford City Centre in an area of attractive mid-Victorian dwellings. The area is outside the Hereford Central Conservation Area. There are no nationally listed buildings on the site and none in the vicinity that would be affected by the proposed new use on the site. This is due to the intervening buildings and the distance of the listed buildings from the site.

5.4 There is, however, the 1856 Militia Depot and the former archive building currently on the site. Whereas the archive building is not considered to be visually or historically important, the Militia Depot building is considered to be of Local Importance in heritage terms. Pre-application advice was to retain the 1856 building whilst allowing the demolition of the 20th century archives building.

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

- 5.5 The site lies in the midst of a residential area except for the TA Centre which is immediately to the west and occupies part of the former parade ground. A right of way exists across the site to allow access to this neighbouring building.
- 5.6 The proposal indicates that all the existing buildings, and some trees, would be removed from the application site in order to enable the construction of two, three-storey buildings, a three-storey glazed link and a two-storey element for the corner of the overall L-shaped footprint.
- 5.7 Core Strategy Policy LD4 relates to the Historic Environment and heritage assets. Heritage assets can be formally designated or not. The Policy requires that development should “protect, conserve, and where possible enhance heritage assets and their settings”.
- 5.8 Clearly the proposals have a substantial impact on the Locally Important Militia Depot in that it would be completely lost to demolition. The Design and Access Statement does indicate that some analysis of the existing building has taken place, however the social history and meaning has been minimised. The justification for the removal lies with the apparent inability to comply with the applicant’s brief whilst retaining the building, rather than the building having little or no value. This is not considered to be acceptable, especially as the pre-application advice was very clear on the subject.
- 5.9 From a heritage perspective, a new use for the building is clearly required; however the achievement of a new use for the site should not involve the loss of the heritage asset. An alternative new use should be identified. This is particularly the case when the heritage asset is in a good state of repair, has only had minor modifications in its 160 year life and contains internal spaces that are generous and non-limiting for alternative uses.
- 5.10 In terms of the NPPF the Militia Depot must be considered, at present, under Paragraphs 131 and 135 (relating to non-designated heritage assets). Para. 131 requires:
- “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.”*
- 5.11 The application does not indicate that the scheme would put the heritage asset to viable uses consistent with their conservation, nor has it recognised the positive contribution that could be made by the historic building. It is also considered that the proposed new building would not make a positive contribution to the local character and distinctiveness, despite the analysis carried out on buildings in the vicinity.
- 5.12 Paragraph 135 states:
- “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*
- In this case the scale of harm is very high as the Depot would be completely lost.
- 5.13 The design for the replacement building has seemingly been routed in an analysis of the domestic architecture in the local street surrounding the site, however in transferring that information into the scheme the detailing and flair and softness of the mid-Victorian architecture

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

has been lost. The scale of the building and in particular the height is in excess of the immediate dwellings and would tower over the local buildings. It is acknowledged that there are three-storey and 2.5-storey dwellings in the wider locality but not on the roads immediately round the site such that they contribute to the character of the area.

- 5.14 The use of brick, slate and stone would be acceptable, however the almost brutal appearance shown on the elevation drawings indicates that it is the manner of its use that would be out of character in this context. It is interesting that the white bricks proposed for the front elevation highlight the kitchens as well as the entrance. The front elevation still faces onto the former parade ground and not the street, which will mean that the white bricks will not have the impact indicated by the drawings as they face the TA building next door. This orientation has no historic basis as it would be a new building so the opportunity to re-orientate the site has not been taken. This is also the situation with other layout details internally where the trunk room is on the south side with other spaces that do not need natural light. The plans do not appear to capitalise on the proposed loss of the historic asset.
- 5.15 In conclusion, the proposal is considered to be contrary to Policy LD4 and Paragraphs 131 and 135 of the NPPF. The loss of the heritage asset is not considered to be acceptable and the design of the proposed replacement building is also not considered to respond adequately to the character of the area.

In short a very strong objection is raised to this proposal.

5.16 Woolhope Club: Objection

The Executive Committee of the Woolhope Club urges Herefordshire Council to refuse this application on the following grounds:

1. We support the views of many local residents and the Bartonsham History Society who are opposed to the demolition of an important historic building, which contributes character to their area.

2. The building makes a significant contribution to the Harold Street townscape. It is a similar age to many houses in the surrounding streets and shares the same sub-classical style. The proposed three storey building is out of place in terms of scale, style and materials. It appears to be an off-spring of the Widemarsh Street multi-storey car-park.

3. We notice in the applicant's design statement there is a preliminary design for building that integrates with the existing structure, replacing the Old Record Office extensions on the east side of the historic building with a new residential block. The Council should insist that the applicant perseveres with this early design, which makes good use of the original 1856 building.

4. The present writer has written-up the story of the building and made some tentative assessment of its historical significance. This is attached to this letter and has been adopted by the Bartonsham residents who attended a meeting at the Volunteer on Friday 26th August. This was subsequently sent to Historic England in Bristol as part of a formal application to get the Old Barracks listed. The HE application number is 1439059.

- 5.17 We urge the Council to refuse the present application, insist that the existing building be utilised in any development proposal and await the outcome of the residents application for listing.

**the assessment referred to in 4. above is available on the website.*

5.18 Victorian Society: Objection

Thank you for consulting the Victorian Society on this application. We **object** to the demolition of the former Militia Depository, which would needlessly and harmfully deprive the area of a locally significant historic building. The former Militia Depository was constructed in 1856 to the design of *John Gray*, a notable architect of the period who was responsible for a number of significant buildings in and around Hereford. It is a handsome and imposing edifice, befitting of its original purpose as a military storage and, later, as a barracks. The building is mentioned in the revised Buildings of England volume, underlining its interest in the local context. In light of its historic and architectural interest the Depository must be considered to be a non-designated heritage asset. In accordance with paragraph 135 of the NPPF its demolition is therefore a material consideration in determining this application.

- 5.19 We **object** to the demolition of the Depository, which would divest the area of one of its most important buildings – an impressive and well preserved example of the work of noted architect *John Gray*, one with great adaptability and potential for reuse – and a significant manifestation of local history. The loss of the building would undermine the area’s unique sense of place and identity and should be resisted.
- 5.20 It is a core principle of the national Planning Policy Framework that heritage assets are conserved “*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*”. Paragraph 131 of the NPPF states that 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*”. It highlights also the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality. Paragraph 132 stresses that “*great weight*” should be given to the preservation of heritage assets.
- 5.21 Herefordshire Council’s Local Policy LD4 states that 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*”, should “*contribute to the character and local distinctiveness of the townscape or wider environment*” and should “*use the retention, repair and sustainable use of heritage assets to provide a focus for wider regeneration schemes*”.
- 5.22 Paragraph 5.3.27 of the Adopted Core Strategy emphasises that developments “*should embrace the historic environment rather than regard it as a constraint. Utilising existing locally distinctive heritage assets within wider regeneration proposals can help create new developments that integrate positively with their surroundings, and can reinforce existing cultural and social characteristics*”.
- 5.23 We note the pre-application advice provided by the Council to the applicant that recommended the retention of the historic building as part of any redevelopment of the site, advice that we endorse and echo. In addition to the fact that the Depository is in a good state of repair, having been in use until recently, it is of a form and type that would lend itself to a variety of new uses. Finding a viable and appropriate new use for the building should not prove unduly challenging.
- 5.24 In light of the above, we **object** to this application, which fails to comply with local and national planning policy, and urge you to **refuse** it consent. I would be grateful if you could inform me of your decision in due course.

5.25 Bartonsham History Group: Objection

I have been asked to comment on this application on behalf of the Bartonsham History Group (BHG). The BHG is a local community based history group interested in particular the local and social history of Bartonsham. We organise history walks, talks, pop-up exhibitions, research and run a local history website for the area.

5.26 Our comments are as a result not only of discussions and research amongst the BHG but also as a result of a public meeting which we held at the Volunteer Inn on 25th August. This was attended by 20 local residents and clearly demonstrated a significant level of local interest and concern.

Summary:

5.27 It is the considered view of the Bartonsham History Group that the Old Barracks are of important local historical and cultural significance. Therefore, we ask for this application, which involves the complete demolition of the building, be refused.

5.28 We strongly support the views of the Planning Officers in their pre-application consultation (Design and Access Statement Section 4) that the applicant should be encouraged to accommodate the proposed end use without the need for wholesale demolition.

5.29 It will always be the case that incorporating and adapting existing buildings for new purposes is challenging and may involve additional expense. However, we feel that the local significance of this building fully justifies the effort required. We do not accept the applicant has fully explored the possibilities but has chosen to take the easy option to go for complete demolition.

Background:

5.30 (Historical research based on the existing work of David Whitehead of Hereford and used with his consent). The existing building was originally known as the Militia Depository and shows a birth date of 1856 on a keystone over its entrance. It was designed as a block-house - seven bays by five - under a low pitched slate roof with a central open courtyard. It has the appearance of a modest late Georgian country house; its plainness reflecting its utilitarian purpose. The design by local architect John Gray (1796-C.1862) has managed to deliver an elegant simplicity within what was a tight budget. It sits well within the Victorian street scene that grew up around it.

5.31 As its name suggests it was designed as a storage depot for military equipment but as time passed it became known as the Barracks, perhaps providing transitory accommodation for volunteers being transferred to professional regiments or service overseas. The west facade remains as it was built with a central two storey porch, flanked by slightly projecting two bay wings. The porch was provided with military-looking rifle slots - now filled in - the one architectural embellishment that indicates its purpose. In addition, there are faint dark bull's eyes painted regularly on the west wall at about four feet from the ground either side of the porch. These would have been painted for sighting practice when the Herefordshire Rifle Volunteers were founded in 1859.

5.32 The building as it stands is an excellent example of a mid-Victorian militia depot, which must have once existed in every shire in the country but few remain today. Its domestic character epitomises the civilian context in which young men from the community were recruited to serve their country. For over a century many young men, drawn from the farming communities along the Welsh Border, passed through this building and saw active service in the remotest parts of the world. Many never returned home. The building is associated with a significant aspect of Victorian history. Here in Hereford we have evidence in the Militia Depot of the beginning of the story. The role of volunteer forces is often neglected in the official histories of the regular regiments of the British army. This is redressed in the survival of this building.

5.33 The Old Barracks has been well maintained by Herefordshire Council and so should be expected that it could be adapted or incorporated for future purposes.

5.34 We therefore urge that every effort is made to retain, as much as possible, of this unique part of Herefordshire history. It is modest and in keeping with the Victorian neighbourhood that it is part of It is therefore of local significance to its community.

Application Design Statement:

5.35 1. We were disappointed that the applicant's Design Statement does only include very limited information on the history of the building and its significance to the local community and culture. This we feel is a significant omission and has led the applicant away from fully considering the retention of the building.

2. We fully agree with the Pre-Application Advice provided to the applicants "that the applicant should be encouraged to accommodate the proposed end use without the need for wholesale demolition."

3. We feel the arguments presented as to why this is not possible are weak. They boil down to pedestrian access and segregation of sleeping quarters. These we believe can be solved by further design changes. We would expect more creativity from an organisation well used to utilising and preserving historic parts of the city.

4. Further Pre-Application consultations have been aimed at finding a reason for complete demolition rather than seeking ways to avoid it. These we feel lead to opportunities wasted to fully consult the local community. The Community is mostly supportive for the change of use but are unhappy for the replacement of a historic old building with something so out of keeping.

Hereford Civic Society

5.36 Hereford Civic Society members are divided on this application. The overall design is considered acceptable and will replace the current rather unhappy mixture of styles. If this application is approved then:-

- better access to the site is clearly needed.
- A full history of the building to be recorded together with photographs, to be deposited at HARC, before demolition commences.

A sizeable proportion of members would like to see the building retained for its historical context.

HERITAGE ENGLAND RESPONSE TO APPLICATION FOR LISTING

Assessment

5.37 CONTEXT AND BACKGROUND

Historic England has received an application to assess the Militia Barracks in Hereford for listing. There is a live planning application for the demolition of the building and its replacement with a new structure. The building does not stand within a conservation area.

5.38 HISTORY AND DETAILS

The Militia Barracks building in Hereford was built in 1856 to designs by John Gray, County Surveyor for Herefordshire between 1842 and 1861, and is shown as barracks with a parade ground on the First Edition Ordnance Survey map of 1888, although it is understood that the building may originally have been built as a depository. The building remained in military use until the mid-C20, when it became the record office for Herefordshire. This use is understood to have ceased c.2014, since when the building has been unused.

The building is of two storeys, built of brick under a slate roof, with a nine-bay principal façade which faces west over the former parade ground. The central bay projects with an arched entrance at ground floor with narrow slits to either side and a date stone above showing 1856. The outer two bays of this facade also project slightly, and there is a continuous platband between ground and first floor. There are sash windows under cambered heads throughout, and to the rear a large, mid-C20 extension which infills the rear courtyard, where a single storey linking wing has been lost. Comparison with historic photographs shows that chimney stacks have been lost across the whole building, and modern photographs show that parts of the roof structure may have been rebuilt.

5.39 ASSESSMENT

The Principles of Selection for Listing Buildings (DCMS, March 2010) sets out the criteria used when assessing buildings for designation. Further guidance can be found in the Historic Selection Guide for Military Structures (2011), which notes that key considerations for this building type include architectural quality, degree of alteration and group value with other related structures. The former Militia Barracks building in Hereford is clearly of some historic interest as a mid-C19 military building, in use at a time when the construction of such buildings was taking place across the country as Britain's imperial commitments grew. The building was designed by the county surveyor, John Gray, and is a simple yet dignified composition in brick. The building's simple character can be argued to reflect its function, however for military buildings of this date good architectural quality is required to merit listing at a national level. The building has little in the way of architectural expression, and its style is somewhat old fashioned for the 1850s. Comparisons with listed examples show that they tend to be earlier in date, such as the 1757 Barrack Block at Chatham, Kent (NHLE 1410725), or possess much stronger architectural quality, such as the Former Barracks in Grantham, Lincolnshire (NHLE 1062467). The Hereford building's claims to special interest are further lessened by the alterations which have taken place, including the loss of all chimney stacks, the loss of the rear single storey wing and the large extension which infills the rear courtyard.

On balance, whilst the former Militia Barracks is a building of strong local interest, it does not possess the special interest required to merit listing at a national level.

5.40 REASONS FOR DESIGNATION DECISION

The former Militia Barracks in Hereford, built 1856 by John Gray, is not recommended for listing for the following principal reasons:-

- Architectural interest: while of pleasing character, the building is unremarkable in the national context and does not possess the interest required for a building of this date to be listed;
- Alterations: the alterations which have taken place have lessened the building's interest.

5.41 CONCLUSION

The former Militia Barracks in Hereford is clearly of strong local interest as a surviving mid-C19 military building, but is not considered to possess the special interest required for statutory listing.

6. Representations

6.1 Hereford City Council: No objection

The history of the existing building should be appropriately memorialised within the new building

6.2 A total of 27 neighbour letters have been received, as well as a separate comment from the St James and Bartonsham Community Association. This is reproduced below:-

I am writing on behalf of the St James and Bartonsham Community Association (CA) to object to this application. I sit on the Executive Committee. The Bartonsham History Group are affiliated to the CA and have submitted their comments. Our objection centres on the transport proposals.

St James historically suffers from excessive vehicle speed in narrow and congested Victorian streets. This is at its worst during the 'school run' periods. Although the whole area now has a 20mph speed limit, this is widely ignored, and this can be seen in the submitted Transport Plan, where the 85th Percentile speed was recorded as 24mph. Much of the traffic passing through St James during the 'school run' periods is made up of vehicles travelling to and from the Cathedral School Castle Street campus and this is more concentrated in the mornings. This creates significant problems, not only from speeding, but also at the Harold Street/Green Street crossroads, where large numbers of parents and children on foot are crossing en-route to St James School.

Ward Councillors Jim Kenyon and Len Tawn have seen this problem first hand when they shared the duties of the 'lollipop lady' recently whilst she was on holiday. As far back as 2001, CA led plans were afoot to improve the safety of this junction, but they were vetoed by an incoming cabinet member and we have been unable to revive them.

The Transport Plan makes no firm commitment as to how pupils will move between the boarding house and the Castle Street Campus. It gives a walking distance and time, but those pupils themselves would have to negotiate the dangerous Harold Street junction. More likely is that pupils and support staff will be shuttled to and fro via minibus, hence the permanent parking for 3no minibuses on the site layout proposal. This would add further to the transport burden of the area and would not be acceptable.

Previous development of the campus saw a planning condition requiring a transport plan but we saw no evidence of this being implemented. The CA have attempted to engage with the School in the past over the transport impact, to little effect. At one stage we understood the Cock of Tupsley was to be a transport hub, with parents dropping off children to be minibussed into Castle Street. Again we see little evidence of this on the ground.

Our view is that the transport issue need further clarification and improvement. We do not want dirty diesel minibuses shuttling back and forth, impacting on the health and amenity of residents. There is an opportunity here to introduce clean electric vehicles, which can easily be recharged via PV panels within the development. Obviously, we would prefer pupils to walk, but we accept that this will not always be possible. There is also the opportunity to use the site as a hub for parents to drop off their children to reduce the number of vehicles passing through St James. They can then be shuttled to Castle Street in clean electric minibuses or indeed walk or cycle. Until such time as the applicant provides a more cohesive, sustainable and less damaging transport plan, we object to the application.

St James and Bartonsham Community Association

6.3 The content of the 27 letters of objection is summarised as follows:-

- Objection to the demolition of an historically significant building, with deep rooted connection with the local area and the county as a whole;
- The building is an increasingly rare example of its type; a purpose built military barracks. It is a monument to the many volunteer servicemen of the C19/20th;
- An asset such as this should be preserved and restored for the benefit of future generations who may otherwise be unaware of the social history;
- The building is in good repair and would appear to be capable of sensitive conversion to a more appropriate use;
- The applicants have disregarded the advice of the Council, who stated at the pre-application stage that the building should be retained;

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

- The fact that the existing building is not suitable for the end use does not, in itself, justify demolition. A more suitable site should be found;
- Where as the existing building compliments its surrounds, the proposal is vastly out of scale and would dominate a settled, well-established residential area giving rise to loss of privacy;
- The site is at a notorious pinch point on narrow local roads which are already used for rat-running to Castle Street. Pedestrian access is poor and visibility splays are not readily achieved;
- The ecological value of the site would be reduced. There is evidence of bats using the site for roosting;
- Trees on site make a valuable contribution to the amenity of the area and should not be removed;
- The local infrastructure is insufficient to support the development;
- There is the potential for disturbance arising from the 49 students and traffic issues at the beginning and end of term time;
- The public exhibition was poorly advertised. Many local residents were unaware of the 1 hour long event;
- There is concern that the property was not actively marketed, which has effectively ruled out the potential for a redevelopment that utilises the existing building.

6.4 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=162283&search=162283>

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>

7. Officer's Appraisal

7.1 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."

7.2 Having regard to the Development Plan and other relevant material considerations I am of the view that the main issues in the determination of this application are as follows:-

- a) The effect of the proposed development on the non-designated heritage asset; the 1856 John Gray designed Hereford Militia Barracks;
- b) Its effect of the character and appearance of the surrounding area;
- c) Its effect on areas of ecological or nature conservation interest;
- d) Other matters raised by consultees and interested persons, including the effect of the proposed development on the safety and convenience of users of the nearby highways, and its effect on the living conditions of nearby residents;
- e) Whether the appeal proposal should be seen as representing sustainable development, in the terms of the Framework;
- f) How the planning balance, involving the benefits and dis-benefits of the proposed development, should be assessed.

The effect of the proposed development on the non-designated heritage asset; the 1856 John Gray designed Hereford Militia Barracks;

7.3 The report, at section 3, sets out the responses received from the Conservation Manager and interest groups, including the Victorian Society and local history groups. With the exception of the Hereford Civic Society, who are non-committal, there is strong objection to the demolition of

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

the non-designated heritage asset. It being recorded elsewhere in this report, it is not necessary within this appraisal to rehearse the building's social and architectural history.

- 7.4 In my view, however, the assessment of the Conservation Manager and others is reflected in the Historic England response to the listing description which describes the building as exhibiting "strong local interest." That the local interest is, according to Historic England, "strong" as opposed to moderate or less, is material to the '135' balanced judgement; it being the case that the 135 judgement demands a balanced judgement having regard to the scale or any harm or loss and the significance of the heritage asset.
- 7.5 In my view, therefore, and recognising that the asset is not designated, the building can be regarded as significant in the local context. The building was designed by a well-known architect, of socio-historic interest, has scarcity value and is in a reasonable state of repair. Whilst I recognise that C20 additions and later alterations have diminished the overall composition, what remains of the original 1856 structure is readily discernible as such and should, in my view, be placed at the higher end of the "significance spectrum" insofar as non-designated heritage assets are concerned. Having concluded that the building is a significant non-designated heritage asset it falls to consider the extent of the loss or harm. In this case, the loss or harm (whichever term is applied), is absolute. The complete demolition of the building cannot be described otherwise.
- 7.6 Thus, in terms of harm or loss, it is axiomatic that it is at the high end of the harm/loss spectrum. This harm/loss relates to a non-designated heritage asset that due to its social history and scarcity (particularly in the local context), is placed towards the upper end of the significance spectrum.
- 7.7 I am of the view, therefore, that the total loss of this comparatively scarce non-designated heritage asset should be attributed significant weight in the planning balance as an adverse impact. Whilst I recognise the asset is not designated, I don't believe that it is the intention that whether the building is designated or non-designated is the only factor of relevance to an assessment of significance. I accept fully that the hierarchical approach set out in LD4 and NPPF indicates that designation is a factor influencing significance and I agree. However, in this case the subject building is a building that although unremarkable architecturally, exhibits significance through its historical association with the armed forces and military volunteers in Herefordshire and beyond. I note at this point the letter of representation noting the naming of the public house on Harold Street: The Volunteer.
- 7.8 Taking the consultation responses into account, including the Historic England letter which concludes the building isn't worthy of listing but is of "strong local interest" and having regard to CS Policy LD4 and NPPF guidance at Chapter 12, I consider that the building is of significant local interest and given the scale of loss is absolute, the heritage impact must be described as a significant material consideration weighing against the scheme in the overall planning balance. Accordingly I find conflict with CS Policy LD4. In making this assessment I am conscious that the limited marketing of the building makes it difficult to reach any conclusion in respect of there being the potential for viable re-use of the building. The lack of evidence on this point is, in my view, in further conflict with LD4 and NPPF guidance and weighs further against the scheme in the planning balance.

The effect on the character and appearance of the surrounding area

- 7.9 LD1 and LD4 require that development proposals contribute to the character and local distinctiveness of the townscape. This is further reflected in SS6 and SD1. The NPPF records that good design is indivisible from the pursuit of sustainable development. Paragraph 64 states that 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.

7.10 The design for the replacement building is routed in an analysis of the domestic architecture in the local streets surrounding the site. However, and in common with the Conservation Manager and numerous objectors to the scheme, I am concerned that the proposal does not exhibit the detailing, flair, softness and locally predominant scale of the mid-Victorian architecture. The scale of the building and in particular the height is in excess of the immediate dwellings and would, in my view, represent a dominant and overbearing impact in the street-scene. I acknowledge the presence of 2.5 and 3-storey dwellings in the wider locality, but these are not found on the roads immediately around the site.

7.11 For further analysis I draw on the comments of the Conservation Manager:-

“The use of brick, slate and stone would be acceptable, however the almost brutal appearance shown on the elevation drawings indicates that it is the manner of its use that would be out of character in this context. It is interesting that the white bricks proposed for the front elevation highlight the kitchens as well as the entrance. The front elevation still faces onto the former parade ground and not the street, which will mean that the white bricks will not have the impact indicated by the drawings as they face the TA building next door. This orientation has no historic basis as it would be a new building so the opportunity to re-orientate the site has not been taken. This is also the situation with other layout details internally where the trunk room is on the south side with other spaces that do not need natural light. The plans do not appear to capitalise on the proposed loss of the historic asset.”

7.12 Paragraphs 1.22 – 1.24 (above) outline a comparison of the scale and massing of the proposed building relative to the existing and gives an indication of the increase in height and breadth. Although the DAS concludes that the design would sit comfortably within the local context, I hold the alternate view. To my mind, the increase in scale and mass would, as per the consultation responses, result in a dominant and overbearing structure within the local context. I agree with the Conservation Manager’s observations in respect of the near brutal appearance of the elevations.

7.13 It follows from the last sentence of the quote above, that the Conservation Manager is wholly unconvinced that the loss of the heritage asset is justified in terms of the architecture of the proposed replacement structure. In fact, the harm to the character and appearance of the area described, adds further weight to the argument in retention of the existing structure. Accordingly I find conflict with CS Policies SS6, LD1, LD4 and SD1 and consider this weighs heavily against the proposal.

The effect on areas of ecological or nature conservation interest

7.14 The Ecologist’s comments record the need, as recognised in the survey accompanying the application, for further surveys at the appropriate time of year to determine the presence, or otherwise, of European protected species. The Council’s ecologist has confirmed that such survey work cannot be a requirement of a condition and in the absence of such information, planning permission should not be granted.

7.15 I understand the concern to relate to the potential use of the site by bats; European protected species, which according to LD2, should be afforded the highest degree of protection. In the absence of the requisite information, the application is recommended for refusal on this issue alone.

7.16 The arboricultural assessment accompanying the application confirms the removal of a number of trees, including one Category B pine tree. Having regard to CS Policies LD1, 2 and 3 I consider that the loss of this tree (and associated trees of lesser value) constitutes a modest dis-benefit of the scheme.

Other matters raised by consultees and interested persons, including the effect of the proposed development on the safety and convenience of users of the nearby highways, and its effect on the living conditions of nearby residents;

- 7.17 The interested parties raise concerns in relation to the potential increase in traffic generation. The Council's Transportation Manager expresses concerns with the proposal as submitted, but considers the issues raised are capable of being mitigated, such that subject to appropriate detailing a conditional recommendation for approval might ensue. His view is that with the build-out and pedestrian priority measures described, the residual cumulative impacts of the development are not likely to be severe.
- 7.18 I have had regard to objections that cite a likely increase in traffic. When compared to the sites vacant state this is undeniably true. However, I am mindful that the lawful use of the site is as a repository for the County Archive and associated office space. Against the lawful use, therefore, I am not convinced that the use proposed would increase the level of vehicular and/or pedestrian movements to and from the site. In reaching this conclusion I am mindful of the applicant's assurance that none of the students would have recourse to their own private motor car. Moreover, I am not convinced that the use would give rise to unacceptable traffic impacts at the start and end of the school term. It cannot be stated categorically that all students will arrive and / or depart the site via the private motor car. There is no firm evidence either way, but certainly none to confirm categorically that the impact would unduly and adversely impact the local road network when compared to the historic lawful use. Accordingly I conclude that the transport impacts are neutral in the planning balance.
- 7.19 Concerns have also been expressed locally in relation to the impacts on the living conditions of residents whose houses are in close proximity to the site. As above, both SD1 and NPPF require schemes to deliver good standards of amenity for existing and proposed residents.
- 7.20 Dealing first with dwellings to the north on Harold Street and Eign Road, I do not consider there to be any significant adverse impacts arising. At the junction of Bartonsham Road and Harold Street is Hastings Court. No.1 has a first floor bay window in the SW-facing elevation. This is at a distance of 28m from the houseparents' accommodation and 30m from the boarders' accommodation. In a suburban context I don't find this relationship unacceptable.
- 7.21 Properties on Eign Road have rear gardens extending to Harold Street, with the effect that the built environment is characterised by an assortment of garaging and garden fences. Dwellings fronting onto Eign Road, including Nos.54, 56 and 58 are far enough distant to not suffer any adverse consequences.
- 7.22 The nearest dwelling on the NE side of Harold St is no.89, which appears to have been constructed on the site of garaging associated formerly with a dwelling on Eign Road. This is far enough removed and of an orientation that means it will not be adversely affected.
- 7.23 No.70 Harold Street occupies a triangular site and shares the application sites eastern boundary. It is aligned with the principal elevation parallel to the road and rear-facing windows facing SW. The main building block would have a total of 10 bedroom windows at first and second floor looking towards No.70 and its private garden, which is predominantly to the rear of the house. The distance to the common boundary at this point is 20m. The distance to the corner of the dwelling is 27m.
- 7.24 Windows in the SE-facing elevation of the boarding accommodation wing are in closer proximity to the boundary, but bedroom windows in the first and second floor windows are fewer (6 in total) and orientated to look down the common boundary as opposed to directly towards the garden space. In terms of overlooking, having regard to the number of windows, orientation

and distances involved, I do not perceive the amenity of the occupiers of No.70 to be unduly affected.

- 7.25 The Army Reserve Centre is to the W/SW. I do not consider there to be any adverse impact on the continued use of this facility as a consequence of the proposals. The layout maintains the right of access.
- 7.26 To the south, the site shares a common boundary with properties on Park Street. These properties have long gardens, such that No.91, which overlaps to the greatest extent with the application site, is approximately 25m from the end elevation of the proposed building. Although the existing building is slightly further from the common boundary, there are more windows in the SE facing elevation of the building as existing than as proposed. Windows in the elevation nearest the common boundary are to light the respective corridors as opposed to living accommodation. In my view these could be treated with obscure glazing to prevent overlooking. The impact would thus be mitigated.
- 7.27 In terms of overbearing impact and loss of light, I am conscious that the building is to the north of properties on Park Street and would not result in over-shadowing of private garden space.
- 7.28 In assessing the relationship with No.70, I have also had regard to the relationship with the existing building. It is my view that owing to distance and orientation the proposal would not unduly affect living conditions at No.70 in terms of overshadowing or loss of light.
- 7.29 It should be noted that conclusions reached in terms of the overbearing nature of the scheme in relation to the street-scene as set out above are not the same as those reached in relation to the impact on living conditions at adjoining property.
- 7.30 Finally, I am not convinced that the use of the building as boarding accommodation would be liable to result in unacceptable anti-social behaviour. In land-use planning terms I am content that the use is compatible with adjoining uses and am mindful that separate legislation exists to address any nuisance arising from day-to-day activities.

Whether the proposal should be seen as representing sustainable development, in the terms of the Framework;

- 7.31 Both the CS and NPPF make it plain that the purpose of the planning system is to contribute to the attainment of sustainable development. In terms of the Core Strategy these are explained via objectives grouped under the headings of social progress, economic prosperity and environmental quality. In the language of the NPPF these are the economic, social and environment roles; each of which should be pursued jointly and simultaneously.

The economic role

- 7.32 The NPPF requires that significant weight should go to economic benefits associated with development proposals. In this case it is unclear as to the extent that the resident population would contribute to the local economy, although it is reasonable to assume that there would be some expenditure locally. There is also the contribution that the execution of the proposal would make to the construction sector. However, I am conscious that these are not unique to this development proposal.
- 7.33 I am also conscious of the advice in the CS and NPPF. 5.3.24 of the CS confirms that the historic environment is a major contributor to economic development. I note also an absence of assessment of the impact of demolishing a significant, albeit non-designated, heritage asset. It seems, nonetheless, that this loss is capable of weighing against the proposal in economic terms such that the overall impact is, in my view, neutral.

The social role

- 7.34 In my view the social benefits arising from the scheme are difficult to quantify. The social benefits arising from the provision of affordable and market housing where there is a demonstrable shortfall, are not evident here.
- 7.35 On the evidence available, however, I do attach weight, in social terms, to the loss of a significant non-designated heritage asset, which weighs heavily against the scheme.

The environmental role

- 7.36 The impact on the historic environment is assessed above as representing a significant material consideration that weighs heavily against the proposal. In the context of the CS and NPPF, great weight should be given to the asset's conservation. The scheme does not achieve this and nor is there evidence that potential re-use of the asset has been considered; certainly no marketing of the site appears to have been undertaken and it is not possible, therefore, to determine whether there are other potential uses for the site that retain the heritage asset.
- 7.37 The proposal would also have an adverse impact on the character and appearance of the area, which must be factored into the planning balance.
- 7.38 In relation to trees I am of the view that the loss of some of the trees on site is capable of mitigation through an appropriate planting scheme. However, there remains uncertainty in respect of the likely presence, or otherwise, of European protected species. This uncertainty in the context of LD2, NPPF and other relevant statutory provisions, is a significant material consideration weighing against the scheme.
- 7.39 Having regard to the above, I am of the view that the scheme does not fulfil the environmental role of sustainable development, which weighs heavily against the scheme.

How the planning balance, involving the benefits and dis-benefits of the proposed development, should be assessed.

- 7.40 NPPF 135 draws a distinction between the approach to decision taking where designated and non-designated heritage assets are involved. In this case the significance, in non-designated terms, is high and the loss is absolute. This contributes to a finding of non-fulfilment of the environmental and social roles, with further weight added as a consequence of the proposed building's impact on the character and appearance of the area and the requirement for further evidence in respect of protected species.
- 7.41 My findings in relation to other matters are recorded above, but in summary I consider the economic role to be fulfilled in part and unmet in part.
- 7.42 I have had regard to the main benefits of the proposal as listed in section 9 of the Design and Access Statement, but these do not alter my conclusions. I disagree that the evidence base supports the statements concerning 'regeneration' and also that the proposal represents 'contextual design'. The social and residential benefits are reduced by the lack of evidence concerning the viability of uses that might retain the historic structure. Likewise there is no strong evidence in respect of a beneficial reduction in traffic movements and I don't perceive the movements associated with the historic use to be so significant that a reduction would carry much benefit and consequent weight in the planning balance in any event.
- 7.43 The removal of one access is something that might come about with a redevelopment proposal that maintains the existing building and on-site parking represents a pre-requisite mitigating the development's impact as opposed to a benefit.

- 7.44 Taken as a whole, therefore, I am of the view that the purported benefits cannot outweigh the identified adverse impacts when applying the planning balance as required by SS1 and NPPF 14. As a consequence I recommend the scheme for refusal.

RECOMMENDATION

That planning permission be refused for the following reasons:

1. **The development would result in the total loss of the former Hereford Militia Barracks; a non-designated heritage asset of significant local interest. Having regard to the balanced judgement set down at NPPF paragraph 135, which includes consideration of the scale of loss and significance of the asset, the Local Planning Authority concludes that proposal is contrary to Herefordshire Local Plan – Core Strategy Policies LD4 and SD1 and guidance set out in Chapter 12 of the NPPF. The development proposals would fail to fulfil the environmental and social roles of sustainable development and are not held, therefore, to represent sustainable development.**
2. **The development would result in the construction of a 3-storey building of an appearance, scale and massing that would appear stark and discordant in the local context. The Local Planning Authority does not consider that the scheme demonstrates that the character of the surrounding townscape has positively influenced the design and scale of the development proposal. Accordingly the scheme is held contrary to Herefordshire Local Plan – Core Strategy Policies LD1 and SD1 and guidance set out in the NPPF; which confirms that poor design, which fails to take the opportunities available for improving the character and quality of an area, should be refused. The development proposal is not, therefore, considered to fulfil the social and environmental roles of sustainable development and does not, therefore, represent sustainable development.**

Having regard to Reasons for Refusal 1 and 2, and the approach to decision-making prescribed by Herefordshire Local Plan – Core Strategy SS1 and NPPF paragraph 14, the harm arising in the environmental and social dimensions significantly and demonstrably outweighs the benefits of the scheme. The Local Planning Authority concludes that the proposed development is not sustainable development and should be refused accordingly.

3. **In the absence of full activity surveys, the presence or otherwise of European Protected Species cannot be determined at this stage. Accordingly, the Council cannot be satisfied that the scheme would protect nature conservation sites and habitats in the terms set out at Herefordshire Local Plan – Core Strategy LD2 and the NPPF at paragraph 118. European protected species are afforded the highest level of protection by the planning system and in the circumstances; the potential impacts mean that the scheme is not representative of sustainable development.**

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 have been clearly identified within the reason(s) for the refusal, approval has not been possible.**

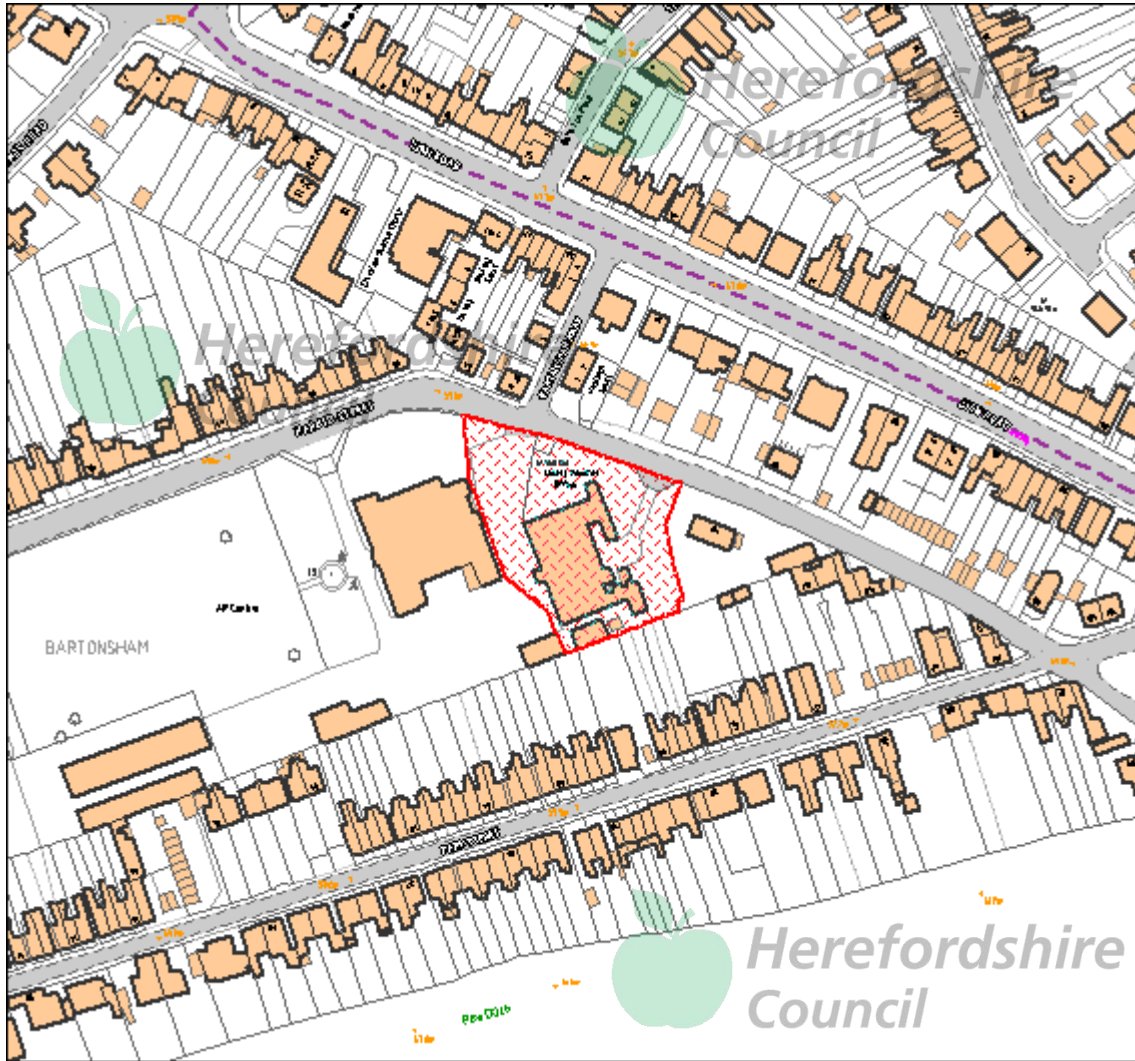
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 162283

SITE ADDRESS : RECORDS OFFICE, HAROLD STREET, HEREFORD, HEREFORDSHIRE, HR1 2QX

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



MEETING:	PLANNING COMMITTEE
DATE:	7 DECEMBER 2016
TITLE OF REPORT:	161859 - PROPOSED RESIDENTIAL DWELLING AT LAND WEST OF LARKSMEAD, BRAMPTON ABBOTTS, ROSS-ON-WYE, HR9 7JE For: Mr Fraser per Mr David Kirk, 100 Chase Road, Ross-On-Wye, Herefordshire, HR9 5JH
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=161859&search=161859
Reason Application submitted to Committee – Re-direction	

Date Received: 13 June 2016

Ward: Old Gore

Grid Ref: 359980,226435

Expiry Date: 29 August 2016

Local Member: Councillor BA Durkin

1. Site Description and Proposal

- 1.1 The site lies to the south of the existing dwelling known as Clouds Harrow, Brampton Abbots which comprises the applicants' horse paddock and large associated stable building and is accessed by a track that also provides access to Clouds Harrow and further agricultural land. The track is also part of a Public Right of Way, and this adjoins the site's Northern boundary which is delineated by a mature hedgerow. Mature hedgerow also delineates the East and West boundaries, the latter providing a boundary between the site and the dwelling Larksmead and its associated curtilage.
- 1.2 Brampton Abbots is designated under policy RA2 of the Core Strategy as a sustainable location for appropriate proportional residential growth. The village benefits from a Church, village hall and children's nursery, whilst the Primary School is located on the edge of Ross on Wye on the main road between the village and Ross. Brampton Abbots lies approximately 2.5km from Ross-on-Wye Town Centre. The site, as is the whole of Brampton Abbots and surrounding area (including parts of Ross-on-Wye), located within the Wye Valley Area of Outstanding Natural Beauty (AONB).
- 1.3 The proposal is the erection of a single dwelling, associated access and turning area, double garage, domestic curtilage and wider landscaping proposals featuring an orchard.

2. Policies

2.1 National Planning Policy Framework

The following sections are of particular relevance:

Introduction – Achieving Sustainable Development

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

Section 6 – Delivering a Wide Choice of High Quality Homes
Section 7 – Requiring Good Design
Section 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
Section 11 – Conserving and Enhancing the Natural Environment
Section 12 – Conserving and Enhancing the Historic Environment

2.2 Herefordshire Core Strategy Policies

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

Herefordshire Council's Landscape Character Assessment

- 2.3 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>

2.4 Neighbourhood Plan

Brampton Abbots and Foy Group Neighbourhood Area was approved under the Neighbourhood Planning Regulations 2012 on 29th January 2013. Work has commenced on drafting the plan however whilst a material consideration it has not reached a stage where it can be given weight in the decision making process

2.5 Other Material Considerations

The Wye Valley Area of Outstanding Natural Beauty Management Plan is a material consideration. Relevant policies include –

WV-D2 – Encourage and support high standards of design, materials, energy efficiency, drainage and landscaping in all developments, including Permitted Development, to ensure greater sustainability and that they complement and enhance the local landscape character and distinctiveness including scale and setting and minimise the impact on the natural environment.

WV-D3 – Resist inappropriate development which will create a persistent and dominant feature out of keeping with the landscape of the AONB and/or if it damages Special Qualities in the AONB, including through high levels of noise and/or light pollution or any SAC, SPA or Ramsar site or other sites designated as environmentally important.

3. Planning History

151299/F – Proposed new dwelling – Refused 28 October 2015

SH97/0965/PF – Stable building for shelter of ponies – Approved with conditions 20 October 1997

SH96/0493/PF – Two loose boxes, open and secure stores constructed under a single roof with yard/ enclosure – Approved with conditions 4 July 1996

SH94/0987/PO – Erection of a bungalow – Refused 16 September 1994, Appeal Dismissed 8 February 1995

4. Consultation Summary

Statutory Consultations

- 4.1 **Historic England** “does not wish to offer any comments” however advises the application should be determined in accordance with national and local policy guidance.

Welsh Water has no objection, commenting they request that if Planning permission is granted, Conditions and Advisory Notes provided by Welsh Water are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets. These have been added to the recommendation, below.

Internal Council Consultations

- 4.2 **The Transportation Manager** has no objection, considering the proposal acceptable, subject to a number of conditions and informatives being attached to any planning permission. These are set out within the recommendation, below.

The Transportation Manager references they previously commented on application reference 151299/F at the site for a dwelling and offered *no objection*.

The Transportation Manager maintains that previous position and adds *from the submitted documents, the dwelling accesses the adopted highway by an existing drive area. The existing access enters the adopted highway via at a bend. The road is subject to a national speed limit however due to the geometry of the road this is highly unlikely to be attainable.*

- 4.3 **The Conservation Manager – (Landscapes)** comments: Thank you for re-consulting me on amended plans...I note the dwelling has been repositioned to replicate the previous application reference, P151299/F. I refer you to my previous comments which still stand and also note:

- The AONB Office has no objection and I agree with their recommended condition
- The Landscape Assessment has been update to reflect the application is within an AONB
- The proposal offers opportunities for landscape enhancement. Landscape planting should be subject to normal conditions regarding details and maintenance

As such I have no objection.

For reference their comments regarding application reference 151299/F were as follows and as previously reported to this Committee –

I am satisfied that the proposed dwelling upon this site will respect the existing settlement pattern of Brampton Abbots; a nucleated settlement focused around the Church of St Michael. The alignment of the proposal is such that it represents a continuation of built form extending from Larksmead northwards.

The proposal is in line with the existing built form of Larksmead and does not project further west into open countryside beyond the adjacent residential curtilage of Clouds Harrow.

The boundary of the curtilage of the proposal reflects the contours of the land and where the landform falls westwards in the direction of the river this has been retained as natural landscape.

The landscaping proposed is in line with management guidelines for the landscape character type; Principal Settled Farmlands. Both conserving and enhancing the hedgerow pattern as well as planting of orchards.

It is my understanding that the proposal is to be timber clad, with limited glazing to the north, when viewed from the PROW BA1 which links with the Herefordshire Trail the proposal will bear resemblance to an agricultural barn and is not therefore considered unduly harmful within the landscape.

- 4.4 The PROW Manager comments Public footpath BA1 has been shown on plans, and would not appear to be affected by the development. As such there is no objection.

5. Representations

- 5.1 The Wye Valley AONB Partnership Manager has no objection, commenting:

The site of the proposed development lies within the boundary of the Wye Valley Area of Outstanding Natural Beauty (AONB), which is an area designated for its national landscape importance. The Wye Valley AONB Partnership seeks to encourage high quality design and to conserve and enhance the landscape.

The AONB Unit has reviewed the Landscape and Visual Impact Study (Revised 6th October 2016). We broadly agree with the assessment conclusions. However we re-emphasise the observation that "lighting should be restricted and carefully specified to minimise light spillage. More detailed information on proposed lighting is required in order to assess the implications of the development on light pollution". If lighting can be satisfactorily controlled by an appropriate condition then we do not consider that the development is in conflict with the AONB Management Plan 2015-2020.

- 5.2 Brampton Abbots & Foy Parish Council Objects to the application as it is contrary to policies RA2 and RA3 of the Local Plan & NPPF Para115. Policy RA2 states the importance of the Wye Valley Area of Natural Outstanding Beauty and therefore the application is contrary to the policy for the following reasons:

The position of the development would have a detrimental and unacceptable impact on the landscape and character of the area with regard to the special qualities of The Wye Valley Area of Outstanding Natural Beauty of which this proposed development is within. There is no settlement boundary in Brampton Abbots at present and therefore the proposed development is in open countryside, which is again contrary to policy RA2 & also RA3. We would also draw your attention to: NPPF Para 115 Which states "Great Weight should be given to conserving landscape, scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection to landscape and scenic Beauty." It is also noted by The Parish Council that the landscape and visual impact study undertaken by Peter Quinn Associates makes no

representation with regard to the application being within an Area of Outstanding Natural Beauty.

5.3 16 letters of objection have been received, comments are summarised as:

- The proposed dwelling is within the AONB.
- The proposed dwelling would be visually conspicuous, including from the adjacent public right of way.
- The proposed dwelling would be outside the settlement of Brampton Abbots.
- The siting of the proposed dwelling is unrelated to the settlement's pattern and character of development.
- The design is poor
- Concern over materials
- Precedent for further development
- Reference is made to a previous appeal decision
- Reference is made to the refusal of application reference 151299/F

5.4 20 letters of support have been received, comments are summarised as:

- The proposal responds to the development pattern hereabouts
- The proposal will benefit the village helping housing delivery
- The landscaping proposed enhances the area
- Proposal accords with planning policies
- Concern over integrity of planning process as other dwellings have been permitted in the village without such resistance
- There is no right to a view from the neighbour
- There will be minimal impact as there's a building on the land already
- Sympathetic design
- This will no more impact on the AONB than other permissions hereabouts
- Brampton Abbots is designated to deliver housing
- Single plot developments as proposed are preferable to estates
- Traffic impact will be negligible
- Proposal is a 'yardstick' regarding quality for other development
- Over Ross industrial estate is more impactful and harmful and out of keeping to and with the AONB character and appearance
- Enhancement to biodiversity
- Reference made to other dwellings approved around Brampton Abbots

5.5 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=161859&search=161859>

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 to the Application

6.1 Permission for a dwelling on the same site and of the same size, form and appearance under reference 151299/F was refused against Officer's recommendation by this Planning Committee on 28 October 2015 on a single ground as follows:

The proposed development by reason of its prominent and uncharacteristic location would be contrary to the predominantly linear pattern of development that characterises Brampton Abbots and would not conserve or enhance the scenic beauty

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

of the Wye Valley Area of Outstanding Natural Beauty contrary to Policies SD1 and LDI of the Herefordshire Local Plan - Core Strategy and the guiding principles of the National Planning Policy Framework.

- 6.2 Following this, the applicant sought to engage with the local community rather than appeal the refusal and submitted a new planning application relocating the proposed dwelling further away from the nearest neighbour and objector. However this, through the consultation process, was still rejected by some members of the local community. As a consequence the applicant has repositioned the dwelling to a position supported by both Planning and Conservation Officers. The applicant is fully entitled to submit the application as amended and considered here and the Council is obliged to assess it against current policies, legislation and other material considerations relevant at this moment in time.
- 6.3 Further to the above it should be noted, unlike the time period against which the previous application was considered, Herefordshire Council clearly does not have an up to date five year supply of housing land plus twenty percent buffer. This is a significant consideration and materially supports the principle of the proposal.
- 6.4 Additionally, the Wye Valley AONB Partnership confirms they have no objection to the proposal vis-à-vis its impact on the Wye Valley AONB. They also confirm its conformity with the AONB Management Plan. This, coupled with no objection from the Council's Conservation Manager – Landscapes is significant given the previous refusal reason was based upon harm to the character and appearance of the AONB. The professional advice and opinion of the Council's and independent Officers' is that refusal can not be substantiated on such grounds.
- 6.5 All of the above justify and enable the applicant to resubmit an identical application and enable and strengthen the soundness of the recommendation, below.

Assessment

- 6.6 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires local planning authorities to determine applications in line with the provisions of the local development plan unless material circumstances dictate otherwise.
- 6.7 Paragraph 14 of the NPPF clearly defines '*presumption in favour of sustainable development*' as the golden thread running through the NPPF. It goes on to state that for decisions taking this means approving development proposals that accord with the development plan without delay 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 the NPPF indicate development should be restricted.

Policy Assessment

- 6.8 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*'.
- 6.9 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.
- 6.10 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."

6.11 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.

6.12 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 position has been crystallised following a recent Appeal Court Decision and the implications of this position following the *Suffolk Coastal DC v Hopkins Homes & SSCLG* and *Richborough Estates v Cheshire East BC & SSCLG*[2016] EWCA Civ 168 were described by the Court thus –

*We must emphasize here that the policies in paragraphs 14 and 49 of the NPPF do not make "out-of-date" policies for the supply of housing irrelevant in the determination of a planning application or appeal. Nor do they prescribe how much weight should be given to such policies in the decision. Weight is, as ever, a matter for the decision-maker (as described the speech of Lord Hoffmann in *Tesco Stores Ltd. v Secretary of State for the Environment* [1995] 1 W.L.R. 759, at p.780F-H).*

Neither of those paragraphs of the NPPF says that a development plan policy for the supply of housing that is "out-of-date" should be given no weight, or minimal weight, or, indeed, any specific amount of weight. They do not say that such a policy should simply be ignored or disapplied. That idea appears to have found favour in some of the first instance judgments where this question has arisen. It is incorrect.

6.13 This site is therefore assessed and considered on its suitability as being sustainable in regards its location and material constraints and considerations as locationally through Core Strategy policy RA2 and 'in principle' due to the Council's housing land supply position and from the NPPF, the proposal represents sustainable development.

6.14 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*'.

6.15 Paragraph 9 of the NPPF states pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to) improving the conditions in which people live, work, travel and take leisure. The Ministerial foreword to the NPPF states *our standards of design can be so much higher. We are a nation renowned worldwide for creative excellence, yet, at home, confidence in development itself has been eroded by the too frequent experience of mediocrity* and goes on to set out the Government's policies, aims and objectives in Section 7 Requiring Good Design, paragraphs 56-68.

6.16 It is clear from the NPPF that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states planning policies and decisions should aim to ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
 - optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
 - respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
 - create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
 - are visually attractive as a result of good architecture and appropriate landscaping.
- 6.17 Whilst LPA's are advised not to impose architectural styles, paragraph 60 states it is proper to seek to promote or reinforce local distinctiveness.
- 6.18 Paragraph 61 acknowledges that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.
- 6.19 Paragraph 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 and the way it functions.
- 6.20 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.
- 6.21 The assessment of development as being unacceptable within the AONB is explained within the NPPF as being a scenario whereby:
1. specific policies of the NPPF indicate otherwise; or
 2. where harm associated with the development would outweigh its benefits when held against the NPPF as a whole – ‘the planning balance’.
- 6.22 The appropriate method of determination in the context of the above hinges on whether or not the scheme is considered ‘major development’ in the context of paragraph 116:
- If the development is found to meet the definition of major development then the cost-benefit analysis required by paragraph 116 becomes the test of acceptability; or
 - If the scheme does not meet the definition of major development, the planning balance remains the relevant test of acceptability albeit with great weight afforded to retaining the landscape character and scenic beauty of the AONB required at paragraph 115.
- 6.23 Officers do not consider the provision of a single dwelling to represent major development in the context of Brampton Abbots and paragraph 116 of the NPPF. The planning balance therefore applies.

Herefordshire Core Strategy

- 6.24 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.

- 6.25 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.
- 6.26 Core Strategy policy SS7 – *Addressing climate change* describes how development 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
- 6.27 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.
- 6.28 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.
- 6.29 Brampton Abbots is within the Ross on Wye HMA and one of thirty one settlements designated to be the main focus of proportionate growth in that HMA. The Ross on Wye HMA is to provide a minimum 1150 dwellings in the Plan period with an indicative housing growth target of 14%.
- 6.30 The application site is therefore sustainably located, being adjacent to the main built core of Brampton Abbots, a settlement designated under Policy RA2. Development is therefore acceptable in principle on a locational basis. Since April 2014, Brampton Abbots has eight housing commitments plus two completed dwellings. The indicative target within this HMA is a minimum of 14% or a minimum of 19 dwellings, therefore the proposal for a single dwelling is considered to be proportionate housing growth.
- 6.31 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

- 6.32 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.
- 6.33 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.

- 6.34 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.
- 6.35 At the local level policies regarding design and context reflect the Government's aims and objectives. Core Strategy Policy RA2 acknowledges the importance of the Herefordshire landscape, and particularly the Malvern Hills and Wye Valley Areas of Outstanding Natural Beauty. As such it states new dwellings should make a positive contribution to their rural landscape by being built to a high standard, incorporating appropriate materials and landscaping. High quality design that is sustainable and reinforces the locally distinctive vernacular will be particularly encouraged. Innovative and/or contemporary design will also be supported where it is appropriate to its context, it makes a positive contribution to the architectural character of the locality and achieves high levels of sustainability in terms of energy and water efficiency, as set out in Policy SD1.

Sustainable Design, Layout, Context and Energy/Resource Efficiency

- 6.36 The proposal includes high quality sustainable design that also creates a safe, accessible, well integrated environment. In conjunction with this, the proposal incorporates the following relevant requirements of Core Strategy policy SD1:
- ensure that proposals make efficient use of land taking into account the local context and site characteristics,
 - new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. while making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design;
 - safeguard residential amenity for existing and proposed residents;
 - ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination, land instability or cause ground water pollution;
 - ensure that distinctive features of existing buildings and their setting are safeguarded;
 - utilise sustainable construction methods which minimise the use of non-renewable resources and maximise the use of recycled and sustainably sourced materials;
 - Where possible, on-site renewable energy generation should also be incorporated;
 - ensure that proposals make efficient use of land -taking into account the local context and site characteristics, including land stability and contamination;
 - ensuring designs can be easily adapted and accommodate new technologies to meet changing needs throughout the lifetime of the development;
 - utilise sustainable construction methods which minimise the use of non-renewable resources and maximise the use of recycled and sustainably sourced materials;
- 6.37 Furthermore the proposal is considered to satisfy the additional policy SD1 requirement *all planning applications will be expected to demonstrate how the above design and energy efficiency considerations have been factored into the proposal from the outset.*
- 6.38 The design approach interprets characteristics and materials common to and representative of agricultural and equine buildings (both of which are common and recognised features within this area and AONB) in a contemporary form to create a modern aesthetic.
- 6.39 The palette of natural materials is complementary to this rural setting. When viewed from the adjoining Public Right of Way or from any medium and long range views, the dwelling takes the form and general appearance of an agricultural/ equine building, thus through its scale, design, form (and materials) has a neutral to low impact on a viewer as such buildings are

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expected in such a landscape. It should be noted there are minimal openings on the elevation facing the adjoining PROW.

- 6.40 The dwelling has been designed, located and orientated following discussion and assessment to fulfil three distinct functions and appropriately integrate and relate to its context. These are:
- Minimise landscape impact
 - Minimise impact on adjoining dwellings
 - Maximise solar gain
- 6.41 The dwelling is located within an identified area rounding of and adjoining the curtilage of Larksmead and the curtilage of Clouds Harrow. It is considered within this 'zone' the location of a dwelling effectively acts as a natural extension to Brampton Abbots, therefore minimising development creep into open countryside beyond existing visible residential development when viewed from the North or West.
- 6.42 In addition this location also sets the proposal away from the highest part of the field so it does not sit on the skyline, in particular as viewed from Ross on Wye. It is located broadly in the area currently developed with equine related buildings thus replaces existing buildings that have an established landscape presence. As referenced, careful consideration has been given to external materials in order to complement and be appropriate to the location and conditions secure this.
- 6.43 The north east elevation which faces Larksmead, the nearest third party dwelling, has a single window opening at ground floor level, furthermore it is a linear high level window. In addition the nearest part of the proposal to Larksmead is single storey in extent and this section of the proposed dwelling has a height to ridge 3.4 metres and a height to eaves 2.25 metres. Furthermore this section is some over 25 metres distant from Larksmead. The two storey element of the proposal has a height to ridge 6.5 metres and eaves 3.6 metres and is 32 metres from Larksmead, at an offset angle, with existing and proposed planting and landscaping inbetween. The garage is single storey and discretely located in the North East corner of the site, screened on its North and East boundaries by existing and enhanced landscaping. Vehicular movements associated with one dwelling are considered to be minimal and not detrimental to adjoining dwellings. On this basis there is no justification to resist the proposal on the basis of the impact on the amenity and privacy of occupiers of Larksmead.
- 6.44 The south west elevation features the majority of glazing in order to capture natural light, solar gain and maximise views. By contrast and in addition to the north east elevation, the North West elevation has minimal openings. Reduced openings also help increase the thermal efficiency of the dwelling.
- 6.45 It is emphasised the main functional areas, glazing and openings and private garden areas all are located away from Larksmead. On the basis of all of the above, it is considered there is no credible argument the proposal adversely affects existing amenity and privacy of that property justifying refusal.
- 6.46 The house has been future proofed with the following low energy features to aim to achieve Passivhaus standards:
1. The external walls, floor and roof are insulated to a high standard and air infiltration is minimised.
 2. Triple glazed windows with warm edge spacer bars, thermally broken frames and inert gas filled to achieve a whole window u-value of 0.7W/m²K.
 3. Heat pump using a borehole as the ground source for the underfloor heating and hot water system with a closed combustion wood burning stove as back up.
 4. Whole house heat recovery ventilation system.

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

5. Micro generation of renewable electricity using roof mounted Photovoltaic/Solar Panels.

6.47 This approach accords with the NPPF, Core Strategy policy S1 and SD2. In addition it fulfils the criteria of policy SS7 which states development proposals will be required to include measures which will mitigate their impact on climate change. In particular, in addition to the sustainability of location, the proposal will:

- Reduce carbon emissions and use resources more efficiently
- Use renewable energy and low carbon energy
- Make use of sustainable drainage measures
- Use of passive solar gain
- Reduce heat island effects

6.48 From a design and sustainable design assessment, the proposal is considered to clearly fulfil locational, development and energy sustainability requirements described in national and local planning policies, aims and objectives. The proposal is considered to represent high quality design that will help raise design standards locally and demonstrates how rural vernacular can be incorporated into a contemporary architectural solution, integrating with and enhancing a sensitive location.

Landscape

6.49 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

6.50 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*’.

6.51 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*.

6.52 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.

6.53 As noted by the Conservation Manager (Ecology) and (Landscapes), the proposal also comprises a landscaping strategy that includes significant planting with associated biodiversity

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and landscaping benefits. This more than satisfies the objectives of Core Strategy policy LD2 which aims to where possible to secure the restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological networks and the creation of new biodiversity features and wildlife habitats.

- 6.54 The landscaping is not proposed to mitigate the proposed dwelling, although it will filter views of the proposal. The driver for the significant planting is to deliver a high quality proposal that enhances this existing field and by association local context through a holistic approach. The existing field has both very limited ecological value and landscape quality. Two banks of orchard planting featuring apple and pear varieties with plum, damson and cherry either side a wildflower meadow will, along with the significant boundary planting, greatly enhance biodiversity value and landscape character. Standard trees introduced in the landscaping planting include field maple, common alder, silver birch, wild cherry and English oak. New and enhanced hedgerow planting comprises mixed deciduous species including hazel, hawthorne, dog rose and Guelder rose in line with the Council's recommended and preferred specification. This is all considered positive planning gain that fulfils local and in particular, national planning policies, in regards enhancing the local and natural environment. Naturally, all of this would be ensured through condition and thereafter protected from future development. All of this satisfies Core Strategy policies LD1 – Landscape and townscape, and policy LD3 – Green infrastructure, where in particular proposals will be supported where new green infrastructure enhances the network.
- 6.55 The proposed construction of the house is unlikely to have any discernible effect on the wider landscape character and will not contradict the description, aspirations or guidelines of Principal Settled Farmlands in the Landscape Character Assessment.
- 6.56 As recommended by the Wye Valley AONB Partnership Office, and as a matter of good practice and as utilised in other similar situations, conditions regarding external lighting are recommended to minimise light pollution and its impact on the character and appearance of the locality. All external lighting including its luminescence and location will be required to be approved by way of condition.

Heritage

- 6.57 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.*"
- 6.58 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. 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 conserve them in a manner appropriate to their significance taking into 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.

- 6.69 Paragraph 131 – 133 sets out what and how LPA's 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.
- 6.60 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.
- 6.61 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.
- 6.62 The application site as a whole has been assessed regarding its impact on all heritage assets hereabouts, with particular regard on the impact on the character or setting of the Church of St Michael, a Grade II* listed Church that within its complex includes 19 tombs that have a group listing Grade II designation. The proposal is around 110 metres west of the Church however the third party dwelling Larksmead and its curtilage is located between the Church and the proposal.
- 6.63 It is considered the impact of the proposal on these heritage assets is less than substantial harm. This is through the existing context, lack of direct relationship, and in regards to the proposal as a whole, its distance, form, inter-dividing existing buildings and comprehensive landscaping. The proposal is set further north than the existing two storey dwelling Larksmead which is adjacent to the Church, therefore given this and all the above, it is concluded there would be no adverse impact on these listed heritage assets or their setting when viewing the proposal from the PROW BA4 which runs up to the churchyard and offers a full panorama when walking Northwards.
- 6.64 There would, it is concluded, not be substantial harm on heritage assets hereabouts from the development and as such no reason to refuse the application on such grounds.

Other Matters

- 6.65 Reference is made to the findings of a Planning Inspector in 1995 against refusal of a residential development under reference SH94/0987/PO. The Inspectors' comments are noted, however it is not considered an 'absolute position' precluding development. This opinion is reached having regard to the fact these comments are over twenty years old and since then both local and national planning policies have evolved and developed, including the current position regarding housing land supply, acceptability of appropriate development in the AONB and within this general location as assessed against the current local plan and NPPF and sustainability detailed in this report.
- 6.66 For the avoidance of doubt, Brampton Abbots has no settlement boundary at the present time there is no Neighbourhood Plan that can be attributed weight. As described above, the acceptability in principle of residential development in Brampton Abbots is enshrined through the NPPF and designation of Brampton Abbots in the Core Strategy. It is noted under policy RA2 development is directed to be within or adjoining the main built up area of a settlement. As such the application site clearly meets this criteria.
- 6.67 Reference is made by objectors to the importance of consistency in the decision making process and reference case law. Members will be aware that each application needs to be assessed on its own merits however the following decisions are relevant to this proposal –
- 153437/F – four dwellings at Brampton Abbots
151752/O – two dwellings at Kings Caple
151189/F – five dwellings at Fernbank Road, Ross on Wye
- 6.68 These permissions were granted on the basis of compliance with Core Strategy and NPPF policies as they are all sustainably located. Furthermore regard to the relevance or lack thereof of previous appeal decisions refusing residential development on land when assessed against the current policy regime was applicable to 151189/F. Attention is drawn to the fact all of these permissions are located within the Wye Valley AONB and received 'no objection' from the Wye Valley AONB Office or Council's Conservation Manager (Landscapes). Finally, the Council's housing land supply position was a material consideration in each case.

Summary

- 6.69 The proposal represents sustainable residential development in a location designated for residential growth, providing a high quality designed building that interprets rural vernacular in a contemporary way and facilities the highest standards of energy and resource efficiency, whilst also enhancing the local environment in landscape and biodiversity terms.
- 6.70 No objection has been received from either the Council's Conservation Manager – Landscapes or the Wye Valley AONB Partnership Office regarding harm or impact upon the AONB from the proposal, as referenced above.
- 6.71 As such the requirements of Core Strategy policies SS1, SS2, SS6, SS7, RA1, RA2, LD1, LD2, LD3, LD4 and SD1 are satisfied along with the relevant aims and objectives of the NPPF.

RECOMMENDATION

That planning permission be granted subject to the following conditions and any further conditions considered necessary by officers under the scheme of delegation:

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**

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

3. **Foul water and surface water discharges shall be drained separately from the site.**
Reason: To protect the integrity of the public sewerage system.
4. **No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.**
Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.
5. **G10 Landscaping scheme**
6. **G11 Landscaping scheme – implementation**
7. **The recommendations set out in the ecologist’s report listed under Condition 2 of this Decision Notice should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a species mitigation and habitat enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**
Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the NERC Act 2006, Conservation of Habitats and Species Regulations 2010 and relevant Policies of the Core Strategy.
8. **Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 shall be submitted to and approved in writing by the local planning authority and implemented as approved.**
Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy
9. **Removal of permitted development rights**
Reason: To ensure the design, energy efficiency and sustainability qualities of the proposal is maintained and to protect the character and appearance of the AONB and in the interests of adjoining amenity
10. **No conversion of garage to residential use**
Reason: In the interests of adjoining amenity
11. **External lighting details**
Reason: In order to protect the character and amenity of the Wye Valley AONB and setting of Brampton Abbots.
12. **CA9 – Single Access**
13. **CAL – Access, turning area and parking**

- 14. CAH – Driveway gradient
- 15. CAE – Vehicular access construction
- 16. CAS – Road completion
- 17. CB2 – Secure covered cycle parking provision

INFORMATIVES:

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

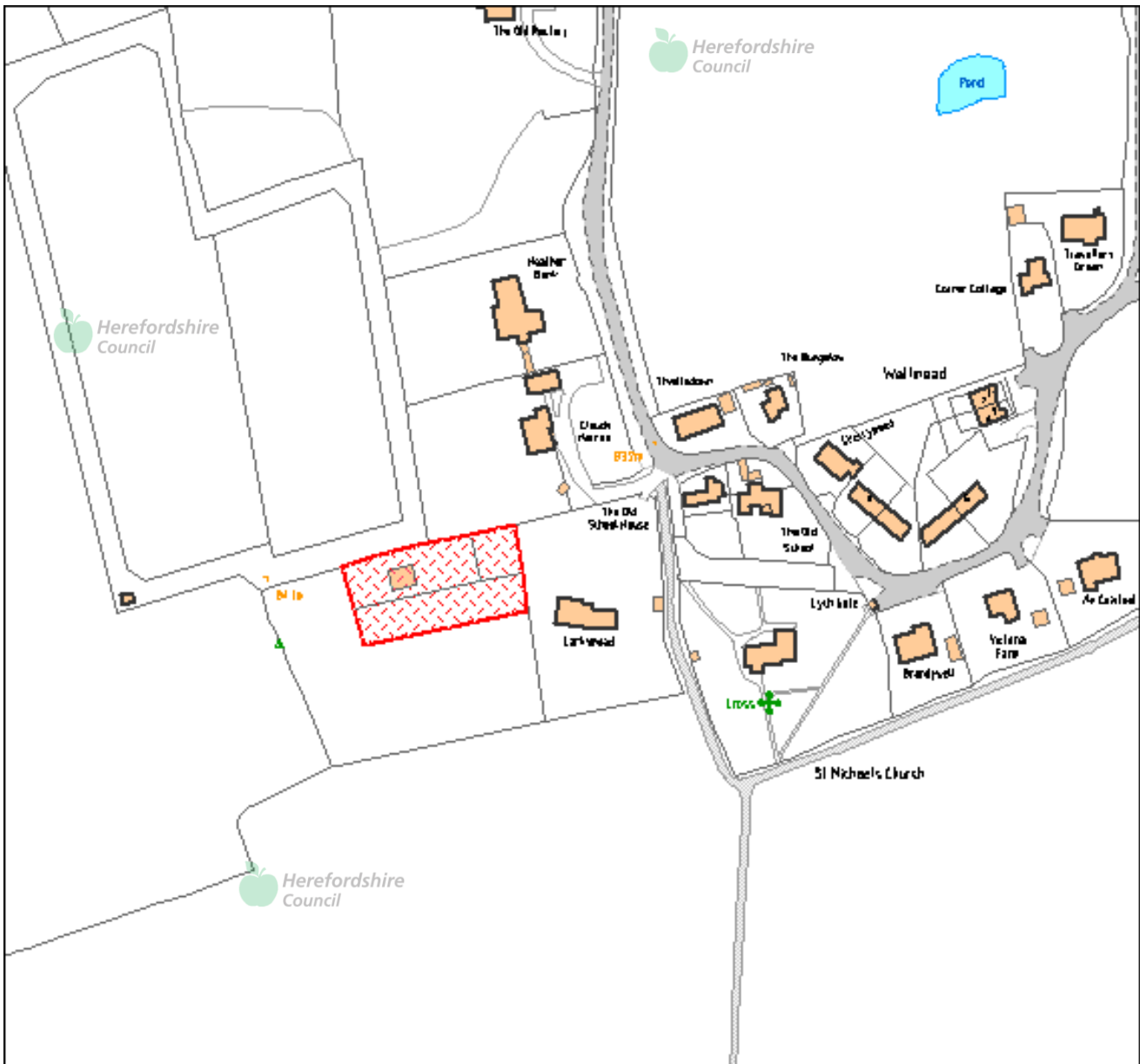
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 161859

SITE ADDRESS : LAND WEST OF LARKSMEAD, BRAMPTON ABBOTTS, ROSS-ON-WYE,
HEREFORDSHIRE, HR9 7JE

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



MEETING:	PLANNING COMMITTEE
DATE:	7 DECEMBER 2016
TITLE OF REPORT:	161522 - PROPOSED 6 NO. DETACHED DWELLINGS AND 4 NO. GARAGES AT LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA For: Mr F Price per John Needham Associates, 22 Broad Street, Ludlow, Shropshire, SY8 1NG
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=161522&search=161522
Reason Application submitted to Committee – Re-direction	

Date Received: 11 May 2016

Ward: Bircher

Grid Ref: 347162,264764

Expiry Date: 6 July 2016

Local Member: Councillor WLS Bowen

This application was deferred from the last Planning Committee meeting to enable a Planning Committee Site Visit. The report has been updated and also appended is the previous Appeal decision.

1. Site Description and Proposal

- 1.1 The site comprises 0.49 hectares and is part of a larger area of arable farming land on the south eastern edge of Yarpole. The site has frontage to the northern side of the C1039, which runs through the village, linking the settlement to Luston, the B4361 to Leominster and Kingsland. A public footpath also meanders through the site in a north-south direction (YP6).
- 1.2 Stony Brook flows along the site's southern boundary beyond which there is a small pumping station. Native trees and hedgerows are present along the same boundary with the main road. The western boundary of the site adjoins single storey properties on the northern side of the highway. On the opposite side of the road are a number of former agricultural buildings which have been converted to residential use.
- 1.3 The site is located adjacent to Yarpole Conservation Area and the historic core of the village. The proposal involves the development of six residential properties of mixed design, four of which would have detached garages. A new access is proposed off the highway from the south western corner of the site with each individual dwelling gaining access via an internal private road.
- 1.4 This application is a re-submission following a refusal and a dismissed appeal of ref 150995. It seeks to address the reasons set out by the Inspector for that dismissal, namely:
 - i) Lack of confirmation about safety in event of flood;
 - ii) Arbitrary layout with suburban feel,

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

As a consequence of the above the Inspector found the development not to be sustainable.

Previous concerns relating to drainage, impact on heritage assets, highway safety and ecology were all considered to be acceptable or capable of being resolved by condition.

The proposal falls below the threshold for S106 contributions.

2. Policies

- 2.1 SSI - Presumption in Favour of Sustainable Development
- RA2 - Housing in Settlements Outside Hereford and the Market Towns
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- 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 National Planning Policy Framework

Chapters 4 – Promoting sustainable transport
Chapters 6 – Delivering a wide choice of high quality homes
Chapters 7 – Requiring good design
Chapters 11 – Conserving and enhancing the natural environment
Chapters 12 – Conserving and enhancing the historic environment

2.3 Neighbourhood Plan

Yarpole Neighbourhood Area was designated on 8th Feb 2013. The Plan has reached regulation 14 (9th June 2016) and whilst it is therefore a material consideration it has no weight in the determination of planning applications.

- 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 150995 - 6 dwellings and 4 garages refused November 2015, appeal dismissed 22nd march 2016, for the reasons set out in paragraph 1.4 of this report.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water – no objection subject to condition.

Internal Council Consultations

- 4.2 Transportation Manager formal comment awaited, but no objection.

4.3 Drainage Consultant - recommends that should permission be granted conditions be imposed.

4.4 Emergency Planning and Resilience Officer:

The planning inspectorate appeal decision points 18 and 19 relate to flood risk at the site. Point 19 states that the application conflicts with policy SD3 of the Core Strategy as it does not demonstrate that “safe access for emergency vehicles would be available for future occupiers during a flood event”.

The Herefordshire Local Plan Core Strategy 2011-2031 ‘Policy SD3 – Sustainable water management and water resources’ point 2 states that the:

“Development is designed to be safe, taking into account the lifetime of the development and the need to adapt to climate change by setting appropriate floor levels, providing safe pedestrian and vehicular access, where appropriate, implementing a flood evacuation management plan and avoiding areas identified as being subject to Rapid Inundation from a breach of a Flood Defence;”

This is elaborated on in paragraph 5.3.47:

“Policy SD3 also provides criteria for developers to consider when proposing development within areas identified as being at risk of flooding within the district. The policy identifies the need for development proposed within flood risk areas to take account of a number of measures to ensure that the development is safe and remains safe, in times of flood including:

- setting appropriate floor levels which should be above the 1% predicted plus climate change design flood level, incorporating an allowance for freeboard. Development should also consider in the design the risk from more extreme events. Where it is not feasible or practicable to set the floor levels, then other forms of flood resilience and resistance techniques may be considered as an alternative;
- where overnight accommodation is included, the development should include a safe pedestrian access route which would be available during a 1% plus climate change design flood event. In considering this, regard should be given to the evidence in the SFRA and for ‘defended areas’ including an assessment of Flood Defence breach/overtopping scenarios. Other development should consider this as a residual risk;
- consideration of safe vehicular access; and
- for developments implementing a flood evacuation management plan, where appropriate, to manage the risk to the development site itself and future users/occupiers during all flood events along with any remaining residual risks.”

As far as I’m aware the Core Strategy makes no reference to emergency vehicle access being required specifically at times of flooding.

As above a “safe pedestrian access route” should be included. Safe vehicular access should be considered but at sites where that is not possible the Flood Management and Evacuation Plan will detail when and how a site should be evacuated. For this application where the site itself is not within the flood zone and a “safe pedestrian access route” is available residents may choose to shelter in-situ.

4.5 Public Rights of Way Officer objects as no contact has been made regarding diversion of footpath.

5. Representations

5.1 Yarpole Parish Council object for the following reasons:

1. Number of dwellings: This is a stated re-submission of an application for 6 houses, yet there are 7 indicated on the block plan, not 6. All the documentation relates to 6 dwellings, so there is something wrong here.
2. Visibility splays: The diagram in DRG1432/SW/1 indicates road width of 4.5m and a wider road than actually exists on site (over the brook). The existing culvert is less than 4m so the access would need to be widened. Widening the access can only be done by removing trees and hedgerows but there is no reference to this in the application. An assessment of this should be made before any decision is taken, and the Parish Council does not support removal of indigenous hedgerow unless a full planting scheme is submitted as part of the application.
3. Flooding & emergency vehicle access: The Inspector dealing with the Appeal on the original application was concerned about emergency vehicle access to the site at times of flooding. The Applicant's response is to include a FMEP which expects occupants to either evacuate the site via the public footpath which is 200m away, leave the site ahead of the flooding, or remain on site until the flooding subsides. The Parish Council considers that all of these 3 options are unacceptable, especially if residents have reduced mobility. We do not feel that the FMEP sufficiently addresses the inspectors concerns.
4. Access road: The parish Council is concerned that the proposed access location is unsafe and that safety issues will be made worse by vehicles coming and going from the site. We know that a survey was taken, but the villagers are fully aware of the traffic dangers on this part of the road and were never satisfied with the conditions and length of time in which the survey was carried out. The monitors were laid in the wrong place and the survey was too short and a 'one off', whereas the PC and village experience is of frequent use and concerns farming vehicles that regularly block this bend, and cars that regularly speed in to the bend from the long straight stretch (from Kingsland direction). Traffic moving fast from the straight stretch has no view of emerging traffic from an existing access road further in to the village, and the same will be true of this new access.
5. Sewer Network: The Water Cycle Study Addendum of Feb. 2015, as published by Herefordshire Council, clearly states that there is no headroom available within the Luston and Yarpole STW, no capacity for new housing, and that DCWW have commented that they are currently investigating options. Further DCWW comment that an improvement scheme is included within their AMP6 with a time horizon of 2035. Can we be assured that no connections will therefore be made to the existing system ahead of these improvements? The Parish Council supports off grid solutions to sewage and waste management and expects that no new developments be connected to the mains sewer network, which clearly cannot cope. We have frequent meeting with Welsh Water about this, who have told us they routinely support planning applications, despite knowing that the network cannot cope.
6. The Parish Council published the Reg 14 Draft Neighbourhood Development Plan on Monday 6th June. The plan clearly shows that there are definite proposals for more houses than required by the targets indicated in the Core Strategy. So this application does not need to be assessed in the light of meeting 5 year land supply, as the NDP already more than satisfies our local requirement. You can also see from the draft NDP how supportive of new development the community is, in the right place and under the right conditions. The Parish Council would be happy to discuss this site with the developer, and would have liked the opportunity to support a different scheme on this site, but the developer has indicated no will to share ideas or discuss with the community.

7. This site is outside the proposed new settlement boundary as illustrated in the draft NDP.

5.2 12 letters of objection have been received making the following points

1. The site floods
2. Highway safety
3. Outside settlement boundary/inconsistent with NDP
4. Disagree with inspector's conclusion
5. Sewage capacity
6. No need for executive houses
7. Disrupt enjoyment of footpath

5.3 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=161522&search=161522>

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."

The policy position in terms of the Council's 5 year housing land supply remains as it was at the time the appeal was determined. The Yarpole Neighbourhood Development Plan has now reached Regulation 14 stage, but can be afforded no weight at this stage. The housing target in this plan is 48 dwellings, to date there are eight commitments/built developments. The presumption in favour of sustainable development set out in the NPPF therefore supports the principle of development. Consequently the main issues to be addressed on this occasion are the reasons for refusal expressed by the Inspector in dismissing the appeal. To re-impose previous reasons for refusal in the absence of any significant policy change in the intervening period would be to risk a cost award at any subsequent appeal.

Flood Risk

6.2 The Inspector expressed concern about the provision for emergency vehicles to access the site in the event of a flood. As the Emergency Planning and Resilience Officer points out policy SD3 of the Core Strategy does not call for access for emergency vehicles. The policy can be satisfied through a Flood Evacuation and Management Plan.

Site Layout

6.3 The concerns expressed by the Inspector related to the layout of the site, the open ended nature of which was considered as suburban in nature and lacking the organic feel of the courtyard arrangement opposite. The layout has been amended with minor changes to position and location of one house and position of two garages. When viewed from the access point you will see the front of one dwelling that overlooks the access point with two further dwellings on the right hand side of the access. A private drive, much as before, than travels east to serve three further dwellings. This arrangement is not considered to be out of keeping with the character of the village and built form locally and is therefore considered acceptable. The

appeal raised no issues with the design of the dwellings or the impact of the development on the Conservation Area and nearby Listed Buildings.

- 6.4 Additional areas of concern expressed by the parish council not already commented upon include the sewer network. In this instance Welsh Water have no objection to the proposal and it was not previously a ground for refusal in the appeal.
- 6.5 The Transportation Manager's comment is awaited, but again the Inspector concluded that the access arrangements were acceptable. The route of a proposed diversion of the footpath is shown on the layout plan, this would remain to be agreed however.
- 6.6 Similarly ecology matters were accepted by the Inspector.
- 6.7 The minor alterations to the layout and consideration of its impact on the character of the village are such that your officers consider that they overcome the reason given in the dismissed appeal. In addition subsequent comment of the Emergency Planning and Resilience Officer is considered that the planning balance now lies in favour of the development and it is recommended for approval accordingly.

RECOMMENDATION

That planning permission be granted subject to the following conditions and any other conditions considered necessary by officers:

1. **C01 - A01 Time limit for commencement (full permission)**
2. **C06 - B01 Development in accordance with the approved plans**
3. **C13 - C01 Samples of external materials**
4. **Highway conditions inc CB1- diversion of public right of way**
5. **C96 - G10 Landscaping scheme**
6. **C97 - G11 Landscaping scheme - implementation**
7. **No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.**

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, to ensure compliance with policy SD3 and SD4 of the Herefordshire Local plan- Core Strategy.
8. **CDD - M07 Evacuation management plan**
9. **I16 – Hours of construction**
10. **CE6 – Water usage**

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

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

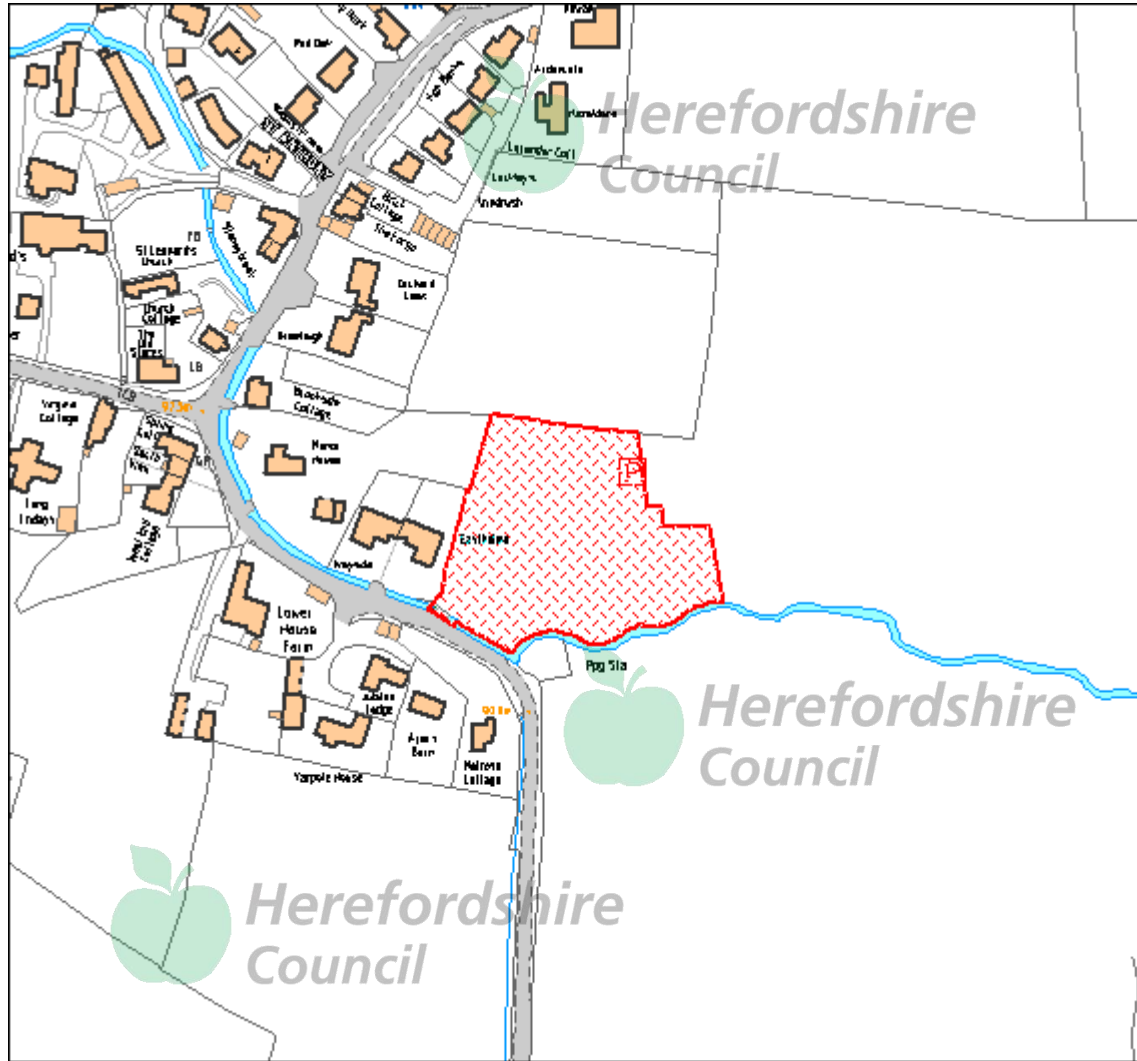
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 161522

SITE ADDRESS : LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA

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



Appeal Decision

Site visit carried out on 22 March 2016

by **Mrs J A Vyse DipTP DipPBM MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 April 2016

Appeal Ref: APP/W1850/W/16/3141786

Land at Yarpole, Leominster, Herefordshire HR6 0BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr F P Price against the decision of Herefordshire Council.
 - The application No 150995, dated 30 March 2015, was refused by a notice dated 27 November 2015.
 - The development proposed is 6 No dwellings and 4 No garages.
-

Decision

1. For the reasons that follow the appeal is dismissed.

Application for Costs

2. An application for costs was made by the appellant against Herefordshire Council. That application is the subject of a separate Decision of even date.

Procedural Matters

3. One of the Council's reasons for refusal refers to the absence of adequate detailed information in respect of archaeology, ecology, landscaping, flood management, land drainage and water capacity, and impacts to heritage assets and the existing public footpath. It sets out a list of development plan policies that would be offended by the development proposed in these regards, together with reference to the National Planning Policy Framework (the Framework).
4. Had the Council considered such information to be necessary in order to fully consider the impact of the development proposed it could, within a period of one month of receipt of the application, have given notice to the applicant that the information was required, as provided for by Article 5(2) of the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO).
5. The application was received by the Council on 31 March but was not validated until 18 June 2015. Whilst an email to the appellant from the Council, dated 16 April 2015 sets out that part of the site is in Flood Zones 1 and 2¹ and requests details of the public right of way across the site, there is no indication that any request for the other information referred to in the reason for refusal was made by the Council at the time that the application was lodged, or at any time prior to its determination.

¹ As confirmed in the flood risk assessment and officer's report, the appeal site actually lies within flood zones 1 and 3

6. That said, it would appear that a protected species survey report (dated 12 March 2015) may well have been submitted with the application but, for whatever reason, was not seen by the planning officer. In addition, a flood risk assessment (dated 26 May 2015), drainage details (dated 20 September 2015) and a highway safety assessment (dated October 2015) were submitted prior to determination of the application. The application was also accompanied by detailed plans showing the layout and details of the dwellings proposed. An addendum highway safety assessment (dated December 2015) was submitted with the appeal and, in response to a direct approach by the appellant, the Council's archaeological advisor commented on the development proposed (7 December 2015). I have taken all that information into consideration in determining this appeal, since it is information on which the Council has had the opportunity to comment.
7. In order to try and address the Council's concerns in relation to visibility at the junction of the site access with the highway, the appellant mooted the possibility of relocating the access further to the south-east. In that location however, the access would lie outwith the application site. In any event, no amended proposal is before me on a formal basis for consideration. I confirm, in this regard, that I have considered the appeal scheme on the basis of the layout as originally shown.
8. A Neighbourhood Plan for Yarpole is in preparation. The officer's report sets out that the Plan is in its infancy and that it has not yet reached Regulation 16 stage. There is no suggestion in the Council's written statement, or in any other of the submissions, that the situation has changed to any material degree. Indeed, later correspondence from the Council (1 April 2016) confirms that the emerging Plan has not yet reached Regulation 14 stage. Accordingly, I can only afford it limited weight. That said, the Neighbourhood Plan Steering Group has made comments on the development proposed, which I have taken into account.
9. The planning application form suggests that there would be no interference with a public right of way. However, public footpath No YP6 passes diagonally across the appeal site, heading north-eastward from the western end of the road frontage, before turning north as it heads up to Pound House. Although the submitted layout allows for a route through the development proposed, the footpath would not be retained on the definitive alignment. Were the appeal to succeed, any permission could not be implemented unless and until a successful application for diversion of the footpath had been made. Should such an application be unsuccessful, that would have implications for implementation of the appeal scheme. I have, however, made my decision based only on the planning merits of the case.
10. Issue is taken by some of those objecting to the scheme, that the appellant did not instigate any discussion with the Parish Council or the Neighbourhood Plan Steering Group prior to submitting the application. Whilst that may be unfortunate, there is no statutory requirement for any such pre-application consultation and the absence of such is not a material planning consideration.
11. Although the Council's written statement indicates that there is a five year supply of housing land, referring to the recent adoption date of the Herefordshire Local Plan Core Strategy 2011-2031 (October 2015), the appellant draws attention to a more recent appeal decision for housing

development at Leintwardine², where the Inspector concluded, on the evidence before her, in particular the evidence relating to delivery of some of the sites relied on in the identified supply, that the Council could not currently demonstrate a robust five-year supply of deliverable housing to meet its identified needs. Although no mention of the housing land supply position is made in the Council's written statement, an appeal decision attached thereto³ also sets out that the Council cannot currently demonstrate a five year supply. Moreover, post-event correspondence from the appellant indicates that the planning committee has recently been advised that the Council cannot justify a five year supply⁴. In the absence of any evidence from the Council to rebut the Inspectors' conclusions on this in the appeal decisions referred, or to contest the appellant's understanding of advice currently being given the planning committee on the matter, I shall proceed on the basis that it cannot demonstrate a five year supply of housing land at the present time.

12. Subsequent to the site visit, a court judgement was handed down from the Court of Appeal (Civil Division) on appeal from the Administrative Court Planning Court⁵. It considers the proper interpretation and application of the National Planning Policy Framework, in particular paragraph 49, which advises that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a five year supply of housing land. The judgment interprets and applies paragraph 49 in a way that leaves flexibility with the decision maker to determine what policies fall within the ambit of paragraph 49 and how much weight to be given to them in the overall planning balance.
13. As set out in the officer's report, Yarpole is identified in the Core Strategy as one of a number of settlements that will be the main focus for proportionate housing development. I am advised that the emerging Neighbourhood Plan will eventually define the settlement boundary for Yarpole but, in the meantime, any application for residential development is assessed against its relationship with the built form of the settlement, with a presumption in favour of sustainable development.
14. The 0.49 hectare appeal site forms part of a larger area of arable farmland, on the south-eastern edge of Yarpole. It adjoins two modern single storey dwellings to the west, with former agricultural buildings now converted to residential use on the opposite side of the road. The site has a short road frontage, finishing adjacent to a small pumping station where there is a bend in the C1039, which runs through the village linking the settlement to Luston. Behind the pumping station, the site widens out, extending onto the arable field, the majority of the southern site boundary following a small watercourse with vegetated banks (Stony Brook) that winds across the fields. Vehicular access to the site is at the western end of the short road frontage, adjacent to the existing dwellings where the brook is crossed.
15. Given its location at the edge of a village that is identified for some additional housing development in the future, and its proximity to existing built

² Appeal Ref APP/W1850/W/15/3006428 Outline application for up to 45 dwellings Allowed 24 February 2016

³ Appeal Ref APP/W1850/W/15/3038241 Outline application for a bungalow Dismissed 4 February 2016

⁴ 4 April 2016

⁵ Mr Justice Supperstone [2015] EWHC 132 (Admin) Mrs Justice Lang [2015] EWHC 410 (Admin) Suffolk Coastal District Council and Hopkins Homes Limited and SSGLG, Richborough Estates Partnership LLP and Cheshire East Borough Council and SSGLG 17 March 2016 [2016] EWCA Civ 168

development, I agree with the Yarpole Group Neighbourhood Plan Steering Group⁶ and the Parish Council⁷ that, whilst the site may not have been put forward for consideration during the Neighbourhood Plan 'call for sites', and noting that it was not included in the Council's 2009 Strategic Housing Land Availability Assessment⁸, there is no reason why residential development on the site might not be acceptable in principle, subject to any practical issues being overcome. On that basis, I have not sought additional views on the judgement – it seems to me that the outcome of the appeal turns on its specific impacts, as opposed to a matter of principle.

Main Issue

16. I consider the main issue in this case to be whether the proposal can be considered as sustainable development, having particular regard to:
- flood risk and land drainage;
 - the effect on the adjacent Conservation Area and on the character and appearance of the surrounding area more generally;
 - highway safety;
 - the setting of nearby listed buildings;
 - ecology;
 - and the effect on local services and infrastructure in the absence of a planning obligation.

Reasons for the Decision

Flood Risk and Land Drainage

17. A flood risk assessment (FRA) was submitted with the planning application. It demonstrates that the majority of the appeal site lies within Flood Zone 1. The dwellings proposed would be located on that part of the site. However, the proposed site entrance lies within Flood Zone 3. As acknowledged in the FRA, access and egress from the site may therefore be unsafe during a flooding event.
18. The FRA suggests that residents could safely leave the site during a flood event by heading north, away from the road, via the public footpath which runs across gently rising agricultural land from the north-eastern corner of the appeal site. The Environment Agency had no comment to offer on the application, on the basis of that safe alternative access. It is not apparent from the comments however, that the site or the footpath route was visited by anyone from the Agency. I consider the Land Drainage comments to be more helpful in this regard, given the dangers associated with flood events. The comments indicate that, whilst the footpath may provide safe access/egress for pedestrians, it would not provide suitable vehicular access. It is advised that the Council's Emergency Planning Department be contacted to discuss any requirements they may have in this regard. It is also suggested that further consideration may need to be given to flood depths and velocity in this area.

⁶ Undated correspondence submitted in response to the planning application

⁷ Correspondence in response to the planning application dated 26 July 2015

⁸ For reasons relating to access, flooding and lack of integration with the village, which matters I address below.

However, there is nothing to suggest that the Council sought the views of the Emergency Planning Department in order to establish whether or not the arrangement proposed was acceptable to them, or whether further information might be required. There is nothing to suggest either, that the appellant took the initiative and sought their comments (as he did in relation to archaeology).

19. The appellant suggests that concerns about emergency access during a flood event would be the same for every dwelling in Yarpole on the same side of the road through the village. That may well be the case. However, the development proposed would increase the number of persons potentially at risk. In the absence of any firm indication from the Emergency Planning Department that safe access for emergency vehicles would be available for future occupiers during a flood event, and with the precautionary principle in mind, I cannot be sure that future occupiers would be safe from the risks associated with flooding. There would be conflict in this regard with policy SD3 of the Core Strategy, which requires, among other things, that development is provided with safe pedestrian and vehicular access during flood events.
20. Moving on to drainage, Welsh Water has no objection to the development proposed. Whilst not objecting to the scheme, Land Drainage comments suggest that further information should be sought regarding the surface water drainage strategy for the development, prior to any grant of planning permission. I see no reason for that. A suitably worded condition could ensure that, prior to the submission of surface water drainage details, an assessment is carried out of the potential for disposing of surface water from the site by means of a sustainable drainage system in accordance with the principles set out in Government's Planning Practice Guidance. Where a sustainable drainage scheme is to be provided, the condition could require details providing information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; provide a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
21. In terms of foul drainage, there is no suggestion in the Land Drainage comments that it would not be possible to secure a suitable foul drainage scheme. However, the Council advises that the Addendum to the Herefordshire Local Plan Core Strategy Water Cycle Study suggests that there may be no current capacity at the local sewage treatment works. Be that as it may, Yarpole is identified as a location for future development, with the Neighbourhood Plan calling for prospective development sites. Moreover, the Land Drainage comments indicate that an alternative to connection to existing public sewers would be the use of an on site package treatment plant. I see no reason therefore, as to why drainage could not be dealt with by condition and find no conflict with Core Strategy policy SD4 in this regard. Whilst preferring that new development connects to existing mains wastewater infrastructure, the policy does allow for alternative provision such as that suggested.

Character and Appearance/Conservation Area

22. The appeal site is located adjacent to but outwith Yarpole Conservation Area.

From what I saw during my site visit, this generally inward looking rural Conservation Area is centred on the junction of Green Lane and the C1039, which runs through the village, linking the settlement to Luston. Clustered around the road junction are St Leonard's church and its separate timber framed bell tower, together with historic farm buildings, many of which have been converted to residential use. The mix of historic farm buildings, including listed farm houses, and smaller cottages reflect the rural history of the settlement. Whilst the Conservation Area also encompasses areas of open land around the edge of the village, that does not include the appeal site. It seems to me that the heritage significance of the Conservation Area derives from its identifiable rural village character and its historic core.

23. The appeal site is separated from the edge of that historic core by two modern single storey dwellings. Although those buildings are within the Conservation Area, they do not appear to be of any historic interest. Former agricultural buildings, now converted to residential use, lie opposite the appeal site. Intervisibility however, is limited by existing vegetation along the brook. Moreover, notwithstanding that a public footpath runs through the site, the site is well screened in most public views and is not conspicuous in the wider countryside. In that context, it seems to me that the appeal site does not afford any experience of the Conservation Area as a heritage asset, nor does its current undeveloped state assist in understanding or appreciating the heritage significance of the Conservation Area. Moreover, development on the site would not impinge upon any sensitive views into or out of the Conservation Area that have been drawn to my attention. I find no conflict in principle in this regard, with policies LD1, SS6 and LD4 of the Core Strategy which seek, among other things, to conserve and enhance heritage assets and their setting.
24. The proposed dwellings (all of which are detached, with all but one being two storey - the dwelling on plot 6 having three storeys) are individually designed and would be constructed of brick, stone and render walls with traditional features and detailing, beneath plain clay tile or slate roofs. I do not agree with the Council that the designs submitted are suburban. Whilst it is unfortunate that the dwellings proposed on plots one and two do not have chimneys I consider that, in general, the detailed designs reflect the local rural vernacular - they have closed verges and gabled roofs; where dormer windows are included, they generally sit at eaves level; first floor accommodation is partially within the roof space and first floor windows on flat elevations are tucked beneath the eaves; front doors either have hoods above or, on the larger properties, open sided pitched roof porches are shown, all features found in the village.
25. I do share the Council's concerns however, in relation to the layout proposed. Firstly, it is not clear what has informed the eastern site boundary, which appears to follow an arbitrary stepped line across the open field. That to one side, I consider the cul-de-sac layout proposed, with each pair of dwellings sitting side by side separated by detached garages or parking spaces to be suburban in nature. There is nothing of the more rural, organic feel to the layout that characterises the group of dwellings opposite, which has more of a feel of being arranged around a courtyard. In my view, the layout proposed would present an unexpected and uncharacteristic suburban edge to this rural village and would result in harm to the established rural character and appearance of the area. In this regard, there would be conflict with Core Strategy policies SS6 and SD1, which together and among other things seek to

ensure that new development is well integrated, taking into account local context and site characteristics in order to promote local distinctiveness.

Highway Safety

26. Visibility to the west (right) on exit from the site exceeds 2.4 x 43 metres which I understand, on the basis of the information before me, to be acceptable to the local highway authority in circumstances such as this where the prescribed speed limit is 30 miles per hour (mph). However, just to the east of the proposed site access is a bend in the road, where it turns to head south. That restricts available visibility in that direction for exiting traffic to 2.4 x 33 metres. Absent any speed information to support a reduced Y-distance, the highway authority recommended refusal. That recommendation was dated 18 June 2015.
27. Section B of the Government's *Manual for Streets 2* (MfS2) provides guidance on geometric and other parameters for new and improved highways. Although it sets out numerical values, designers are encouraged to take a flexible approach to its interpretation and application based on experience and local circumstances. That flexibility gives designers an opportunity to relax visibility provision at priority junctions. MfS2 advises that examples of evidence that may support a reduction in visibility splays might include the surveyed 85th percentile wet weather speed of traffic on the main road at the site of a proposed junction, and the accident history of the site.
28. The appellant arranged for a speed survey, which was undertaken in September 2015. For traffic approaching from the south, it demonstrated an 85th percentile wet weather speed of vehicles of 25.1 mph. However, it transpired that the location of the survey was removed from the proposed access. As a consequence, the appellant arranged for a further survey to be undertaken. Shortly before that survey was carried out, and notwithstanding that it had been advised that a second survey was being undertaken, the Council determined the planning application. The later survey was carried out at the end of November and the results accompanied the appeal. It demonstrates an 85th percentile wet weather speed of 23.3 mph at the site access for traffic approaching round the bend from the south. That information does not amend the scheme before me in any way, it simply provides evidence to support the appellant's position.
29. The unchallenged evidence of the appellant is that there were no recorded personal injury collisions in the vicinity of the appeal site over the five year period 2010-2014. There is no evidence either, to suggest that there have been any since then. The highways evidence of the appellant is the speed of traffic approaching from the south is sufficiently restricted by the bend in the road such that the available visibility in that direction accords with the Government's guidance on such matters, as set out in *Manual for Streets*.
30. Whilst I recognise the concerns of the Council and others in this regard I conclude, based on the evidence before me and in the absence of any substantiated evidence to the contrary, that use of the access by vehicular traffic associated with the development proposed would not have an unacceptable impact in terms of highway safety, given the low traffic speed at the site entrance.

31. Other concerns related to the absence of any safe refuge for pedestrians on the route to the village from the appeal site, there being no footways. I saw that a significant proportion of existing properties within the village have no footway alongside the adjoining highway, including those properties opposite and adjacent to the appeal site. I also saw that there are grassed verges alongside the road which allow for pedestrians to 'step-off' the carriageway if necessary. Whilst not ideal, that is not unlike the situation in many rural villages. In addition, a public right of way currently runs through the appeal site leading directly onto the road. It seems to me that that would already introduce pedestrians onto this section of the carriageway. I am mindful, as set out above, that there is no substantiated evidence to suggest that the existing arrangement is particularly dangerous, or has resulted in accidents in the past. On that basis, and having regard to the limited scale of the development proposed, I am not persuaded that the scheme would pose an unacceptable risk in terms of pedestrian safety, or that it would have implications for integration of the appeal site with the rest of the village.
32. To conclude on this issue, I find no conflict with policy MT1 of the Core Strategy which requires, among other things, that development proposals should ensure that safe entrance and exit can be achieved and that the local highway network can absorb associated traffic impacts safely.

Listed Buildings/Archaeology

33. Unlike Conservation Areas, the setting of listed buildings is protected by statute. The setting of a heritage asset comprises the surroundings in which it is experienced and it can contribute to the heritage significance of the asset.
34. Lower House lies on the opposite side of the road to the appeal site, off-set a short distance to the south-west. It comprises a timber framed grade II listed farm house that dates from the C17 with later additions. There is no obvious intervisibility between the appeal site and the farmhouse. A short distance to the north-west of the appeal site is the grade II listed Manor House, which dates from the C15 with mid-C20 alterations, and its two storey grade II listed gatehouse which probably dates from the C13 with later remodelling and alterations, restored in 1972. Intervening vegetation and the modern bungalow properties referred to means that there is no intervisibility between the Manor House/Gatehouse and the appeal site. The grade II listed Pound House, a cross winged timber framed house dating from the C17, lies slightly outside the village to the north, some distance from the appeal site. Again, intervening vegetation and land form means that, so far as I could see, there is no intervisibility between the appeal site and the House.
35. From the information before me, and from my own observations during the site visit, it would seem that the special interest of those buildings derives from their history, architecture and historical development. Each stands in its own grounds. Even were the appeal site visible from the listed buildings, or vice versa, there is nothing to indicate, apart from any former agricultural use, that the land had any formal relationship or designed vistas across it related to them. Whilst the listed buildings can be appreciated in views from the road, those views would not change as a consequence of the development proposed. I am satisfied in this regard that the appeal site contributes little, if anything, to the heritage significance of those listed buildings. As such, the ability to appreciate and understand their past connection with agricultural use would

not be materially affected by development of the application site. I find, therefore, that the special interest and significance of the listed buildings, and their setting, would be preserved.

36. In relation to archaeology, the Council did not, it would appear, seek comments from the relevant officer at the time of the planning application. However, following the Council's refusal of permission, in part on the basis of the absence of archaeological information, the appellant sought comments directly from the Council's archaeologist. The advice provided (7 December 2015) confirms that the historic environment record does not reveal any recorded heritage assets either on or close to the appeal site, and that an initial appraisal of the site history and conditions does not reveal any particular potential for previously unrecorded finds on the appeal site. The comments confirm that no further or additional information is required in this regard.
37. To conclude on this issue, I find that the development proposed would not harm the special interest or significance of any listed building or other heritage asset. There would be no conflict therefore, with the related advice in the Framework, or with policy SS6 which, among other things, seeks to protect such interests.

Ecology

38. Although the Council's statement comments that it has considered all the technical reports and other information accompanying the application, there is no indication that it has considered the protected species survey report. Whether or not it was seen as part of the original application, it was clearly submitted with the appeal and the Council has had the opportunity to comment on the results.
39. The survey found that no 'important' hedgerows⁹ would be affected by the proposal and there was no evidence of any protected species within the site, concluding that the development proposed would have no impact upon any protected species that might be found in the local area. There is nothing to challenge the findings of that survey. In the absence of any substantiated evidence to the contrary, I am satisfied that the proposal would not have an adverse impact on any protected species. There is no conflict, in this regard with Core Strategy policy LD2, which requires that proposals should conserve, restore and enhance the biodiversity assets of the area.

Planning Obligation

40. One of the Council's reasons for refusal refers to the absence of a planning obligation, citing policies SC1 and ID1 of the Core Strategy and the Council's Supplementary Planning Document on Planning Obligations (SPD) – April 2008. Policy SC1 indicates, among other things, that new development which creates a need for additional social and community facilities that cannot be met through existing facilities will be expected to meet those additional requirements through either extension of existing provision, through the provision of new facilities, or by developer contribution. Policy ID1 states that, where necessary, developer contributions will be sought towards strategic infrastructure, adding that the SPD will provide details of the type and scale of obligations that may apply. The SPD confirms that any new development may

⁹ As defined by The Hedgerow Regulations 1997

require mitigation to make it acceptable and that such mitigation may be the subject of an obligation involving a contribution.

41. Consideration of planning obligations is to be undertaken in the light of the advice at paragraph 204 of the National Planning Policy Framework and the statutory requirements of Regulations 122 and 123 of the Community Infrastructure Levy Regulations. These require that planning obligations may only constitute a reason for granting planning permission where they are necessary to make the development acceptable in planning terms; are directly related to the development; are fairly and reasonably related in scale and kind to it; and, since April 2015, must not relate to a pooled contribution where more than five such contributions have already been collected.
42. Other than referring to the SPD and a recent Cabinet Minute (10 February 2016) which confirms that the policy compliant sections of the SPD should continue to be used for development management purposes and, among other things, that the need for planning obligations on housing development of five homes or less¹⁰ is currently suspended, the Council has provided no detailed information as to what specific contributions or other measures might be required as a particular consequence of the development proposed.
43. Policy H1 of the recently adopted Core Strategy, which post-dates the SPD, indicates that open market housing proposals comprising ten dwellings or more, or where the maximum combined gross floor space is more than 1000 square metres, will be expected to contribute towards meeting affordable housing needs. The appeal scheme comprises six dwellings, with the appellant confirming that the scheme is designed to have a maximum combined gross floorspace of 998.9 square metres. On that basis, and given the absence of any reference to policy H1 in the reason for refusal, I have no reason to suppose that the appeal scheme is required to make an affordable housing contribution at the current time.
44. With regard to other contributions, the SPD refers to matters such as transport, children and young people, open space, library facilities and recycling/refuse. However, the SPD appears, for the most part, to amount to a general tariff on development, with no information provided by the Council in this case as to whether, or how the SPD requirements relate directly to the development proposed. The Council has provided no information either, as to whether any of the elements referred to might be the subject of pooled contributions. Indeed, the Council's submissions are silent on exactly what is required from the appellant in this regard, notwithstanding that the appellant has stated a willingness to submit a planning obligation once the specific requirements are made clear and can be assessed against the relevant tests¹¹.
45. In the absence of the information referred to, I have no way of knowing whether or not there is a need for the development proposed to make additional provision infrastructure/services/facilities. Had the appeal been acceptable in all other regards, I would have required further information on this. As it stands, I cannot conclude that the development proposed would not result in any harm in relation to its impact of local infrastructure and services etc or that there would be no conflict with policies SC1 or ID1.

¹⁰ The SPD, relying on policy H9 of the old UDP, states that in main villages, on schemes of more than six houses or on sites of more than 0.2 hectares, the indicative target for affordable provision is 35%.

¹¹ Correspondence dated 22 March 2016

Other Matters

46. The Council takes issue with the absence of landscaping details. However, it is usual in my experience, other than perhaps in particularly sensitive or highly constrained locations, for such matters to be dealt with by condition. There is no evidence from the Council to demonstrate why further landscaping information is required at this stage, or why it could not be dealt with by condition. I have no reason to suppose that dealing with this matter by condition would not be appropriate in this instance were the appeal to succeed, or that there would be any harm in this regard.

Overall Planning Balance and Conclusion

47. Paragraph 19 of the Framework advises that significant weight should be placed on the need to support economic growth through the planning system. I have no doubt, in this regard, that construction costs associated with the proposed development and the jobs it might support, together with additional local spend by future occupiers would be an economic benefit. Moreover, the provision of six new dwellings adjacent to a village that the Core Strategy identifies as being a sustainable location for new housing at a time when the Council cannot demonstrate a five year supply of housing land, is a social benefit. However, that is tempered slightly by the absence of any site specific information which would allow me to conclude as to whether the impact of the development proposed on local services, facilities and infrastructure would require mitigation.
48. With regard to environmental considerations, I have found that whilst there would be no harm to the significance of heritage assets, there would be some harm in terms of general character and appearance as a consequence of the layout proposed, albeit that such harm is limited. More significantly though, there are unresolved concerns about access for emergency vehicles during a flood event.
49. In the overall planning balance, I consider that the limited harm to character and appearance, the potential harm as a consequence of the absence of any planning obligation and, with the precautionary principle in mind, the potential risk to life as a consequence of the absence of any detailed information relating to access to the site for emergency vehicles during a flood event, significantly and demonstrably outweigh the benefits that I have identified when assessed against the development plan and the policies of the Framework taken as a whole. On that basis, I find that the proposal does not represent sustainable development and thus does not benefit from the presumption in favour of such. Accordingly, for the reasons given above, I conclude that the appeal should not succeed.

Jennifer A Vyse

INSPECTOR

Costs Decision

Site visit carried out on 22 March 2016

by **Mrs J A Vyse DipTP DipPBM MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 April 2016

Costs application in relation to Appeal Ref: APP/W1850/W/16/3141786 Land at Yarpole, Leominster, Herefordshire HR6 0BA

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr F P Price for a full award of costs against Herefordshire Council.
 - The appeal was against the refusal of planning permission for 6 No dwellings and 4 No garages.
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Decision

1. For the reasons that follow the application for an award of costs succeeds in part, in the terms set out below.

Reasons

2. The Government's Planning Practice Guidance (planning guidance) advises that, where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The Council's decision sets out four reasons for refusal: highway safety; layout and design; absence of detailed information in relation to archaeology, ecology, landscaping, flood management, land drainage, water capacity and impacts to heritage assets and the existing public footpath; and the absence of a planning obligation. The planning guidance advises that local authorities are at risk of an award of costs against them if they behave unreasonably with respect to the substance of the matter under appeal, for example by failing to produce evidence to substantiate each reason for refusal on appeal (my emphasis).

Highway Safety

4. As set out in the related Appeal Decision, visibility to the left on exit from the proposed site access does not meet the usual standard for the prevailing speed limit. Although a speed survey was undertaken prior to determination of the application, it transpired that it had not been done in the correct location. The appellant therefore commissioned a further survey.
 5. It would seem that the Council was aware of the imminent re-survey but, despite the appellant having agreed to an extension of time for determination of nearly six months, the Council proceeded to a decision in any event. In support of its position, the Council advises that, at the time the application was determined, a potential alternative access arrangement was being considered by the appellant but, since it involved land outwith the appeal site, with the access crossing an open field, it was deemed to be an unacceptable
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arrangement in any event. Consequently, the Council was of the view that the revised speed survey data, whatever it showed, would not change the outcome of the application.

6. However, the planning application has not been formally amended at any stage to include any alternative access arrangement and the appeal is based on the same layout as that the subject of the plans on which the Council's decision is based. It is also clear that the revised speed survey relates to that access, not to the posited alternative. The Council confirms that highway safety issues are fundamental to the overall acceptability of the proposed development and that it has had regard to all the Technical Reports and other information provided. It is hard to understand therefore why, having been provided with the information sought, namely speed information to support the reduced Y-distance, the Council did not seek further advice from the local highway authority and did not address the submitted evidence in its statement.
7. On the basis of the information before me, I have found that the reduced Y-distance is appropriate in the circumstances demonstrated by the revised speed survey. That survey did not result in any proposed change to the scheme, it simply provided evidence to address the Council's safety concerns in relation to the limited visibility splay available. The Council has not produced any evidence to demonstrate that it has taken the later survey data into account. In essence, it has failed to substantiate its pursuance of this reason for refusal at appeal and its behaviour has, therefore, been unreasonable.

Layout and Design

8. Although the officer's report asserts that the design of the dwellings proposed, and the layout, is suburban in nature and thus is not in keeping with the rural location of the site (there is no mention in this section of the report to the Conservation Area, even though impact on heritage assets is a concern in one of the other reasons for refusal) there is no assessment by the Council of that character. Absent such an assessment, it is not clear how, in the Council's view, the character would be harmed by the layout or design of the dwellings proposed. There is no further discussion on this matter either, in the Council's written statement. Although I came to the same view as the Council in terms of the layout, the Council did not produce evidence to substantiate its ongoing concerns in relation to the design of the dwellings. Therefore, in pursuing this element of the related reason for refusal, its behaviour has been unreasonable.

Absence of Information

9. The third reason for refusal states that, in the absence of detailed information in relation to various matters, the appellant failed to identify and adequately assess the potential impacts of the development proposed and how such impacts could be avoided, mitigated or managed.
10. The application was received by the Council on 31 March but was not validated until 18 June 2015. Had the Council considered the information referred to, to be necessary in order to fully consider the impact of the development proposed, it could have given notice to the applicant that the information was required, as provided for in Article 5(2) of the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO). Whilst an email from the Council, dated 16 April 2015 sets out that part of the site is in Flood

Zones 1 and 2¹ and requests details of the public right of way across the site, there is no indication in the submissions before me that any request for the other information referred to in this reason for refusal was made by the Council at the time that the application was lodged, or at any time prior to its determination.

11. Archaeology: There is no explanation as to why the Council did not consult its archaeological adviser as part of its consultation process on receipt of the application, given that the extent and nature of the development proposed is abundantly clear from the plans submitted. In any event, the appellant sought comments directly from the relevant officer following refusal of the application, which comments were submitted with the appeal. Those comments confirm that the historic environment record does not reveal the presence of any recorded heritage assets either on or close to the appeal site, and that an initial appraisal of the site history and conditions does not reveal any particular potential for previously unrecorded finds. It concludes that no further or additional information is required in this regard. There is no reference to those comments in the Council's written statement. It simply states that, had the appellant consulted with the Parish Council and the wider community, the potential for archaeological remains would have been raised and could have been addressed. The Council has not produced any evidence to substantiate its pursuance of this part of this part of the reason for refusal at appeal and I consider its behaviour to have been unreasonable in this regard.
12. Ecology: The appellant maintains that a protected species survey report (dated 12 March 2015) was submitted with the application. It was, however, clearly submitted with the appeal. Other than stating that the Council has no record of having received the survey with the application, there is no assessment of the findings of that survey in its written appeal statement. The survey found that no 'important' hedgerows would be affected by the proposal, with no evidence of any protected species within the site, concluding that the development proposed would have no impact upon any protected species that might be found in the local area. The Council has not produced any evidence to substantiate its pursuance of this part of this part of the reason for refusal at appeal and I consider its behaviour to have been unreasonable in this regard.
13. Landscaping: It is far from unusual, in my experience, other than perhaps in particularly sensitive or highly constrained locations, for the matter of landscaping to be dealt with by condition. There is no evidence from the Council, either in the officer's report or the written statement, to demonstrate why further information is required on this at this stage, or why it could not safely be left to be dealt with by condition. The Council has not produced any evidence to substantiate its pursuance of this part of the reason for refusal at appeal and I consider its behaviour to have been unreasonable in this regard.
14. Flood management/land drainage/water capacity: A flood risk assessment (FRA) was submitted with the planning application. Whilst the dwellings proposed would be within Flood Zone 1, the site access lies within Flood Zone 3. The FRA acknowledges, in this regard, that access and egress from the site may therefore be unsafe during a flooding event. Whilst the Council's Land Drainage section accepts that residents could safely leave the site on foot during a flood event, heading north via the public footpath, concerns are raised

¹ As confirmed in the flood risk assessment and officer's report, the appeal site actually lies within flood zones 1 and 3

about vehicular access. It advised that the Council's Emergency Planning Department should be contacted, to discuss any requirements they may have in this regard. It also suggested that further consideration may need to be given to flood depths and velocity in this area. However, there is no evidence to suggest that the Council went on to seek further comment in this regard, in order to establish whether or not the arrangement proposed was acceptable to the Emergency Planning Department, or whether further information might be required. No information was provided on this at appeal, even though it formed part of the reason for refusal. As a consequence, I find the Council's behaviour in this regard, to have been unreasonable.

15. Additional drainage details were provided by the appellant prior to determination of the application by the Council and Welsh Water, who was consulted, raised no objection. However, whilst not objecting to the scheme, the Land Drainage comments suggest that further information be sought prior to any grant of planning permission, regarding the surface water drainage strategy for the development. My reading of those comments is that there is no suggestion that the site could not be drained satisfactorily. Rather, further testing is required to assess whether a sustainable drainage system could be employed. In the event that ground conditions prevented utilisation of such a system, the comments suggest restricting run-off rates to pre-development greenfield rates. I am not persuaded that further information is required on this, prior to determination of the application. The Council has produced no substantiated evidence to demonstrate why this matter could not have been dealt with by condition, or to support its pursuance of this part of the reason for refusal at appeal. I therefore consider its behaviour to have been unreasonable in this regard.
16. Similarly, in terms of foul drainage, there is no suggestion that it would not be possible or practicable to secure a suitable foul drainage scheme. Whilst the Council suggests that there may be no current capacity at the local sewage treatment works, the Core Strategy does identify Yarpole as a location for future development, with the Neighbourhood Plan calling for prospective development sites. Moreover, the Land Drainage comments indicate that an alternative to connection to existing public sewers, would be the use of an on site package treatment plant. There is no indication that the Council has considered dealing with the matter by condition and it has not produced any evidence to substantiate its pursuance of this part of the reason for refusal at appeal. I consider its behaviour to have been unreasonable in this regard.
17. Heritage assets: Paragraph 128 of the National Planning Policy Framework indicates that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. No such request appears to have been made when the application was lodged, or at any time since. Be that as it may, paragraph 129 confirms that local planning authorities should also identify and assess the particular significance of any heritage asset that may be affected by a proposal, including development that may affect the setting of an asset.
18. Although the list descriptions for three listed buildings in the locality were submitted with the questionnaire, there is no indication in the Council's submissions that it consulted on the heritage impact of the appeal scheme in this regard. Neither do the Council's submissions include any indication as to what it considers the special interest or significance of those assets to be,

whether the appeal site lies with their setting and, if it does, what impact the development proposed might have on the heritage significance of those assets.

19. With regard to the Conservation Area, other than a plan showing the Conservation Area boundary, the Council provides no assessment of its character and appearance, even though its written statement asserts that the character and appearance of the Conservation Area would be harmed. In any event, the appeal site lies adjacent to but outside the Conservation Area. The statutory protection afforded to Conservation Areas relates to the character and appearance of land and buildings within them². No statutory protection is afforded to the character and appearance of the setting of Conservation Areas. That said, where a development lies within the setting of a heritage asset, the Framework requires that an assessment be made of the effect of that development on the heritage significance of the asset. Whilst the appeal site clearly lies within the setting of the Conservation Area, the Council provides no indication as to what it considers that heritage significance to be. Moreover, whilst the written statement refers to the historical context of the settlement and views into the Conservation Area, these are not explained or assessed anywhere in the Council's evidence.
20. This is a detailed application, the plans submitted including elevations of the dwellings proposed and a site layout. I see no reason therefore, why the Council could not come to a view on the impact of the development proposed in terms of heritage assets. The Council has not produced any evidence to substantiate its pursuance of this part of the reason for refusal at appeal and I consider its behaviour to have been unreasonable in this regard.
21. Public footpath: A public footpath passes diagonally across the appeal site. Although the submitted layout allows for a footpath route through the proposed development, that is not on the current alignment. It is not clear what additional information the Council required in this regard. I recognise that no formal application for a Diversion Order accompanied the planning application. However, whilst the absence of any Order could have implications for implementation were the planning application to have succeeded, it would not have prevented the Council from coming to a view on the planning merits of the development proposed. The Council has not produced any evidence to substantiate its pursuance of this part of the reason for refusal at appeal and I consider its behaviour to have been unreasonable in this regard.

Absence of a Planning Obligation

22. Policy SC1 of the Core Strategy indicates that where new development creates a need for additional social and community facilities that cannot be met by existing facilities, it should make provision to meet those needs. Policy ID1 refers to the need for more strategic contributions, advising that the Council's Supplementary Planning Document on Planning Obligations (SPD) provides further details. However, other than re-stating that no contributions are provided for, neither the officer's report, the Council's appeal statement, nor subsequent correspondence provides any details as to what contributions or other measures are required as a particular consequence of the specific development proposed. Neither is there any information in terms of any infrastructure projects that might be the subject of pooled contributions. I quite recognise that there may be implications that the appeal scheme would

² Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

need to address. However, the Council has produced no evidence to substantiate its continued objection in this regard, which behaviour is unreasonable.

Conclusion

23. In providing little if any evidence substantiate the reasons for refusal on appeal, I find the Council's behaviour to have been unreasonable. However, for any application for costs to succeed, such behaviour needs to have involved an applicant in unnecessary or wasted expense.
24. In relation to flood risk, I am unable to conclude, on the basis of the information before me, that future occupiers would be safe from the risk of flooding having particular regard to access to the site by emergency vehicles during a flood event. In relation to the layout proposed, I have found that there would be some harm to the character and appearance of the area. Lastly, I am unable to conclude, on the basis of the information before me, whether there is a need for a planning obligation to secure contributions to address possible harm in terms of increased pressure on infrastructure and local services and facilities etc (although I recognise on this latter point that the absence of an obligation stems from the lack of information provided by the Council, not the appellant).
25. On these particular matters, whilst the Council's behaviour was unreasonable, the appellant has not incurred unnecessary or wasted expense, given my findings as set out in the substantive decision. In all other matters however, I have found in favour of the appellant. It follows, therefore, that the appellant has been put to unnecessary expense in pursuing those other matters at appeal and a partial award of costs is justified.

Costs Order

26. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Herefordshire Council shall pay to Mr F P Price, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in dealing with the matters raised by the reasons for refusal, with the exception of flood risk, site layout and the planning obligation.
27. The applicant is now invited to submit to Herefordshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Jennifer A Vyse

INSEPECTOR



IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

CO/4149/2016

BEFORE DR E.FRANEY, ACO LAWYER, IN EXERCISE OF POWERS DELEGATED BY
THE PRESIDENT OF THE QUEEN'S BENCH DIVISION IN CPR PART 54.1A

IN THE MATTER OF THE Local Government Act 1972
Section 250 (5)

and

IN THE MATTER OF THE Town and Country Planning Act 1990
Sections 78, 322 and Schedule 6



ORDER

UPON READING the Order of the Secretary of State for Communities and Local Government dated 25th April 2016 in exercise of his powers under Section 250 (5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended and all other powers enabling him in that behalf ordering that Herefordshire Council shall pay to Mr F P Price, the costs of the appeal proceedings limited to those costs incurred in dealing with the reasons for refusal, with the exception of flood risk, site layout and the planning obligation; such costs to be assessed in the Senior Courts Costs Office if not agreed.

IT IS ORDERED THAT the said Order of the Secretary of State for Communities and Local Government as to costs be made an Order of this Honourable Court and that Herefordshire Council shall pay to Mr F P Price, such costs as therein ordered to be assessed.

Dated: 31st August 2016

By the Court

Original to:-

John Needham Associates
Architects & Planners
22 Broad Street
Ludlow
Shropshire
SY8 1NG

Ref: APP/W1850/W.16/3141786



Costs Decision

Site visit carried out on 22 March 2016

by Mrs J A Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 April 2016

Costs application in relation to Appeal Ref: APP/W1850/W/16/3141786 Land at Yarpole, Leominster, Herefordshire HR6 0BA

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr F P Price for a full award of costs against Herefordshire Council.
 - The appeal was against the refusal of planning permission for 6 No dwellings and 4 No garages.
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Decision

1. For the reasons that follow the application for an award of costs succeeds in part, in the terms set out below.

Reasons

2. The Government's Planning Practice Guidance (planning guidance) advises that, where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The Council's decision sets out four reasons for refusal: highway safety; layout and design; absence of detailed information in relation to archaeology, ecology, landscaping, flood management, land drainage, water capacity and impacts to heritage assets and the existing public footpath; and the absence of a planning obligation. The planning guidance advises that local authorities are at risk of an award of costs against them if they behave unreasonably with respect to the substance of the matter under appeal, for example by failing to produce evidence to substantiate each reason for refusal on appeal (my emphasis).

Highway Safety

4. As set out in the related Appeal Decision, visibility to the left on exit from the proposed site access does not meet the usual standard for the prevailing speed limit. Although a speed survey was undertaken prior to determination of the application, it transpired that it had not been done in the correct location. The appellant therefore commissioned a further survey.
 5. It would seem that the Council was aware of the imminent re-survey but, despite the appellant having agreed to an extension of time for determination of nearly six months, the Council proceeded to a decision in any event. In support of its position, the Council advises that, at the time the application was determined, a potential alternative access arrangement was being considered by the appellant but, since it involved land outwith the appeal site, with the access crossing an open field, it was deemed to be an unacceptable
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arrangement in any event. Consequently, the Council was of the view that the revised speed survey data, whatever it showed, would not change the outcome of the application.

6. However, the planning application has not been formally amended at any stage to include any alternative access arrangement and the appeal is based on the same layout as that the subject of the plans on which the Council's decision is based. It is also clear that the revised speed survey relates to that access, not to the posited alternative. The Council confirms that highway safety issues are fundamental to the overall acceptability of the proposed development and that it has had regard to all the Technical Reports and other information provided. It is hard to understand therefore why, having been provided with the information sought, namely speed information to support the reduced Y-distance, the Council did not seek further advice from the local highway authority and did not address the submitted evidence in its statement.
7. On the basis of the information before me, I have found that the reduced Y-distance is appropriate in the circumstances demonstrated by the revised speed survey. That survey did not result in any proposed change to the scheme, it simply provided evidence to address the Council's safety concerns in relation to the limited visibility splay available. The Council has not produced any evidence to demonstrate that it has taken the later survey data into account. In essence, it has failed to substantiate its pursuance of this reason for refusal at appeal and its behaviour has, therefore, been unreasonable.

Layout and Design

8. Although the officer's report asserts that the design of the dwellings proposed, and the layout, is suburban in nature and thus is not in keeping with the rural location of the site (there is no mention in this section of the report to the Conservation Area, even though impact on heritage assets is a concern in one of the other reasons for refusal) there is no assessment by the Council of that character. Absent such an assessment, it is not clear how, in the Council's view, the character would be harmed by the layout or design of the dwellings proposed. There is no further discussion on this matter either, in the Council's written statement. Although I came to the same view as the Council in terms of the layout, the Council did not produce evidence to substantiate its ongoing concerns in relation to the design of the dwellings. Therefore, in pursuing this element of the related reason for refusal, its behaviour has been unreasonable.

Absence of Information

9. The third reason for refusal states that, in the absence of detailed information in relation to various matters, the appellant failed to identify and adequately assess the potential impacts of the development proposed and how such impacts could be avoided, mitigated or managed.
10. The application was received by the Council on 31 March but was not validated until 18 June 2015. Had the Council considered the information referred to, to be necessary in order to fully consider the impact of the development proposed, it could have given notice to the applicant that the information was required, as provided for in Article 5(2) of the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO). Whilst an email from the Council, dated 16 April 2015 sets out that part of the site is in Flood

Zones 1 and 2¹ and requests details of the public right of way across the site, there is no indication in the submissions before me that any request for the other information referred to in this reason for refusal was made by the Council at the time that the application was lodged, or at any time prior to its determination.

11. Archaeology: There is no explanation as to why the Council did not consult its archaeological adviser as part of its consultation process on receipt of the application, given that the extent and nature of the development proposed is abundantly clear from the plans submitted. In any event, the appellant sought comments directly from the relevant officer following refusal of the application, which comments were submitted with the appeal. Those comments confirm that the historic environment record does not reveal the presence of any recorded heritage assets either on or close to the appeal site, and that an initial appraisal of the site history and conditions does not reveal any particular potential for previously unrecorded finds. It concludes that no further or additional information is required in this regard. There is no reference to those comments in the Council's written statement. It simply states that, had the appellant consulted with the Parish Council and the wider community, the potential for archaeological remains would have been raised and could have been addressed. The Council has not produced any evidence to substantiate its pursuance of this part of this part of the reason for refusal at appeal and I consider its behaviour to have been unreasonable in this regard.
12. Ecology: The appellant maintains that a protected species survey report (dated 12 March 2015) was submitted with the application. It was, however, clearly submitted with the appeal. Other than stating that the Council has no record of having received the survey with the application, there is no assessment of the findings of that survey in its written appeal statement. The survey found that no 'important' hedgerows would be affected by the proposal, with no evidence of any protected species within the site, concluding that the development proposed would have no impact upon any protected species that might be found in the local area. The Council has not produced any evidence to substantiate its pursuance of this part of this part of the reason for refusal at appeal and I consider its behaviour to have been unreasonable in this regard.
13. Landscaping: It is far from unusual, in my experience, other than perhaps in particularly sensitive or highly constrained locations, for the matter of landscaping to be dealt with by condition. There is no evidence from the Council, either in the officer's report or the written statement, to demonstrate why further information is required on this at this stage, or why it could not safely be left to be dealt with by condition. The Council has not produced any evidence to substantiate its pursuance of this part of the reason for refusal at appeal and I consider its behaviour to have been unreasonable in this regard.
14. Flood management/land drainage/water capacity: A flood risk assessment (FRA) was submitted with the planning application. Whilst the dwellings proposed would be within Flood Zone 1, the site access lies within Flood Zone 3. The FRA acknowledges, in this regard, that access and egress from the site may therefore be unsafe during a flooding event. Whilst the Council's Land Drainage section accepts that residents could safely leave the site on foot during a flood event, heading north via the public footpath, concerns are raised

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about vehicular access. It advised that the Council's Emergency Planning Department should be contacted, to discuss any requirements they may have in this regard. It also suggested that further consideration may need to be given to flood depths and velocity in this area. However, there is no evidence to suggest that the Council went on to seek further comment in this regard, in order to establish whether or not the arrangement proposed was acceptable to the Emergency Planning Department, or whether further information might be required. No information was provided on this at appeal, even though it formed part of the reason for refusal. As a consequence, I find the Council's behaviour in this regard, to have been unreasonable.

15. Additional drainage details were provided by the appellant prior to determination of the application by the Council and Welsh Water, who was consulted, raised no objection. However, whilst not objecting to the scheme, the Land Drainage comments suggest that further information be sought prior to any grant of planning permission, regarding the surface water drainage strategy for the development. My reading of those comments is that there is no suggestion that the site could not be drained satisfactorily. Rather, further testing is required to assess whether a sustainable drainage system could be employed. In the event that ground conditions prevented utilisation of such a system, the comments suggest restricting run-off rates to pre-development greenfield rates. I am not persuaded that further information is required on this, prior to determination of the application. The Council has produced no substantiated evidence to demonstrate why this matter could not have been dealt with by condition, or to support its pursuance of this part of the reason for refusal at appeal. I therefore consider its behaviour to have been unreasonable in this regard.
16. Similarly, in terms of foul drainage, there is no suggestion that it would not be possible or practicable to secure a suitable foul drainage scheme. Whilst the Council suggests that there may be no current capacity at the local sewage treatment works, the Core Strategy does identify Yarpole as a location for future development, with the Neighbourhood Plan calling for prospective development sites. Moreover, the Land Drainage comments indicate that an alternative to connection to existing public sewers, would be the use of an on site package treatment plant. There is no indication that the Council has considered dealing with the matter by condition and it has not produced any evidence to substantiate its pursuance of this part of the reason for refusal at appeal. I consider its behaviour to have been unreasonable in this regard.
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18. Although the list descriptions for three listed buildings in the locality were submitted with the questionnaire, there is no indication in the Council's submissions that it consulted on the heritage impact of the appeal scheme in this regard. Neither do the Council's submissions include any indication as to what it considers the special interest or significance of those assets to be,

whether the appeal site lies with their setting and, if it does, what impact the development proposed might have on the heritage significance of those assets.

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20. This is a detailed application, the plans submitted including elevations of the dwellings proposed and a site layout. I see no reason therefore, why the Council could not come to a view on the impact of the development proposed in terms of heritage assets. The Council has not produced any evidence to substantiate its pursuance of this part of the reason for refusal at appeal and I consider its behaviour to have been unreasonable in this regard.
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Absence of a Planning Obligation

22. Policy SC1 of the Core Strategy indicates that where new development creates a need for additional social and community facilities that cannot be met by existing facilities, it should make provision to meet those needs. Policy ID1 refers to the need for more strategic contributions, advising that the Council's Supplementary Planning Document on Planning Obligations (SPD) provides further details. However, other than re-stating that no contributions are provided for, neither the officer's report, the Council's appeal statement, nor subsequent correspondence provides any details as to what contributions or other measures are required as a particular consequence of the specific development proposed. Neither is there any information in terms of any infrastructure projects that might be the subject of pooled contributions. I quite recognise that there may be implications that the appeal scheme would

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Conclusion

23. In providing little if any evidence substantiate the reasons for refusal on appeal, I find the Council's behaviour to have been unreasonable. However, for any application for costs to succeed, such behaviour needs to have involved an applicant in unnecessary or wasted expense.
24. In relation to flood risk, I am unable to conclude, on the basis of the information before me, that future occupiers would be safe from the risk of flooding having particular regard to access to the site by emergency vehicles during a flood event. In relation to the layout proposed, I have found that there would be some harm to the character and appearance of the area. Lastly, I am unable to conclude, on the basis of the information before me, whether there is a need for a planning obligation to secure contributions to address possible harm in terms of increased pressure on infrastructure and local services and facilities etc (although I recognise on this latter point that the absence of an obligation stems from the lack of information provided by the Council, not the appellant).
25. On these particular matters, whilst the Council's behaviour was unreasonable, the appellant has not incurred unnecessary or wasted expense, given my findings as set out in the substantive decision. In all other matters however, I have found in favour of the appellant. It follows, therefore, that the appellant has been put to unnecessary expense in pursuing those other matters at appeal and a partial award of costs is justified.

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26. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Herefordshire Council shall pay to Mr F P Price, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in dealing with the matters raised by the reasons for refusal, with the exception of flood risk, site layout and the planning obligation.
27. The applicant is now invited to submit to Herefordshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Jennifer A Vyse

INSEPECTOR



MEETING:	PLANNING COMMITTEE
DATE:	7 DECEMBER 2016
TITLE OF REPORT:	161627 - PROPOSED DWELLING AND GARAGE AT PLOT 7 LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA For: Mr O Probert per John Needham Associates, 22 Broad Street, Ludlow, Shropshire, SY8 1NG
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=161627&search=161627
Reason Application submitted to Committee – Re-direction	

Date Received: 18 May 2016

Ward: Bircher

Grid Ref: 347160,264766

Expiry Date: 13 July 2016

Local Member: Councillor WLS Bowen

This application was deferred from the last Planning Committee meeting to enable a Planning Committee Site Visit.

1. Site Description and Proposal

- 1.1 The application site lies adjacent to that considered in the previous report, hence the reference to plot 7. The site lies on the eastern edge of the village, the field lies adjacent to the Yarpole Conservation Area. The design indicates a two storey, 4 bedroom dwelling with detached double garage. Access to the plot is proposed via the safe access arrangement as per the previous application.
- 1.2 But for the proposal on the adjacent site, subject of the previous report, this site would be considered an arbitrary location within a larger field.

2. Policies

2.1 The Herefordshire Local Plan Core Strategy

SSI	-	Presumption in Favour of Sustainable Development
RA2	-	Housing in Settlements Outside Hereford and the Market Towns
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
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

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

2.2 National Planning Policy Framework

Chapters 4 – Promoting sustainable transport
Chapters 6 – Delivering a wide choice of high quality homes
Chapters 7 – Requiring good design
Chapters 11 – Conserving and enhancing the natural environment
Chapters 12 – Conserving and enhancing the historic environment

2.3 Neighbourhood Plan

Yarpole Neighbourhood Area was designated on 8th Feb 2013. The Plan has reached regulation 14 (9th June 2016) and whilst it is therefore a material consideration it has no weight in the determination of planning applications.

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 None on this site although the appeal and application on the adjacent site are relevant.

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water no objection subject to condition.

Internal Council Consultations

4.2 Transportation Manager formal comment awaited, but no objection.

4.3 Public Rights of way Officer - Public footpath YP6 must be legally diverted before work starts on site.

5. Representations

5.1 Yarpole Parish Council comment awaited.

5.2 Objections have been received from 4 local residences making the following points

1. 6 houses already rejected.
2. Previous concerns re sewage / flooding still apply
3. Ditto highway safety
4. Not identified for development in Yarpole NDP

5.3 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=161627&search=161627>

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

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."

The main considerations for this application are the same as those with the previous application on the adjoining site. The Council cannot meet its 5 year housing land supply obligation at this time, consequently unless any adverse impacts of the development would significantly and demonstrably outweigh the benefits permission should be granted.

6.2 As the Yarpole Neighbourhood Development Plan is only at Reg 14 stage, it can be afforded no weight at this time. The housing target for the parish is a minimum of 48 dwellings. The existing commitment to date is eight dwellings. If the previous application (161522) for the six dwellings is approved this would still only be fourteen.

6.3 It is not considered that the addition of a further dwelling in this location makes any significant difference to the weight which can be attributed to the material considerations. For example in terms of highway safety, flooding, sewage capacity, impact upon Conservation Area and setting of Listed Buildings. The design is consistent with the adjoining site. Consequently it is considered that the proposal complies with the relevant policies of the Herefordshire Local Plan and National Planning Policy Framework and is recommended for approval accordingly.

RECOMMENDATION

That planning permission be granted subject to the following conditions and any other conditions considered necessary by officers:

1. **C01 - A01 Time limit for commencement (full permission)**
2. **C06 - B01 Development in accordance with the approved plans**
3. **C13 - C01 Samples of external materials**
4. **Highway conditions, inc CB1 footpath diversion.**
5. **C96 - G10 Landscaping scheme**
6. **C97 - G11 Landscaping scheme – implementation**
7. **No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.**

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, to ensure compliance with policy SD3 and SD4 of the Herefordshire Local plan- Core Strategy.

- 8. CDD - M07 Evacuation management plan**
- 9. I16 - Hours of construction**
- 10. CE6 - Water usage**

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

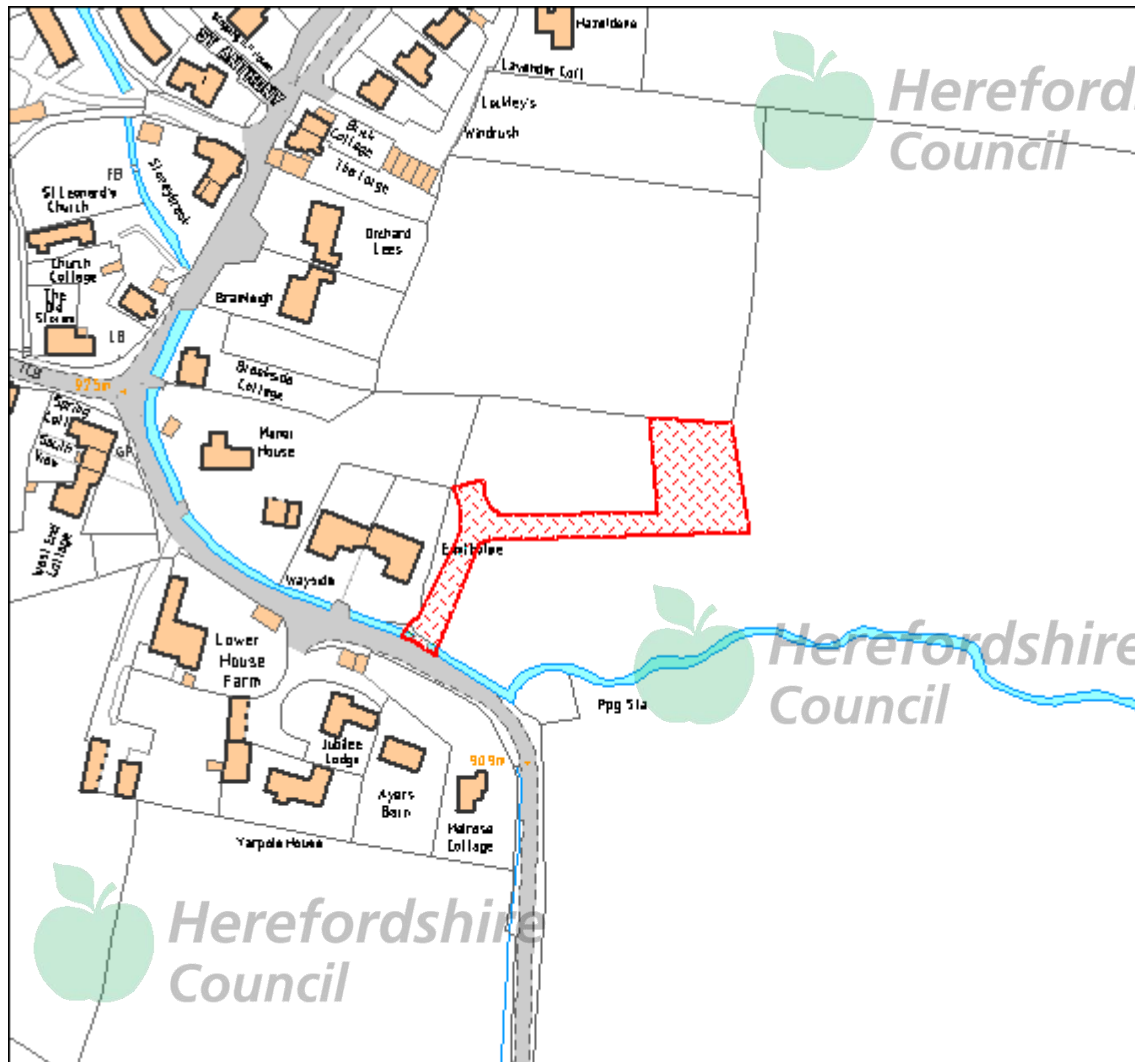
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 161627

SITE ADDRESS : PLOT 7 LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA

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MEETING:	PLANNING COMMITTEE
DATE:	7 DECEMBER 2016
TITLE OF REPORT:	<p>151584 - PROPOSED RESIDENTIAL DEVELOPMENT FOR THREE DETACHED AND FOUR SEMI DETACHED DWELLINGS WITH MODIFIED VEHICLE ACCESS TO B4361 AT LAND ADJACENT TO BRICK HOUSE, LUSTON, HEREFORDSHIRE, HR6 0EB</p> <p>For: Mr Stephens per Mr DF Baume, Hook Mason Limited, 41 Widemarsh Street, Hereford, Herefordshire, HR4 9EA</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151584&search=151584
Reason Application submitted to Committee - Redirection	

Date Received: 26 May 2015
Expiry Date: 24 July 2015

Ward: Bircher

Grid Ref: 348590,263099

Local Member: Councillor WLS Bowen

1. Site Description and Proposal

- 1.1 The site is accessed off the western side of the B4361 road opposite The Balance Inn, Luston. The area of ground relating to the proposal is currently accessed via a driveway on the northern side of Brick House that fronts onto the class II road. The site is screened at present by a line of evergreen trees adjoining a pavement. There is also a bungalow (Meadow View) with a shallow rear garden, but with further garden area to the side (south). There is a line of trees /hedgerow on the western side of the site that are protected by a Tree Preservation Order (TPO) these extend north and south along what constitutes the western boundary of the Conservation Area. A public footpath adjoins the northern boundary, it is well screened from the site and at a lower level. The site is within Luston Conservation Area.
- 1.2 The proposal is for seven dwellings. A detached two bedroom dwelling will be erected on the northern side of a new splayed entrance with visibility of 90 metres in each direction i.e north and south along the B4361 road. A pair of 3 bedroom dwellings will be sited on the northern side of the site they will face southwards to a matching pair across a shared driveway. The southern pair of 3 bedroom semi-detached dwellings will have a rear boundary shared with the Hollies. The two remaining dwellings are detached 4 bedroom units and fill in the south-western and north-western areas of the site i.e adjoining the boundary protected by the TPO. The facing materials used throughout will comprise part stone, render and timber boarding under plain tiled roofs. The windows will be timber and painted.

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

- 1.3 The proposal has been amended such that three car park spaces are provided for the two 4 bedroom properties, as originally only two spaces were proposed. Also secure cycle storage is now provided for each dwelling. This revision was submitted following receipt of the advice of the Transportation Manager.

2. Policies

2.1 The Herefordshire Local Plan - Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
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
SD4	-	Wastewater Treatment and River Water Quality

2.2 NPPF

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

Section 4 - Promoting sustainable communities

Section 6 - Delivering a wide choice of high quality homes

Section 7 - Requiring good design

Section 8 - Promoting healthy communities

Section 11 - Conserving and enhancing the natural environment

Section 12 - Conserving and enhancing the historic environment

2.3 Neighbourhood Planning

The Neighbourhood Plan area for Luston was designated on 4 September 2013. The plan has reached Regulation 14 stage and whilst it is a material consideration it is not sufficiently advanced to attract weight for the purposes of determining planning applications.

- 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 None

4. Consultation Summary

Statutory Consultations

4.1 Historic England

The proposed scheme will take place within the Luston Conservation Area and 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.

Development within this site should seek to promote or reinforce the local distinctiveness of the Conservation Area in line with NPPF paragraphs 58 to 61. This should be reflected in the materials, rhythm, style of architectural details and form of the proposed development. And we therefore advise you to consider whether the proposed design takes these matters into consideration.

If you are minded to approve the application, conditions should be imposed requiring your council's prior approval of architectural details, materials and finishes.

4.2 Welsh Water

No objection subject to conditions controlling the separation of foul and surface water drainage in recommended conditions

Internal Council Consultations

4.3 Transportation Manager:- Following submission of amendments now recommend conditions on any approval.

4.4 Conservation Manager (Historic Buildings):-, I confirm that in my opinion the proposed development, when assessed against NPPF guidance and s66 (1) and s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, would have a neutral effect upon the significance of the setting of the adjacent listed building or conservation area. The site is set well back from the road and is screened by the street front building and by mature trees and in this part of the village the established pattern includes similar examples of this type of residential development

4.5 Conservation Manager (Ecology) has no objections subject to habitat enhancement being carried out in accordance with a recommended attached planning condition.

4.6 Land Drainage Manager has no objection subject to conditions

We are confident that an appropriate drainage system can be installed for the management of surface water runoff from this development without increasing flood risk to people and property elsewhere. This is on the basis that infiltration is promoted as far as practicable and this information is provided as follows :

- **A detailed surface water drainage design, including drainage layout drawings and demonstrating how discharges from the site are restricted to no greater than pre-developed rates.**
- **A detailed foul water drainage design, showing the location of the connection into the mains sewer.**
- **Evidence of groundwater levels a minimum of 1m below the base of any infiltration devices and/or unlined attenuation structures.**

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

- Details of provisions to protect the site against flooding during extreme events that may overwhelm the surface water drainage system and/or a result of blockage.
- Details of any outfall structures to Luston Brook.
- Confirmation of who will be responsible for the adoption and maintenance of the surface water drainage system.

4.7 Conservation Manager (Archaeology) has no objections

5. Representations

5.1 Luston Group Parish Council object

Luston Group Parish Council is opposed to the planning application on the grounds of housing density, the location of the site outside the settlement boundary and drainage. A May 2014 questionnaire undertaken as part of the neighbourhood development plan for Luston Group found that the overwhelming majority of people living locally want to see the settlement boundary retained and smaller developments which are restricted to 3-5 properties maximum. The seven houses proposed will be in small plots that are out of character with surrounding properties, and mean the houses are sited to overlook neighbouring properties such as Meadow View, The Hollies and Brick House. Drainage is a significant concern, as it is proposed that surface water run-off will drain into Luston Brook which overflowed in 2007 causing extensive local flooding to property. The proposal for surface water run off to use the brook will reduce the capability of the existing conduits through the village to cope at times of heavy or sustained rainfall. For these reasons, the parish council recommends the planning application is refused

Luston Group Parish Council object (following receipt of revised plans)

Luston Group Parish Council supports the development of the site in principle, but considers the planning application as it stands will lead to the over-development of the plot. The space available means the proposed houses will be in small plots out of character with surrounding properties, and will overlook neighbouring properties such as the Hollies. In addition, the draft neighbourhood development plan, based on a community wide questionnaire and extensive consultation, supports developments of up to 3-5 properties.

With regard to drainage, the parish council remains to be convinced that the solution(s) under discussion will be a) effective and b) properly maintained over time, and strongly urges that an effective drainage solution will require provisions to ensure its proper maintenance through a management company or adoption by Herefordshire Council or Welsh Water. It is vital that surface water run off from the site does not increase the flow of water into the brook at Luston, which overflowed in 2007 and flooded neighbouring properties.

To ensure it is properly maintained, the parish council also urges that the short access road to the proposed site is adopted by Herefordshire Council.

The parish council would like to understand why the planning application is taking such a long time to be determined. It has been more than a year since the parish council was first consulted on the planning application.

5.2 12 letters of objection and 2 of support have been received making the following points

Objection

- Out of keeping with historical context
- Loss of open space , loss of grazing area
- 4-5 dwellings as per Neighbourhood Development Plan
- Flooding from Luston Brook, viability of storage tank attenuation

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

- Dwellings overbearing and prosaic straight lined layout
- Overlooking and loss of privacy
- Contravenes space conventions i.e between dwellings and existing properties and between new dwellings in scheme
- Not sustainable location, only school and even if public house open not a facility
- Traffic speed is an issue, poor access
- Appeal and cost concerns should not prevent refusal

Support

- In line with Parish survey-what we need
- Good reduction from 14 to 7 dwellings but outside of settlement boundary

5.3 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=151584&search=151584>

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 2.3, 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.

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 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'*.

6.5 Irrespective of the weight to be ascribed to the Core Strategy housing supply policies, it is useful to review the application in context. Luston is identified as one of the rural settlements within the Leominster 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 Leominster rural HMA the indicative minimum housing growth is 14%. The minimum indicative growth target for Luston Group Parish between 2011 and 2031 is

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55 dwellings, with 17 commitments or completions and therefore this leaves a minimum residual number of 38 dwellings.

6.6 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. Luston Group Parish Council has not progressed the NDP. Accordingly, the Neighbourhood Plan is not presently sufficiently advanced to be attributed weight for the purposes of decision-taking and planning applications cannot, in these circumstances, be refused because they are potentially prejudicial to the neighbourhood plan.

6.7 However, and particularly until NDPs are adopted, RA2 is positively expressed insofar as housing proposals will be permitted where the four criteria of the policy are met. Moreover, the Inspector’s Main Modification 038 confirms that in the period leading up to the definition of appropriate settlement boundaries i.e. until such time as NDPs define a settlement boundary, the Council will *“assess any applications for residential developments in Figure 4.14 and 4.15 against their relationship to the main built up form of the settlement.”* Thus with the NDP not yet attracting weight, policy RA2 is key to assessment of planning applications that deliver housing in the rural settlements.

6.8 Policy RA2 states that housing proposals will be permitted where the following criteria are met:

- *Their design and layout should reflect the size, role and function of each settlement and 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; and/or result in development that contributes to or is essential to the social well-being of the settlement concerned.*
- *Their locations make the best and full use of suitable brownfield sites wherever possible.*
- *They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting.*
- *They 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.*

6.9 This proposal needs to be assessed against it can be seen that Policy RA2 as regards the context of the site, whether or not it is a sustainable location and makes a positive contribution to the settlement.

6.10 This application also needs to be determined in accordance with policies relating to the setting of a listed building and the designated Conservation Area, the biodiversity of the site, the means of access from the B4361 road and the impact on the amenity of residents living in the vicinity of the site.

6.11 The site is centrally located in the settlement of Luston and is, having regard to the NPPF and CS, a sustainable location as confirmed by its listing within RA2.

6.12 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. In providing a greater supply of housing and breadth of choice officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.

Heritage Assets

- 6.13 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.”*
- 6.14 Section 72(1) and(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states *“In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.*
- 6.15 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.
- 6.16 The proposal site is within Luston Conservation Area, a heritage asset and is within the setting of a listed building to the south (The Hollies, a grade II listed property) and therefore the proposal needs to be determined in accordance with Policies SS6 (environmental quality and local distinctiveness), LD1 (landscape and townscape), LD2 (biodiversity and geodiversity), LD3 (green infrastructure) and LD4 (historic environment and heritage assets) are broadly consistent with Chapters 11 and 12 of the NPPF.
- 6.17 This proposal adjoins the built form of Luston and is well contained within three established boundaries to the north (the public footpath) , the western boundary protected by a TPO and the southern boundary defined by trees and vegetation This is not an historic site in the sense that that it falls within the curtilage of a listed building and the proposal will have a neutral impact in this part of the Conservation Area and in turn the setting of the grade II listed building to the south of the site as confirmed by the Conservation Manager (Historic Buildings). It is also not of archaeological interest , as confirmed by the Conservation Manager (Archaeology). Therefore, the proposal provides seven well designed dwellings utilising complimentary materials that will preserve the amenity of this part of the Conservation Area and will respect the setting of a listed building to the south of the site. Given the less than substantial harm to the significance of a designated heritage asset the proposal is weighed against the public benefits as required by para 134 of the NPPF. In this case it is considered that the provision of sustainable housing together with jobs in the construction industry are material consideration in the economic dimension of the scheme.

Transport

- 6.18 It is stated in representations received that the existing means of access is not satisfactory. However, the proposed means of access is on the outside of a bend and maximises the visibility required for traffic passing through Luston at 30 mph. The Transportation Manager has no objections to the means of access. An issue raised by the Transportation Manager in relation to on-site parking provision and secure cycle storage has been addressed in revised plans. Therefore, the revised proposal provides a safe access and necessary parking/cycling facilities, as required by the provisions of Policy MT1 of Core Strategy.

Ecology

- 6.19 The main issue raised by the Council's Ecologist relating to the need for enhancement of bio-diversity as recommended in the appraisal supporting the proposal. Therefore, subject to further enhancement being carried out as recommended in a condition this proposal accords with Policy LD2 of Core Strategy.

Impact on Residential Amenity

- 6.20 Representations have been received in relation to the perceived impact on residential amenity from residents living in the new properties overlooking existing properties to the east and south and also that there is insufficient spacing between proposed and existing dwellings and indeed between proposed dwellings. The originally submitted plans have been revised such that first floor windows that would have overlooked Brick House and Meadow View have been removed. The dwellings sited along the southern boundary do not directly look into the existing property to the south and are sited sufficient distance i.e at minimum 9.6 metres away from the southern boundary such that adverse overlooking and overbearing, as claimed in representations, will not occur to the detriment of residential amenity. The distance between the two four bedroom properties is 17.4 metres which is again acceptable, particularly given the areas of private garden areas that are provided for each. Therefore it is considered that the scheme will accord with the provisions of Policy SD1 of Core Strategy

Surface Water Drainage

- 6.21 This is an issue that has protracted determination of this application however the Land Drainage Consultant is now satisfied that flood risk will not occur. Therefore, subject to conditions controlling water usage and rainwater harvesting, including the control of hardstanding now and into the future that this element of the scheme is addressed.

Summary and Conclusions

- 6.22 The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles. This is carried on in the provisions of the Core Strategy objectives which translate into policies encouraging social progress, economic prosperity and controlling environmental quality.
- 6.23 When considering the three indivisible dimensions of sustainable development as set out in the paragraph 14 of the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. The site is within the settlement of Luston. Also, there is not a 5 year housing land supply at the present time, it is concluded that, as Luston has been identified as a settlement for growth in Policy RA2 of Core Strategy, this proposal is not only environmentally acceptable in relation to this part of the settlement but it will also provide a modest contribution to the dwellings required given the stated shortfall in housing land supply. It is considered to be a sustainable location with very good access to a wide variety of services and facilities. This is with respect to the school 250 metres away reached by footpath and the public house on the opposite side of the B4361 road, in this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel) and choice of modes of transport.
- 6.24 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 of sustainability.
- 6.25 Whilst, the site is in Luston Conservation Area and adjoins a listed building, the scale and form of the proposed development will not result in the proposal having an adverse impact on the Conservation Area and adjoining listed building as confirmed by the Conservation Manager (Historic Buildings). Therefore, the proposal will lead to a less than substantial harm to the significance of a designated heritage asset and therefore accords with s66 (1) and s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 6.26 Additional traffic will join the B4361 however this road is capable of taking the increased traffic volumes without having an adverse impact on highway safety as confirmed by the Council's Transportation Manager.
- 6.27 Acceptable foul and surface water drainage can be provided. There is sufficient land available for the treatment of foul drainage and surface water drainage. The latter will require careful consideration and will be the subject of the prior approval of the planning authority.
- 6.28 Ecological issues can be addressed by submission of further details for the enhancement of biodiversity in and around the development site.
- 6.29 The residential amenity of residents living in the vicinity of the site will not be adversely impacted upon, given the orientation and siting of the dwellings to existing properties and will not result otherwise result in a development that is overbearing and detrimental to residents adjoining the site.
- 6.30 Officers conclude that there are no overriding landscape, highways, drainage, amenity and ecological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits in accordance with the provisions of the NPPF. It is therefore recommended that planning permission be granted subject to planning conditions.

RECOMMENDATION

That planning permission be granted subject to the following conditions and any other conditions recommended by officers:

- 1. A01 Time limit for commencement (full permission)**
- 2 B02 Development in accordance with the approved plans**
- 3 C01 Samples of external materials**
- 4 F14 Removal of permitted development rights**
- 5 F16 No new windows in specified elevations**
- 6 G02 Retention of trees and hedgerows**
- 7 G10 Landscaping scheme**
- 8 G11 Landscaping scheme implementation**
- 9 The recommendations set out in the ecologist's report from Worsfield and Bowen dated September 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

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

Reasons:

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

To comply with Herefordshire Council’s Policy LD2 of Herefordshire Local Plan – Core Strategy in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

- 10 H03 Visibility splays
- 11 H11 Parking – estate development (more than one house)
- 12 H21 Wheel washing
- 13 121 Scheme of surface water regulation
- 14 I16 Restriction of hours during construction
- 15 L01 Foul/surface water drainage
- 16 L02 No surface water to connect to public system
- 17 L03 No drainage run-off to public system
- 18 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

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework
- 2. The applicant needs to provide the following information in relation to Condition 13 above :

- A detailed surface water drainage design, including drainage layout drawings and demonstrating how discharges from the site are restricted to no greater than pre-developed rates.
- A detailed foul water drainage design, showing the location of the connection into the mains sewer.
- Evidence of groundwater levels a minimum of 1m below the base of any infiltration devices and/or unlined attenuation structures.
- Details of provisions to protect the site against flooding during extreme events that may overwhelm the surface water drainage system and/or a result of blockage.
- Details of any outfall structures to Luston Brook.
- Confirmation of who will be responsible for the adoption and maintenance of the surface water drainage system.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

