

AGENDA

Planning Committee

Date: **Wednesday 15 March 2017**

Time: **10.00 am**

Place: **The 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 22 February 2017.</p>	7 - 24
5.	<p>CHAIRMAN'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairman.</p>	
6.	<p>APPEALS</p> <p>To be noted.</p>	25 - 26
7.	<p>150930 - LAND AT HILDERSLEY FARM, HILDERSLEY, ROSS ON WYE</p> <p>Proposed development of approximately 212 dwellings including affordable housing, public open space and associated works.</p>	27 - 68
8.	<p>162891 - 11 HARTLAND CLOSE, BELMONT, HEREFORD, HR2 7SL</p> <p>(Retrospective) change of use of land to residential curtilage. Retention of garden room, decking, timber stairs and steps.</p>	69 - 84
9.	<p>163322 - LAND AT THE FIELD STUD FARM, POPLANDS LANE, RISBURY, LEOMINSTER, HR6 0NN</p> <p>Erection of a housing unit comprising of an independently accessed single storey one bedroom dwelling and a two bedroom dormer style bungalow.</p>	85 - 92
10.	<p>DATE OF NEXT MEETING</p> <p>Date of next site inspection – Tuesday 4 April 2017</p> <p>Date of next meeting – Friday 7 April 2017</p>	

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 22 February 2017 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, TM James, FM Norman, GJ Powell, AJW Powers, A Seldon, NE Shaw, WC Skelton, D Summers, EJ Swinglehurst and LC Tawn

In attendance: Councillors RJ Phillips and J Stone

102. APOLOGIES FOR ABSENCE

Apologies were received from Councillors EL Holton, JA Hyde, and J Hardwick.

103. NAMED SUBSTITUTES

Councillor GJ Powell substituted for Councillor JA Hyde and Councillor NE Shaw for Councillor EL Holton.

104. DECLARATIONS OF INTEREST

Agenda item 7; 163797 – Carey Bank, Kilforge Road, Carey

Councillors PGH Cutter and EJ Swinglehurst declared non-pecuniary interests as members of the Wye Valley AONB Joint Advisory Committee.

105. MINUTES

RESOLVED: That the Minutes of the meeting held on 18 January 2017 be approved as a correct record and signed by the Chairman.

106. CHAIRMAN'S ANNOUNCEMENTS

There were none.

107. APPEALS

The Planning Committee noted the report.

108. 163797 - CAREY BANK, KILFORGE ROAD, CAREY, HEREFORDSHIRE

(Change of use of part of paddock from equestrian to residential. Construction of new 3-bed dwelling with associated garaging, access and landscaping.)

The Principal Planning Officer gave a presentation on the application.

It was noted that the update sheet contained a typographical amendment to the informative at the end of the report.

In accordance with the criteria for public speaking, Mrs J Du Cros, the applicant, spoke in support of the application.

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

He made the following principal comments:

- There were a number of letters in support of the application. The applicants had made a significant contribution to the local community and were well regarded.
- In terms of detail, he commented that the application entailed replacement tree planting, and appropriate landscaping proposals. The property was well designed and would have no significant impact.
- National policy was to facilitate people continuing to live in their communities as they grew older. He considered that a number of core strategy policies could be interpreted to support the application which would provide accommodation to meet the applicants' future needs enabling them to continue to live in their community. It would also release a property for occupation by another family.

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

- Provision of accommodation for an ageing population was a national problem. The applicants' proposal to make provision for themselves should therefore be welcomed. A number of members expressed sympathy for this point of view.
- A view was expressed that the proposal was sustainable development...
- A suggestion was made that the council's policy should be reviewed to allow for account to be taken of social care needs. Balanced against this view was the need to protect against encroachment into the open countryside and the precedent that granting permission might set.
- The Conservation Manager (Landscape) had expressed concerns about the proposal. It was questioned why the applicant had not redeveloped the existing stables which the Conservation Manager had suggested would reduce the landscape impact. In addition, no consideration appeared to have been given to an extension to the existing property rather than a new building, or to a bungalow.
- The proposal was for a dwelling in the open countryside contrary to policy. Weight had to be given to the fact that the site was in the Wye Valley AONB. The proposed dwelling had a height of some 7.9 metres. As an elevated site in a highly protected landscape it would have a demonstrable and significant impact on the AONB that was not outweighed by the benefits of the development.
- The proposal was not compliant with the Little Dewchurch Neighbourhood Development Plan (NDP) to which the report stated significant weight could be attributed. The Committee should give due weight to the NDP. The Parish Council had not supported the proposal.
- The personal circumstances of the applicants were not a material planning consideration.

The Principal Planning Officer commented that the application was contrary to policy and outside the area designated for development. Accordingly to avoid cost to the applicants there had been no discussion about alternative design options. The applicant had not enquired about making an extension to the existing property.

In response to a motion that the application be approved the Development Manager commented that all parties, including the applicant, accepted that the proposal was contrary to policy. If the Committee wished to consider granting permission it needed to conclude that the application met the test that it was one of those exceptional applications that would scarcely ever be granted. He reiterated that the application was contrary to the NDP.

The local ward member was given the opportunity to close the debate. He reiterated his support for the application that would permit the applicants to continue to live in their community.

A motion that the application be approved was lost.

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

- 1. The proposal represents unjustified and unsustainable new residential development in an open countryside location contrary to Herefordshire Local Plan Core Strategy Policies SSI, SS7, SD1, RA2 and RA3, Little Dewchurch Neighbourhood Development Plan policy LD SB1 and the relevant aims and objectives of the National Planning Policy Framework.**
- 2. The proposal by its very nature and siting, scale and design would result in material harm to the character and appearance of the protected landscape, designated as an Area of Outstanding Natural Beauty, as it represents an unacceptable encroachment into the open countryside, contrary to Herefordshire Local Plan Core Strategy Policies SS6 and LD1, Little Dewchurch Neighbourhood Development Plan policy LD ENV1 and the relevant aims and objectives of the National Planning Policy Framework.**

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. The applicants were advised of these key policy issues during the pre-application advice stage. The issues are so fundamental to the proposal that it is not possible to negotiate a satisfactory way forward and due to the harms which have been clearly identified within the reasons for the refusal and the Officer's Report, approval is not possible.**

109. 162254 - LAND ADJACENT TO LITTLE WEIR, MIDDLETON ROAD, KIMBOLTON

(Proposed dwelling)

The Principal Planning Officer gave a presentation on the application.

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

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

He made the following principal comments:

- The application was a modest proposal in a quiet part of Kimbolton on land that had not been used for some 20 years.

- Neighbours and residents supported the proposal. The Parish Council had no objection. There had been 8 letters of support and no letters of objection.
- He did not agree with the Transportation Manager's comments. The road was very quiet, used by local traffic. Visibility was good for a country lane. The impact of one or two more cars would be minimal and not detrimental to highway safety. The new access would be an improvement.
- Kimbolton was identified as a settlement of focus for proportionate housing development and the proposal would contribute to the housing supply total.

In the Committee's discussion of the application the consensus was that the development was in open countryside and wholly contrary to policy as set out in the report.

The local ward member was given the opportunity to close the debate. He reiterated his view that there was merit in the application.

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

1. **The proposal is contrary to Policies SS1, SS4, RA3 and MT1 of the Herefordshire Local Plan: Core Strategy given the proposal site is outside the reasonable limits of Kimbolton in open countryside such that a choice of modes of transport and the requirement to achieve sustainable development in the National Planning Policy Framework (2012) cannot be achieved.**
2. **The proposed means of access does not have sufficient visibility splays, and accordingly the proposal would have an adverse impact on highway safety contrary to the provisions of Policy MT1 of the Herefordshire Local Plan-Core Strategy.**

INFORMATIVE:

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

(The meeting adjourned between 11.20 and 11.35 am)

110. 162824 - LAND AT BALANCE FARM, EYWOOD LANE, TITLEY, KINGTON, HEREFORDSHIRE, HR5 3RU

(Site for the proposed erection of 5 dwellings.)

The Chairman highlighted the statement in the update sheet that the application was now the subject of an appeal against non-determination. This meant the Council was not entitled to make a formal decision on the application, but instead confirmation was being sought of the matters upon which the appeal should be defended.

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.

The Development Manager added that the proposal was considered to be unsustainable development as a consequence of the failure to comply with policy MT1. He also proposed that Chapter 4 of the NPPF – promoting sustainable transport should be a ground for defending an appeal.

In accordance with the criteria for public speaking, Mr R Edwards of Titley and District Group Parish Council spoke in opposition to the Scheme. Mr D Morris, a local resident, spoke in objection.

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

He made the following principal comments:

- There was considerable local opposition to the application.
- As reflected in the representation from the Campaign to Protect Rural England (CPRE), included in the update sheet, there was a feeling that the applicant was circumventing obligations by manipulating the Council's procedures, damaging goodwill. When approval had been granted for 5 dwellings on an adjoining part of the site it had been understood that a buffer zone would be retained between the farm and Eywood park.
- He considered that the policy grounds for refusing the application should be strengthened, specifying the following: SS1, RA2, MT1, LD1 and LD4.
- He added that in terms of housing provision in the settlement area there were two settlements: Titley and Staunton on Arrow. To date of the minimum target of 23 dwellings, 11 had been identified in Titley and none in Staunton on Arrow. He considered that it should be recognised that there were a large number of farmsteads capable of being converted to dwellings meaning that there was strong potential for windfall sites to meet the minimum housing target.
- There had been two severe flooding incidents.
- The proposal was detrimental to the nearby listed buildings and Eywood Park.

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

- It was noted that an application for storage of caravans had been refused in 2008 on the grounds of landscape impact and highway safety. It was questioned why both these grounds were not relevant to the current application.
- It was also questioned why the strategic housing land availability assessment had assessed the site as brownfield land.
- Regard should be had to the comments of the Hereford and Worcester Gardens Trust as set out in the report.
- As the CPRE had identified, there was a lack of information with the application and the applicant appeared to have made no effort to engage with the local community.
- It was requested that, although not a statutory consultee, as a matter of course CPRE representations should be included in officer reports.
- The following grounds for defending an appeal were advanced building on those advanced by the local ward member: SS1, SS4, RA2 (points one and four and paragraphs 50 and 55 of the NPPF, LD1, LD4 (and paragraph 132 of the NPPF), SD4, LD2 and the Housing Supply minimum target for Titley had been met.

The local ward member was given the opportunity to close the debate. He reiterated his opposition to the application and his support for the additional grounds for defending an appeal.

The legal adviser commented that evidence would be required to support the proposed grounds for appeal. Accordingly it was proposed that officers should be given delegated authority to finalise the appropriate grounds for appeal.

Members requested that the Chairman and local ward member should be consulted as part of this process.

RESOLVED: That the Committee is minded to refuse the application and officers be authorised to defend an appeal based on the following grounds as they consider appropriate after consultation with the Chairman and local ward member: SS1, SS4, RA2 (points one and four and paragraphs 50 and 55 of the NPPF, LD1, LD4 (and paragraph 132 of the NPPF), MT1, Chapter 4 of the NPPF, SD4, LD2, and that the Housing Supply minimum target for Titley has been met.

111. 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: 22 February 2017

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

163797 - CHANGE OF USE OF PART OF Paddock FROM EQUESTRIAN TO RESIDENTIAL. CONSTRUCTION OF NEW 3 BED DWELLING WITH ASSOCIATED GARAGING, ACCESS AND LANDSCAPING AT CAREY BANK, KILFORGE ROAD, CAREY, HEREFORDSHIRE

For: Mr & Mrs Du Cros per Mr Dean Benbow, 21-22 Mill Street, Kington, Herefordshire, HR5 3AL

OFFICER COMMENTS

The final clause of the last sentence of the 'informative' (pages 36/37) should read that 'approval is not possible'.

NO CHANGE TO RECOMMENDATION

162824 - SITE FOR THE PROPOSED ERECTION OF 5 DWELLINGS AT LAND AT BALANCE FARM, EYWOOD LANE, TITLEY, KINGTON, HEREFORDSHIRE, HR5 3RU

For: Mrs Vaughan per Mr Alan Poole, Green Cottage, Brierley, Leominster, Herefordshire HR6 0NT

This application is now the subject of an appeal against non determination, this means the Council is not entitled to make a formal decision on this application, but instead is seeking confirmation of the matters upon which the appeal should be defended.

ADDITIONAL REPRESENTATIONS

The following additional representations have been received:

Marches Planning and Property Consultancy

This objection is made on behalf of residents of Titley.

It is made in view of deficiencies in the committee report, which while recommending refusal of the application, appears to support the proposed development. The report fails to address numerous material grounds for refusal of the application, it misdirects the committee by asserting that the proposals constitute "*sustainable development*" and is misleading in its interpretation of the National Planning Policy Framework (NPPF).

1) Sustainable Development

The report asserts at paragraphs 6.8 and 6.10 that the application site is "*sustainable*" and that the proposals constitute "*sustainable development*". It is wrong to do so because the proposals do not comply with the NPPF definition of sustainable development.

The procedure for determining whether or not development is sustainable is contained within

paragraph 14 of the National Planning Policy Framework. In **East Staffs Borough Council v. Secretary of State for Communities and Local Government (2016)** Mr Justice Green ruled that if a proposed development is in conflict with the local plan, it is not sustainable development.

He said:

“Paragraph [14] NPPF is the embodiment of the presumption and once that paragraph has been worked through and a conclusion has been arrived at that the proposal is inconsistent with the Local Plan, then there is no presumption remaining which can be relied upon in favour of grant... This is because, as per paragraph [12] NPPF, it is inconsistent with the Local Plan and the proposal should be refused.”

Decision-makers have discretion to approve development that does not accord with the local plan where there are strong material reasons to do so, *“but it does mean that the discretion does not incorporate a presumption in favour of approval and, moreover, the starting point is not neutral but is adverse to the grant of permission,”* Mr Justice Green said.

Justice Green’s judgement upheld the view of Justice Jay in **Cheshire East Borough Council v Secretary of State for Communities and Local Government [2016]** that *“there is no significant discretion for decision makers to apply a broader test of sustainable development operating independently of paragraph [14].”*

Having failed to carry out any assessment of whether or not the proposals in this planning application accord with the local plan, the case officer could not have concluded that they constituted *“sustainable development”* or that the site was *“sustainable.”* To assert that they are amounts to a mis-direction of the planning committee.

2) Paragraphs 6.1 and 6.2 of the report

Marches Planning asked the case officer to explain what is meant by paragraph 6.2 of the report, because it does not appear to make sense, but has had no response.

The paragraph apparently aims to set out the framework for making planning decisions. Having acknowledged at 6.1 the primacy of the development plan, 6.2 then appears to suggest that paragraph 14 of the NPPF contradicts this requirement where *“relevant policies are out of date”*. It misquotes paragraph 14 as saying: *“permission will be granted unless material considerations indicate otherwise - taking into account whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefit when assessed against the policies in **national policy** taken as a whole or **specific elements of national policy** indicate that development should be restricted.”*

The report emphasises the words *“significantly”* and *“demonstrably”* although they are not highlighted in the NPPF and the two sections shown here in bold have removed the word *“framework”* and referred instead to *“national policy”* and to *“specific elements of national policy”* instead of to *“specific policies in this framework”*. This may have been inadvertent but it is important for the committee to understand that the application should be judged against policies in the NPPF.

The committee report does not say whether or not Herefordshire Council can demonstrate a five year housing supply and so does not advise the committee as to whether its relevant housing policies are up to date (NPPF 49). It is unclear, therefore, why paragraph 6.2 recites this part of paragraph 14 or the policies listed at the top of the report include NPPF paragraph 49.

In the absence of any explanation from the case officer, the paragraph appears to suggest that, having concluded that the proposed development is *“sustainable”*, the committee would have to find significant and demonstrable harm in order to refuse it.

This is a mis-interpretation of the NPPF. As set out above, the courts have construed paragraph 14 as saying that where a proposed development is in conflict with the development plan (or where relevant policies are out of date, in conflict with the NPPF) the presumption is for refusal unless there are material reasons why it should be approved.

Marches Planning asked about the status of the housing land supply and Kevin Bishop advised the following:

“As we do not have a 5 year housing supply, policies are considered out of date and paras 14 and 49 kick in. However the courts have held that although out of date the weight that they should receive in the planning balance is a judgement for the decision maker.”

Whether or not local plan policies can be applied where a council cannot demonstrate a five-year housing supply rests entirely upon the extent to which they accord with the NPPF: **R (Wynn- Williams) v. Secretary of State for Communities and Local Government (2014)**.

Given that the Core Strategy has been found to be in conformity with the NPPF, only specific policies such as those setting settlement boundaries or allocating sites for residential development are relevant and, therefore, out of date.

Furthermore, there is an important footnote to NPPF paragraph 14 (footnote 9), which the committee report has failed to note. This specifies the national policies where development is restricted and includes policies protecting designated heritage assets. Where a development would harm a heritage asset or its setting, it is not sustainable.

3) Harm to Heritage Assets

The application site is adjacent to the Grade II listed Eywood Park - a registered park and garden - and to Grade II listed Balance Farmhouse and its curtilage-listed barns.

Planning authorities have a duty under S.66 of the **Planning (Listed Buildings and Conservation Areas) Act 1990** to have special regard to the requirement to preserve the setting of listed buildings. The courts have interpreted this as a requirement to attach *“considerable importance and weight”* to the impact of any development on a listed building.

The report quotes the consultation response from the Conservation Manager at 6.6 as follows

“The site to the east of the gate piers and lodge can be viewed as within the settlement boundary and therefore potentially suitable for development. Its position is set down below the roadside, is well screened and adjacent to barns which have already been converted for residential use. In this location I do not consider that further development would necessarily have a detrimental impact on the character of the village or on the nearby listed dwelling, Balance Farm.”

The conclusion that further development would not *“necessarily have a detrimental impact”* on the listed building, does not amount to any analysis of the impact of the development and does not suggest that any - let alone considerable - weight has been attached to the potential harm to the listed building or its setting. The registered park and garden is not even mentioned.

And there is no settlement boundary - Titley is in the process of developing its Neighbourhood Development Plan and the parish council has made clear in its objections that this amount of development on the site is unlikely to be supported.

The committee report appears to rely on the fact that the application site is included in the SHLAA as evidence that there would be no harm to the heritage assets, although the SHLAA specifically requires an assessment of heritage impact (see appendix 2). The

SHLAA also makes clear that inclusion of a site is no indication that permission would be granted, saying the following:

“The inclusion of a site within this document does not imply that the Council would necessarily grant planning permission for residential use. Similarly, the exclusion of sites from the study does not preclude the possibility of planning permission for development being granted.”

Not only does CS policy LD4 still apply where the council cannot demonstrate a five year housing land supply, LD4 is in strict accordance with NPPF Paragraph 132, one of the policies referenced by Footnote 9.

If an application is in conflict with LD4 and/or paragraph 132 it is not sustainable development.

Neither the conservation officer nor the committee report have demonstrated that the proposals conform with these policies.

4) Conflict with RA2 and LD1

The application site constitutes less than one tenth of the piece of land included in the SHLAA (appendix 2) and along with the permission already granted for five houses on adjoining land - under delegated powers and with even less assessment than in this case - it would create a housing development of ten houses, in addition to the seven residences quite recently created in the barns adjoining Balance Farm.

The parish council and others have objected that the scale of the development is disproportionate to the size of the settlement. The objections have been cited in the report, but not addressed. They are a material consideration and the report should explain why it has not given them credence.

The supporting text to CS Policy RA2 says this about the settlements identified in Tables 4.14 and 4.15 of the CS (Titley is in table 4.14):

Within these settlements carefully considered development which is proportionate to the size of the community and its needs will be permitted.”

And the policy itself says:

Housing proposals will be permitted where the following criteria are met:

- 1. 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.*
- 4. They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.*

The RA2 policies are consistent with NPPF paragraph 50, requiring planning authorities to:

- *identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand;*

And paragraph 55:

To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

The SHLAA suggests that the - much larger - site may be suitable for 20 houses - subject to the qualifications set out above. It says that any development on this site should be “*sensitively designed*” and although the design would be left to the reserved matters stage, it is hard to see how crowding ten houses into about 1/6 of the site could be considered sensitive.

The SHLAA acknowledges that the village has a dispersed settlement pattern and so concentrating ten houses into this small area (and leaving a much larger site available for further development) would conflict with CS policy RA2 , which requires that design and layout reflect the size, role and function of each settlement.

CPRE, whose objection is not referenced in the committee report, says the development “*would be a visual intrusion in a landscape of rolling pasture land with occasional ploughed fields and woodland.*”

The committee report does not make any assessment of the impact of the proposals on the landscape and makes no attempt to explain why CPRE’s objection on landscape grounds was disregarded. The proposals are in conflict with Core Strategy Policy LD1 and, so once again, could not be construed as sustainable development.

Policy LD1 – Landscape and townscape

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;*

A 2007 application to store caravans on this site was refused on grounds of landscape impact, unsustainable location and highway safety. The committee report, cites this decision but makes no attempt to reconcile the apparent conflict between this refusal and the lack of concern about landscape impact and the sustainability of the location in this case.

One final anomaly to note is that the SHLAA assesses this site as brownfield, when it is evidently agricultural land. This raises a question as to why this site is in the SHLAA at all.

Appendix 1: NPPF paragraph 14

14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, 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.⁹

For decision-taking this means:¹⁰

- approving development proposals that accord with the development plan without delay; and

- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse 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.⁹

Footnote 9

9 For example, those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.

Appendix 2: SHLAA Assessment and Plan

Settlement Name	Titley	Site Ref	HCAA/153/002	Post Code	HR5 3RU
Site Address	Land at the Balance Farm	Information Source	Call for sites		

Landscape and Historic Environment information

Landscape Sensitivity: Low - Moderate
 Landscape Capacity: Moderate - High

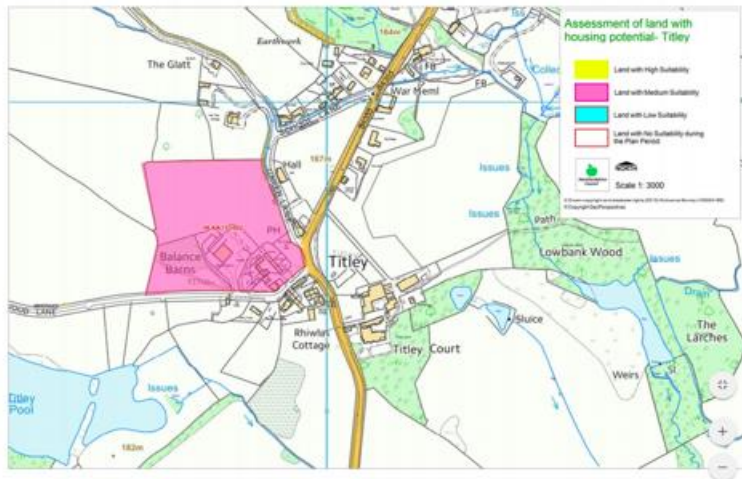
Sensitivity & Capacity Analysis: The existing village appears to have a dispersed settlement pattern, the scale of development appropriate to the village is therefore a consideration. The historic park adjacent to the Western boundary is marked by a gatehouse, the topography of the site is low but consideration as to how any proposals would relate to both the Historic Park & Garden and the farmhouse with outbuildings would be required. The Northern section of the site is arable field with a rolling topography that is at the Northern extremity of the village and relates to the open countryside.

Site probability

Medium potential

Justification

There is potential for a sensitively designed scheme to come forward where the existing buildings are situated. The historic park on the western boundary, the listed farmhouse and its curtilage should be taken into account should a scheme come forward. The BAP site should also be avoided.



Herefordshire Campaign to Protect Rural England (CPRE)

On behalf of Herefordshire CPRE I sent, early in December, a preliminary letter of **objection** to this application. I now wish to add a more detailed set of reasons for our strong **OBJECTION** to this application.

The principal reasons for objection are:

- Extreme paucity of information
- Suitability of the location
- Environmental and visual impacts
- Proximity to heritage assets
- Traffic
- Planning Obligations

I said in my previous letter that in my view this application is woefully short of information and barely warrants being termed an application. Much the same observation could have been made of the application **No: 160581**; I am astonished that that one was approved so readily.

Location.

The location map is little more than an outline sketch of the site with no information as to its relationship with the location of the five adjacent dwellings that have been approved. Nor is there any indication of how the site might be developed without degrading the immediate environment of existing dwellings.

I understand that Herefordshire Council needs to meet housing targets and that Titley is categorised in the **Core Strategy RA2** as a village where proportionate housing development will be appropriate. But that does not require that dwellings of any type will be allowed anywhere an applicant specifies that land is available.

CS 4.6.12 *“All settlements identified (includes Titley) will have the opportunity for sensitive and appropriate housing growth” ..and..” particular attention will be given to ensure that housing developments should respect the scale, form, layout, character and setting of the settlement concerned”.*

4.8.20 *“Housing proposals will be expected to reflect the range that is required for the settlement concerned.”*

These two quotes show that proposals for new housing need to be justified in terms of the proposed location and the types of dwellings. They form part of the Council’s strategy to ensure that speculative development without acceptable justification does not occur. The strategy is clearly laid out in **Policy RA2** with its four distinct criteria that are required to be met if proposals for development in rural areas are to be approved.

The application contains no statements that meet the criteria of the relevant **Core Strategy Policies**.

The applicant has made no attempt to argue a case for what is proposed other than to describe the site as redundant farm land. Since the applicant’s agent is experienced in Planning procedures there must have been a conscious decision to omit any information that might support the application and to **give no reason for the omission**.

Environmental and Visual Impacts.

No Environmental or Visual Impact Assessments are provided despite what could be a housing estate of at least ten dwellings if this application were to be approved adjacent to the earlier one. The ten would represent a cluster of a considerable size, not existing elsewhere in Titley village. The site itself lies on the border of Eywood Park and would be a visual intrusion in a landscape of rolling pasture land with occasional ploughed fields and woodland.

LD1 “Development proposals should demonstrate that the character of the landscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas...”

The applicant has made no attempt to comply with this policy.

Heritage assets

LD4 Historic environment and heritage assets.

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

1. Protect, conserve, and where possible enhance heritage assets and their settings...”

Not only is there no attempt by the applicant to comply with this Policy, but the adjacent Listed Grade 11 Eywood Parkland is not even mentioned. Titley Court is situated across the road from the site.

The principal access route to Eywood is the lane that will provide the access route to the development site.

Traffic

The lack of information extends to the absence of any mention of cars, car parking, garages, provision for cyclists and safe passage for pedestrians who would be residents on the development.

Ten dwellings could well produce 20 vehicles owned by residents; the lane would also need to accommodate refuse lorries and delivery vans etc. Eywood Lane is narrow with buildings on either side up to the site entrance. There is no pedestrian path or cycle track. Vehicles coming and going from this new development would be added to those from exiting adjacent housing and also from visitors to Eywood Park and dwellings on the estate as well as farm vehicles and horse riders. Eywood Lane seems to be unsuitable for a large increase in vehicular traffic.

Local people have commented on the difficult access onto the lane from the main road, the B4353, and the Council’s Transport Officer clearly has concerns.

Driving out of Eywood Lane and turning right across the main road is hazardous because of very limited visibility.

Policy MT1 requires:

4. *“... that there should be safe entrance and exit, have appropriate manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide access for the emergency services”*

The application contains no information as to how there will be compliance with this Policy.

Drainage and water

The application contains no information as to the hydrological nature of the site, the permeability of the land, the level of the water table or proposals for drainage and removal of foul water and rain water.

Policy SD3 Sustainable water management and water resources require assessments to be made. In the absence of any such it is not possible to decide whether or not the site could be developed satisfactorily.

Ten dwellings and associated hard standing, driveways etc all reduce the ability of an area to absorb water and thereby add to local flood risks.

Obligations

The Planning Obligations Supplementary Planning Document is clear about the subdivision of sites by applicants to avoid the delivery of affordable housing and 106 contributions.

Para 3.2.8 states that affordable housing will be required in the following circumstances:

- *Where the Council reasonably considers that the development of a site has been phased, or a site sub-divided or parcelled in order to avoid the application of the affordable housing policy, whether in terms of number of units or site size. In these circumstances the whole site will be assessed; or*
- *Where the Council reasonably considers that a development scheme has been specifically designed to fall under the threshold or a site's potential is not being fully realised; or*
- *If having had a scheme approved, a subsequent proposal for additional housing units brings the cumulative total over the threshold.*

At the end of last year (2016) Herefordshire Council applied this principle to **Application No: 161329**, Land South of Kings' Acre Road, Swainshill HR4 0SR. The Council considered that the applicant had submitted one application for housing that had been approved, swiftly followed by a second application for more housing on the same field and that this was a deliberate subdivision of the site which if successful would have circumvented the requirement for a 106 agreement and affordable housing.

A similar situation is presented now by the applicant in this application.

Application No 160581 for 5 x 4bedroom houses was approved in July 2016.

The present application was submitted two months later, in September, on another section of the same site. It appears to be a blatant attempt to circumvent obligations by manipulating the Council's procedures.

HCPRE **objects** very strongly to such behaviour and urges the Council to ensure that if minded to approve this second application the appropriate obligations are placed as clear and firm conditions on the approval.

No calculation of the density that will be on the site if ten dwellings result from this application. If minded to approve, the Council could require that one further dwelling be added to bring the number over the threshold when an affordable house would be provided.

Conclusion

It is difficult to consider this application as a serious submission. The applicant has not supplied the most minimal essential information, made no assessments of the impact of such a development and appears to assume that none are required. If this application is allowed the decision would be an obvious candidate for seeking a judicial review.

On behalf of HCPRE I submit the application should **not** be allowed.

OFFICER COMMENTS

In response to the comments about heritage assets the Historic Building officer adds

Further to the response from Marches Planning Consultancy I reiterate my stated opinion that proposed residential re-development of the site at Balance Farm would in principle be acceptable in terms of its impact on the setting of the nearby listed building and registered park. In coming to this opinion the application site has been assessed against advice given in Section 66(1) of the Planning (Listed buildings and Conservation Areas) Act 1990, section 12 of the National Planning Policy Framework, heritage policy LD4 of The Core Strategy and Historic Environment Good Practice Advice in Planning: Note 3 , The Setting of Heritage Assets (Historic England 2015).

The proposed site is set considerably lower than the road and is also well screened by mature planting. The site contains farm buildings which have no architectural or historic interest – they are modern structures of a non- traditional scale and design.

It is not possible to see the site when viewed from the registered parkland and therefore in my opinion it makes no contribution to its character nor would any development be likely to affect its setting. As such replacement of the modern farm buildings with smaller scale dwellings will have neutral impact on its setting or interest.

In respect of the impact on the setting of the listed building, removal of non –traditional agricultural sheds must be regarded as beneficial. Replacing these with a well- designed residential development has the potential to make a positive contribution to the local character and distinctiveness of the village, and thereby would enhance the setting of the listed building.

In terms of the housing land supply position the council can currently demonstrate a 4.39 yr supply.

In principle RA2 settlements are by definition considered to be sustainable locations. This is an outline application with all matters reserved for subsequent approval. Should the appeal be successful the outstanding matters will be considered at that stage and can address those issues raised in the representations.

Strictly since the proposal is considered to be contrary to policy MT1 of the Core Strategy it cannot be considered to be sustainable development and is thus contrary to presumption in favour of sustainable development within the NPPF and Core Strategy

CHANGE TO RECOMMENDATION

The Committee is asked to indicate that it is mindful to refuse the application as unsustainable development as a consequence of the failure to comply with policy MT1.

MEETING:	PLANNING COMMITTEE
DATE:	15 MARCH 2017
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 163592

- The appeal was received on 15 February 2017
- 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 J & E Fury
- The site is located at Lea Villa Residential Park, Lea, Ross on Wye, HR9 7LQ
- The development proposed is Application for a Lawful Development Certificate for a proposed use or development – use of land for the stationing of 4 caravans.
- The appeal is to be heard by Written Representations

Case Officer: Miss Emily Reed on 01432 383894

APPEALS DETERMINED

Application 160624

- The appeal was received on 10 November 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Lawful Certificate
- The appeal was brought by Mr S Williams
- The site is located at Wyeside Eign, Outfall Works Road, Hereford, HR1 1XY
- The development proposed was Certificate of lawful development for the existing use of the land as B2 and B8 use.
- The main issue was whether the Council's decision to refuse to grant a LDC was well founded.

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

Decision:

- The application was Refused under Delegated Powers on 7 July 2016
- The appeal was Dismissed on 8 February 2017

Case Officer: Mr M Tansley on 01432 261815

Application 153778

- The appeal was received on 31 October 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 Mrs Collett
- The site is located at Land adjacent to Tudor House, Moors Lane, Brimfield, Herefordshire
- The development proposed was proposed erection of one house with garage.
- The main issue was whether this is an appropriate location for residential development, bearing in mind planning policy objectives.

Decision:

- The application was Refused under Delegated Powers on 22 April 2016
- The appeal was Dismissed on 17 February 2017

Case Officer: Mr Andrew Prior on 01432 261932

Application 160305

- The appeal was received on 25 November 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 Jon Tainton
- The site is located at Woods Transport Yard, Linley Green, Bringsty, Worcestershire
- The development proposed was Development of five 5-bed dwellings with double garages and associated change of use.
- The main issue was whether the proposal would result in a sustainable form of development having regard to development plan policy and the prevailing character of the area.

Decision:

- The application was Refused under Delegated Powers on 23 March 2016.
- The appeal was Dismissed on 21 February 2017.

Case Officer: Mr Fernando Barber-Martinez on 01432 383674

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



MEETING:	PLANNING COMMITTEE
DATE:	15 MARCH 2017
TITLE OF REPORT:	150930 - PROPOSED DEVELOPMENT OF APPROXIMATELY 212 DWELLINGS INCLUDING AFFORDABLE HOUSING, PUBLIC OPEN SPACE AND ASSOCIATED WORKS AT LAND AT HILDERSLEY FARM, HILDERSLEY, ROSS ON WYE For: The Owner and/or Occupier per Mrs Kate Gapper, Park House, Greyfriars Road, Cardiff, CF10 3AF
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=150930&search=150930
Reason Application submitted to Committee – Strategic Application	

Date Received: 30 March 2015

Ward: Ross East

Grid Ref: 361247,223828

Expiry Date: 24 February 2017

Local Member: Cllr PGH Cutter

1. Site Description and Proposal

- 1.1 The application site is located on the south-eastern edge of Ross-on-Wye. The A40 forms part of the northern boundary of the site. The site lies to the west of a complex of buildings that comprise Hildersley Farm. A number of the buildings have been converted to commercial use and are accessed via an existing vehicular access that bounds the site to its north eastern corner. Residential properties lies to the north west and the western boundary is shared with the Ministry of Defence firing range.
- 1.2 The land is a combination of open agricultural land, former playing field and an area of planted woodland and amounts to 10.9 hectares in total. It is generally flat with the land beyond its southern boundary rising to an area of woodland that is part of an Unregistered Parkland that is Penyard Park. The woodland is also a replanted Ancient Woodland. The Wye Valley Area of Outstanding Natural Beauty (AONB) lies approximately 200 metres to the west and Hill Court Registered Park and Garden lies 3.5km to the south-west.
- 1.3 The application is made in outline with all matters reserved for future consideration apart from access. It has been amended a number of times since its original submission and is now described as being residential development of approximately 212 dwellings including affordable housing, public open space and associated works. The number of dwellings proposed has been reduced from an original submission of up to 250. This has been in response to objections made by the MoD in respect of the site's proximity to their firing range. As a consequence the area of open space proposed has been increased in size in order to maximise separation between it and the dwellings.

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

- 1.4 The proposed means of access is located in the same position as the access referred to above. The plans show the provision of a priority junction and this is supported by a detailed Transport Assessment and a Stage 1 Road Safety Audit that was completed on request following initial comments from the Council's Transportation Manager. The application site also includes a track which connects the site at its north western corner to the A40. The intention is that this will be used as a pedestrian and cycle link to connect the site to the rest of the town. The illustrative masterplan (below) shows these aspects of the scheme.



- 1.5 The application is supported by a range of technical studies, many of which have been reviewed/amended during the course of the application in response to responses received during the consultation stage. These studies include:-

- Planning Statement
- Design & Access Statement
- Statement of Community Involvement
- Transport Assessment
- Framework Travel Plan
- Stage 1 Road Safety Assessment
- Flood Risk Assessment and Drainage Strategy
- Extended Phase 1 Habitat Survey
- Bat Activity Report
- Dormouse Survey Report
- Noise Survey Report
- Heads of Terms Agreement (a copy of which is appended to this report)

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:-

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
SS7	-	Addressing Climate Change
RW1	-	Development in Ross-on-Wye
RW2	-	Land at Hildersley
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
E2	-	Redevelopment of Existing Employment Land and Buildings
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
ID1	-	Infrastructure Delivery

2.2 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction	-	Achieving sustainable development
Section 6	-	Delivering a wide choice of high quality homes
Section 7	-	Requiring good design
Section 8	-	Promoting healthy communities
Section 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

2.3 National Planning Policy Guidance (NPPG)

National Planning Practice Guidance was launched in March 2014, consolidating and updating previous guidance in a single online location. The guidance links to national policy in the NPPF and refers to matters relevant to this application, including the assessment of flood risk and noise. With regard to the latter it states:

Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- *whether or not a significant adverse effect is occurring or likely to occur;*
- *whether or not an adverse effect is occurring or likely to occur; and*
- *whether or not a good standard of amenity can be achieved.*

In line with the Explanatory note of the noise policy statement for England, this would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given

situation. As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy.

Policy RW2 – Land at Hildersley

2.4 The policy underpinning the Hildersley Core Strategy allocation is quoted in full below:

The strategic residential development on land to the south east of Ross-on-Wye at Hildersley will be required to include the following to deliver a comprehensively planned sustainable urban extension of the town:

- *a minimum of 200 new homes at an average density of up to 35 dwellings per hectare, comprising a mix of market and affordable house sizes and types that meet the requirements of Policy H3 and the needs identified in the latest version of the Herefordshire Local Housing Market Assessment;*
- *a target of 40% of the total number of dwellings shall be affordable housing;*
- *the provision of and contributions towards any identified need for new/improved community facilities/infrastructure improvements. This shall include contributions towards the provision of: additional pre-school places; additional classrooms at John Kyrle High School for secondary, post 16 and youth/community infrastructure and further special educational needs provision;*
- *the provision of a sport/recreation space either on or off site as an alternative to the existing on site John Kyrle High School playing field;*
- *the creation of new green infrastructure within the development area to benefit residents, local bat populations and other flora and fauna;*
- *new pedestrian and cycle links from the area towards the town and nearby employment sites, to ease road congestion and limit CO2 emissions;*
- *appropriate mitigation measures to be implemented, which ensure that acoustic and safety issues relating to the proximity of the adjacent firing range are satisfactorily addressed;*
- *adverse impacts on the Water Source Protection Zone should be avoided or mitigated, including through the incorporation of sustainable urban drainage solutions such as rain gardens and swales; and the production by the developer of a Surface Water Management Plan;*
- *avoid and mitigate adverse impacts from noise and air pollution and vibration (during both construction and occupation of new homes) on the River Wye SAC, Wye Valley Woodlands SAC and the Wye Valley and Forest of Dean Bat Sites SAC; and*
- *development of bespoke, high quality and inclusive design, including accommodation that will meet the needs of older persons and that contributes to the distinctiveness of this part of Ross-on-Wye and enhances the setting of the adjacent Wye Valley Area of Outstanding Natural Beauty.*

2.5 Neighbourhood Planning

Ross Town Council have identified their Neighbourhood Area and are currently in the process of drafting a Neighbourhood Plan. It has yet to reach Regulation 14 stage and consequently can be afforded no material weight in the determination of this application.

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

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/core-strategy/adopted-core-strategy>

3. Planning History

- 3.1 There is no planning history specifically relevant to the application site but the following relates to an adjacent site and is pertinent to these proposals:

161659/F – Erection of five dwellings on land off Gloucester Road, Ross-on-Wye – Approved under delegated powers on 1st August 2016

- 3.2 The application was dealt with by one of the Council's other case officers. The application is notable for the fact that it proposes development within the same proximity as this scheme to the firing range and did not attract an objection from the MoD.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water – No objection subject to the imposition of conditions

Internal Council Consultations

- 4.2 Transportation Manager

Comments in respect of the originally submitted application as follows:

The applicant is required to complete a Stage 1 Road Safety Audit prior to the determination of the application.

Access to the site, crossing points on the A40 north are linked to the Model farm (MF) application, the MF scheme takes priority as this approved footpath improvements required to Hildersley and the Town and Country Trail. The desire line should be towards the link onto the proposed cycle footway and not from the access.

S106

The site is on the outskirts of Ross-on-Wye, the occupants will require access to facilities in Ross which has issues around traffic and congestion. Through the TA, improvements required should be identified; these should include the sustainable transport requirements to provide alternatives to using the car. Pedestrian, cycle and public transport infrastructure will improve the situation.

The schools are located north of Brampton Street, Ledbury Road and off Walford Road. The doctors and hospital is off Alton Street, leisure and employment are located centre and north of the town centre.

Improvements to Pedestrian and cycle routes should be promoted to improve connections to school, employment (both in the Town Centre and to the Over Ross development), hospitals, doctors and leisure activities.

The desire line should be through the site to connect up to the proposed shared cycle footway, if this cannot be met then improvements to the existing network should be sort.

S016 Schemes -

- Full shared use access to be included via Fire Station (The Mead) path with existing A40/B4260) footpaths upgraded to shared use through to Town & Country trail (shown as Billy's Cycle path on figure 3) and Alton Road (as part of proposed site development)
- Contribution to upgrade A40 southern footpath to shared use between Fire Station and eastern access point (marked by the blue arrow) by Hildersley Farm to tie in with Model Farm active travel accesses. (0.5km = £100k)
- Upgrade shared use through Town and County Trail and Alton Road with the potential to formally surface and light the route. Approx. £500,000
- Uphill cycle lane on Ledbury Road missing from plan as part of safer route to John Kyrle High School network Approx. £62000
- Upgrading the bus stops for Hildersley/Model Farm including real time information to full specification bus stops. £7000 to £8000 per stop. (A scheme is to install real time information at the bus stops however it would be the basic spec of a solar power panel). The proposed improvements to bus stops should also include secure cycle parking (4x£1k).
- Upgrading of the existing bus stops shelter adjacent to the fire station. £7000 to £8000 per stop. The proposed improvements to bus stops should also include secure cycle parking (4x£1k).
- Contribution to formal crossing at A40 end of Town and Country trail to allow access to Hildersley – will also link in with a northbound shared use path along the A40 toward the emerging Tanners Lane development. This will also enhance the Safer Route to School network mentioned in 1 from this development. (Toucan = £80k)
- TRO for waiting restrictions around Ashfield Park primary school. - £5000 for TRO to be undertaken not including public notices advertisement, signs and road makings. Approx. £7000

4.3 The applicants highway consultants subsequently completed a Stage 1 Road Safety Audit and the Transportation Manager has made the following additional comments:

The main factor which has come out of the Road Safety Audit is the requirement of the previously shown footway and cycle way connection via the area to the west of the site adjacent to the Town and Country route. If this connection is not going to be provided then other routes for pedestrians and cyclist should be provided with a connection through the site should be provided.

The applicants/agents need to decide on which one is most suitable design (either a simple T junction or a ghost island) based on the points raised in the stage one Road Safety Audit. As the Highway Authority we would prefer the simple T junction. The submitted plans based on the Road Safety Audit needs to give a clearer view of the proposals. The following points are also noted:

- A Traffic Regulation Order will be required to be undertaken
- Bus shelter can either be relocated outside of the visibility splay with the bus stop staying in the same position or the shelter can be re-designed to provide a cantilever shelter.
- Agreed, however clarification is required on the location of farm access and commercial access needs to be provided as the submitted plans have conflicting information.

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

- The applicants/agents need to decide on which type of junction is most suitable based on the Stage one Road safety audit.
- Clarification is required on the location of farm access and commercial access as the locations of the farm access shown on previously submitted plans is now the location of footways and drop crossings on the plans submitted with the RSA.
- Clarification is required on the situation with the area to the west of the site adjacent to the Town and Country route as a proposed footway/cycleway. If this connection is not going to be provided then a better footway/cycleway connection should be designed/built to the uncontrolled crossing point and bus stop crossing facility e.g. drop crossings and footways. Plan JNY8251-07-C - There is no provision for pedestrians to gain access to the bus stops. Eastern footway and drop crossing points (east and west) should be provided
- As long as the link to the Town and Country trail is provided as a footway and cycleway link then the provision of the cycle way infrastructure can be delivered by model farm e.g. off slips, corduroy tactiles and a Toucan crossing., However the controlled crossing facility should still be provided.

Environmental Health & Trading Standards Manager

4.4 Noise

I have had opportunity to consider the applicants submission in support of the revised layout, and also the concerns expressed in objection to this proposal. I would take this opportunity to make the following observations :-

- It cannot be disputed that shooting at the range is a noisy activity and that sound generated by such could be problematic to nearby residents.
- There appears to be little accepted guidance on what level of noise from the range would be acceptable. The objectors (MoD) have made reference to the Chartered Institute of Environmental Health's Guidance on the control of noise from Clay Target Shooting 2003. If this guidance was to be taken then the noise levels from shooting are likely to be too high. It is my view however that this guidance is clearly inappropriate in this situation because peoples perceptions of the acceptability of an activity vary , in particular if there is some perceived benefit they are more tolerant . This is an accepted principle for other situations where a pecuniary interest reduces the level of protection required e.g. wind farms. I would suggest that for most people there is a perceived benefit which will make them more amenable to the activities of the military rather than for noise caused by shooting for personal pleasure.
- The Local Authority has received little evidence in the form of neighbour complaints that noise from the shooting range is problematic. There are three (3) recorded that were specific about shooting at the range plus one 1 that mentioned along with other matters gun noise in the Hildersley area. The latest of the complaints refers to the night time activity that took place on the 30th August 2016, this being the only report of night time activity , the other two (2) identified activity in the late evening. This may be because the use of the range is already constrained by requirements not to cause nuisance to existing nearby residences. This would be in accordance with the Mod Corporate Environmental Protection Manual, Leaflet 4.2 -Environmental Noise. I can advise that the powers available to the LA to address noise nuisance exclude noise caused by military activity and any such complaints should properly be addressed to the MoD who may have further information on the level of complaint.

- World Health Organisation provides advice which is reflected by BS 8233:2014 - Guidance on Sound Insulation and noise Reduction for Buildings on noise levels both inside and outside of dwellings including the advice that levels for individual sound events should not exceed 45dBL_{MAX} at night. The BS8233 does not provide specific advice on sound levels but recognises that regular individual noise events can cause sleep disturbance and that sporadic events could require separate values. (part 7.7.2 note 4) The technical note from KJ Gayler dated 2nd December 2016 advised that internal levels of less than 45dB maximum individual noise events caused by the discharge of weapons on the shooting range can be achieved in bedrooms. This view is supported in their response on the 7th February 2017 to the DIO/MoD comments made in their letter dated 24th January 2017.
- I would suggest that the proposed dwellings will provide better protection inside than the existing and it is possible that noise levels inside the new would be better than the existing.
- The World Health Organisation and BS8322:2014 both provide advice on acceptable noise levels to outside 'amenity areas' i.e. gardens etc. These levels are set using an L_{Aeq} descriptor over often likened to an average over a the daytime period, 16 hours, 7am -11pm . The levels reported by the noise assessments undertaken on behalf of the Mod /DIO indicate that these levels may be exceeded during training activities on the shooting range. It is my understanding and view that this advice refers to ongoing, continual noise levels rather than for short restricted periods as would be expected with a shooting range. BS8322:2014 also allows for exceedance of these levels where there is a recognised need for housing development.

In conclusion it is clear that there is some concern as regards as the effect of noise from the shooting range on future residents of this proposed housing development. In my opinion noise at night is of most concern in that even if this is an infrequent occurrence it has the greatest potential to have an unacceptably adverse effect on residents. The application asserts that there are design mitigation measures available to ensure that World Health Organisation night noise levels can be met in bedrooms, and therefore subject to a Planning Condition requiring that this is done; I do not wish to raise an objection to this proposal.

I would suggest that a condition based on the following is attached to any permission

Prior to the commencement of any development written approval must be gained from the Local Planning Authority for a scheme of noise insulation and reduction measures for the proposed housing development. Any such scheme must ensure that sound levels in bedrooms of less than 30dBL_{Aeq} and 45dBL_{Amax}. can be achieved . The approved scheme must be implemented.

4.5 Contaminated Land

I refer to the above application and would make the following comments in relation to contaminated land issues only.

There appear to be a couple of areas of 'unknown filled ground' within the site, together with its former orchard use which, in some circumstances, may be considered potentially contaminative. Given the residential nature of the proposal I would recommend conditions be appended to any approval to demonstrate that the site is safe and suitable for use as required by the NPPF.

4.6 Strategic Planning Manager

The Herefordshire Local Plan Core Strategy 2011-2031 (adopted in October 2015) identifies a strategic housing location to the south east of Ross at Hildersley, on land subject of this planning application. This land is required to accommodate a minimum of 200 new homes. Therefore the proposals accords with this strategic policy objective set out in policy RW1

(development in Ross-on-Wye). Previous consultation comments to the original superseded planning application made in October 2015 are attached for reference and so as not to unduly repeat the detail on the principle of development again here.

In order for a planning application for new homes to be acceptable in terms of noise issues from the MOD firing range upon the occupiers, policy RW2 (land at Hildersley) states that proposals should include appropriate acoustic mitigation measures to satisfactorily address these matters. The amendments (subject of this consultation) to the original scheme involve a significant alteration to the positioning of the houses across the site, away from the western sectors and the addition of dense tree planting in these areas. The orientation of new homes and their design (particularly in terms of fenestration) would also mitigate the effects of noise from the firing range. If these are considered to be appropriate measures to ensure that acoustic issues are satisfactorily addressed, then this would be in accordance with the pertinent requirements set out in Core Strategy policy RW2.

There are no objections to the principle of a residential urban expansion on the application site, since this is established through the Core Strategy.

Conservation Manager

4.7 Historic Buildings

The development site lies adjacent to the Hildersey Farm, a stone built farmhouse of 18th century date with associated 19th century farm buildings now converted for office use. The immediately surrounding landscape is open fieldwork and there are long distant views west towards Ross-on-Wye. I understand the principle of development here has been established so it is protection of the setting of the farm house which is of particular importance to me. Though unlisted, it does have historic interest and value as a heritage asset. In the indicative housing layout it is those dwellings closest to Hildersey Farm on the east boundary of the development site which will impact most upon its setting and my suggestion is that it would therefore be better protected if those units were omitted and the land here retained as open space and / or if the eastern boundary was screened by trees.

4.8 Archaeology

In general this is actually a good location for such a development as regards the historic environment. There are, as far as I can establish, no recorded heritage assets of substance either within the site or near to it, and the designated heritage assets in the broader landscape (eg Chase Hill, Ross historic town, Roman settlement of Ariconium) are a significant distance away. Also given the comparatively recent agricultural history of the site, I am of the view that older deposit sequences here are likely to have been severely truncated. There is no evidence that the application area has any real archaeological potential.

Accordingly, the large scale of the proposals notwithstanding in this case, I have no objections, no requirements to advise, and no further comments to make.

4.9 Landscape

It is noted that the proposed site for 250 dwellings is part of the Strategic Urban Extension for the market town of Ross on Wye, the site having been identified in SHLAA report as having low to minor constraints.

It is understood that previous consultation with the former landscape officer Ms Neill has taken place in respect to the layout of the design proposal. These recommendations are noted within paragraph 3.1 of the submitted LVIA (November 2014) and the design proposals outlined within the remainder of chapter 3 support this.

Given that this is an outline proposal and therefore an indicative layout only I will take the opportunity to reiterate Ms Neill's comments to ensure they are adhered to at the reserved matters stage, when detailed landscaping proposals are submitted. A further consideration at the detailed design stage will be the addition of green infrastructure within the housing zones identified in the current concept plan.

A final observation with respect to the potential visual impact of the proposal, whilst it is accepted that the proposals will be viewed as an extension to the east of the existing settlement, it is noted that the Urban Fringe Sensitivity Analysis (HC 2010) indicates the southern edge of the proposal is of high/medium sensitivity in the main as a result of the change in contours and the relationship of the land with the unregistered park and garden Penyard Park it is therefore recommended that this southern edge be kept free from built form and existing new tree coverage be retained to ensure a robust landscape buffer.

Detailed landscaping proposals indicating tree and hedgerow for retention as well as a supporting management plan should be submitted as part of a condition.

4.10 Ecology

Thank you for forwarding the requisite information in response to my ecological comments on this site. I am greatly relieved to see a substantial improvement in the area and connectivity for protected species on this site, notably bats and dormice. Although the walkover was conducted in December, I would accept that no changes appear to have taken place in the habitat character of the site since 2014. I also agree that the status of bats and dormice on the site is likely to remain as before. There has been an effort on the part of the developer to comply with the biodiversity needs of the site and propose mitigation with reduction in the area of the development.

If the application is to be given approval I would not object subject to the imposition of conditions.

4.11 Parks & Countryside

The amended plan includes reduced housing numbers circa 212 and a revised open space layout to take account of both noise barriers and ecology issues. This has increased the amount and location of on-site open space.

The quantum of open space provision as set out in my previous comments and in accordance with Core Strategy Policies OS1: Requirement for open space, sport and recreation facilities and OS2: Meeting open space and recreation needs, and applicable evidence bases has been revised accordingly to take account the reduction of houses from 250 to 212 as set out below. As previously agreed on site provision should take account of POS and children's play while the outdoor sports should be made as an off-site contribution in accordance with evidence bases.

For 212 houses at an occupancy of 2.3 (total population 487.6) the following is required:

- The developer provides a minimum of 0.58ha (5,800sq m) of on-site green infrastructure comprising;
- 0.19ha (1,900sq m) of Public Open Space (@ 0.4ha per 1000 population)
- 0.39ha (3,900sq m) of Children's Play of which 0.12 ha (1200sq m) should be formal play (@ 0.8 ha per 1000 population to include 0.25ha per 1000 population of formal play (Fields in Trust standards)

The layout now proposes one large integrated area of open space which includes a formal play area, semi natural open space which can provide both informal play and recreation

opportunities as well as wildlife benefits. It also shows what looks to be a connected SuDS area. Some thought has been given to access and connectivity. Overall the concept is supported.

Play: Although one larger formal neighbourhood play area is the preferred option, the design of the formal play element will need to consider its location on the edge of the development as it is no longer surrounded by housing on all sides which naturally provide surveillance, offering a safe place to play which is particularly important for younger children. Natural play opportunities such as play trails may now also be appropriate on this site given the semi natural open space provision and a combination of both would be encouraged. Provision will need to cater for all age groups, infants, juniors and teenagers with some kick-about space.

SuDS: As this will potentially be publically accessible (which is supported as they can be created to provide informal recreation, enhance biodiversity and create habitats via ponds and areas of wetlands for amphibians and reptiles) it will require careful design to take account of health and safety issues of standing water. It will need to be designed in accordance with national SUDS guidance and will require a detailed ecological/site management plan and annual work plan.

With potentially such large areas of on-site open space, the applicant will need to be clear as to how it will be maintained. With Herefordshire Council having taken the formal decision to no longer adopt or take on the maintenance of new public open space, play or sports facilities that form part of new developments local alternative and sustainable management options are required. Any on site provision of POS will therefore require suitable management and maintenance arrangements in line with the Council's policy. This should be either via the Town Council or through a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

Where the Authority is requested by the developer to adopt the SuDS on a development a 60 year commuted sum will be required, this will be calculated based on final 'built' layout plan identified in the supplied SUDs Maintenance Plan. This commuted sum will include the hard infrastructure and any associated 'soft' or 'green' landscaping included in the adopted SuDS area. Any soft or green landscaping not included in the adopted SuDS area will be classed as Public Open Space and alternative management arrangements as identified above should be put in place.

Outdoor Sport: Off Site contribution: In respect of outdoor sports provision, this is not required on site. There is evidence and justification for an off-site contribution in meeting community deficiencies in existing outdoor sports facilities which cannot be met on site.

In accordance with the Playing Pitch Assessment for Ross and the Draft Investment Plan, the focus is on investing in sustainable sporting hubs which can be managed and developed over time and which meet identified future proofed deficiencies. Projects which meet this need have been identified in consultation with the Governing Bodies for Sport and Sport England.

As per my previous comments which details the projects that contributions are sought for but now calculated on 212 houses and not 250 as amended below:

Contributions are calculated as follows for market housing only:

- **£974,200:** Total Outdoor Sports Investment project costs
- **900 new houses** (Core Strategy Ross housing requirements)
- **£1,082:** Cost per market house: (Total investment costs divided by total number of houses)

- For this development @60% market houses (127 houses) this equates to **£137,414**

4.12 Land Drainage Engineer

We have reviewed the revised outline application for this site. Although the layout has changed, our response with regards to flood risk and drainage remains the same. The only aspect that differs to our previous response is where we referred to a climate change allowance of 30% for rainfall intensity. The new climate change guidelines published since the submission of the previous application require consideration of the central and upper end allowances, which are now 20% and 40% respectively for rainfall intensity. This is not a significant change.

We therefore have no objection on flood risk and drainage grounds but recommend that the submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development is included within any reserved matters associated with the permission. The detailed drainage proposals should include:

- Provision of a detailed drainage drawing, including supporting calculations, showing the proposed surface and foul drainage networks including the location and size of all soakaways;
- Soil infiltration rates (soil infiltration tests should be undertaken in accordance with BRE365 guidance) and groundwater levels;
- If infiltration is not feasible on the site, evidence that the Applicant is providing sufficient on-site attenuation storage to ensure no flood risk to the development and no increased flood risk to third parties outside the development between the 1 in 1 year event and up to and including the 1 in 100 year rainfall event, with appropriate increase in rainfall intensity to allow for the effects of future climate change. The Applicant should refer to the latest Environment Agency guidelines for climate change allowances at <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>;
- Evidence that the Applicant has considered the management of surface water runoff in extreme rainfall events;
- Demonstration that appropriate pollution control measures are in place prior to discharge;
- Evidence that the Applicant has sought and agreed all necessary permissions to discharge foul water from the site with the relevant authorities;
- Confirmation of the proposals for adoption and maintenance of the surface and foul water drainage strategies.

4.13 Waste Operations Team Leader

The area proposed for development is currently served by a 26tonne Refuse Collection Vehicle therefore any new developments in this area would also be covered by this size vehicle. Please consider this with regards to access and vehicle movement for collections of refuse and recycling. The vehicle will need to access once per week to all properties. Please refer to our online Guidance for Developers for specific details of our requirements.

4.14 Housing Officer

Proposed Total Dwellings 212 - Affordable housing @ 40%, 85 units allocated site. Information based on Local Housing Market Assessment

Unit Type	Local Housing Market Assessment
1 bed	135
2 bed	117
3 bed	94
4 bed & 5 Bed	14
Total	360

Relevant Strategy Documents:

- Local Housing Market Assessment 2012
- Herefordshire Local Plan, Core Strategy 2011 – 2031
- Supplementary Planning Document – Planning Obligation April 2008
- Study of the Housing and Support Needs of Older People 2012
- Local Investment Plan

Proposed Tenures for the Affordable Housing Units: 53% Social Rent, 47% Intermediate

Social/ Target Rent	1 bed 2 person	Min 50 m ²	houses/ apartments/ bungalows	12
	2 bed 4 person	Min 67 m ²	Houses/ bungalows	16
	3 bed 5 person	Min 83 m ²	houses	16
	4 bed 6 person	Min 100 m ²	houses	1
Total				45
Intermediate to Include Intermediate Rent, S/O & LCM (Max 80% of Local Housing Allowance)	2 bed 4 person	Min 67 m ²	Houses	20
	3 bed 5 person	Min 82 m ²	houses	20
Total				40

5. Representations

5.1 Ross on Wye Town Council - In response to the originally submitted application the Town Council commented as follows:

Members have no objection to the application but recommend that a roundabout be included at the access with the A40. Members also request that they are consulted over the Head of Terms Section 106 agreement.

Following the submission of the most recent amendments the Town Council state:

Members reiterate again their concerns about access to and from the A40 and are of the opinion that a roundabout would be the safest means of access and would ensure that traffic approaching Ross slows down. Having made this request twice before, the council would like to know whether this has been considered or if and why it has been rejected.

5.2 NHS England - requests a capital contribution of £54,256 to be allocated under Section 106 of the Town and Country Planning Act as part of this application

5.3 Ross & District Civic Society - as Hildersley has long been identified as a 'strategic site' within the Core Strategy we have no alternative than to accept the principle of major housing development at this location. However, we do share many of the concerns expressed in the community interest questionnaire about the potential impact on local surgeries, schools, roads etc etc and seriously doubt if all of these can be effectively addressed. To take but one example: Can the town's only two surgeries really be physically expanded to cope with increased demand?

Such concerns are exacerbated by the increase in the number of houses from 200 - as in various drafts of the Core Strategy - to 'approximately 250 dwellings'. If 200 was regarded as appropriate only a few months ago, how can an increase of some 25% now be regarded as acceptable? This must also be placed in the context of the almost certain future development of Three Crosses/Overross as a major housing site, as well as anticipated growth at nearby Weston, Bridstow and elsewhere - if nothing else, such expansion will add substantially to the town's traffic, notwithstanding the expressed intention of encouraging walking & cycling as an alternative to the car.

As regards the Hildersley site itself, 250 dwellings would inevitably & regrettably be more squeezed together than 200. The 'informal open space' - a principle now regarded as very desirable in urbanised areas-seems small & tucked away in a corner of the site. To build, say, 200-205 houses would satisfy the post-inspection Core Strategy criterion of a 'minimum' of 200 and go some way not only to improve the quality of life for its future residents, but to mitigate, to a degree, any adverse impact on the town's services & infrastructure.

5.4 Defence Infrastructure Organisation (on behalf of the Secretary of State for Defence) – A full copy of the most recent representation received in relation to the submission of amended plans and information is attached as an appendix to this report.

5.5 Letters of objection have been received from twenty five local residents. In summary the points raised are as follows:

- Ross on Wye cannot accommodate further development without considerable increases in the infrastructure in the town
- There is a potential conflict in the use of the track to the north of the site between vehicular traffic using the firing range and pedestrians and cyclists generated by the proposed development
- Cumulative effect of this development and others within the local area on local infrastructure and services including schools, doctors surgery and emergency services
- Loss of wildlife and habitats
- The site is beyond the town's building line
- The development will generate huge volumes of traffic that will impact upon the town.
- There is gridlock and a lack of parking within the town centre
- The local road network is at capacity and cannot accommodate the traffic likely to be generated by this proposal
- Development will increase the risk of flooding and exacerbate pre-existing problems in the area

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

- The development will irrevocably damage the rural attractiveness of the area and the character of Ross on Wye
- There are concerns about safety aspects relating to the firing range as the site is immediately adjacent to it
- The proximity of the range will also create unacceptable levels of noise for future residents
- There is also a possible national security issue through the introduction of housing in such close proximity to the firing range
- The proposals include 2.5 storey dwellings. These are considered to be inappropriate and out of character with the area
- The ground is part of the aquifer for Ross on Wye. Development should not threaten the town's water supply
- There are insufficient job opportunities for new residents. This will lead to increased levels of commuting and an increase in pollution
- The development will lead to disturbance to local residents during the construction phase
- The application is contrary to government policy on climate protection as additional vehicles will increase Co2 emissions
- Only a small percentage of the development is affordable housing
- Development will have negative impacts on tourism in the area
- There is sufficient on-going development in Ross on Wye to satisfy demand
- The proposal represents an over-development of Hildersley and Ross on Wye
- The scheme will result in more people trying to cross the A40 without any existing crossing points
- The proposed access seems inadequate to cope with the increases in traffic likely to be generated by the development
- The development borders the Wye Valley AONB and will diminish this valuable asset

5.6 One letter of support has also been received. It considers that there is a need for new housing that is in close proximity to highway infrastructure. The application is supported on the premise that health and education facilities are improved.

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=150930&search=150930

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

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

6. Officer's Appraisal

6.1 The application is made in outline with all matters reserved except for access and involves the erection of up to 212 dwellings, with associated infrastructure, on land to the west of Hildersley Farm (CS Policy RW2).

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

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

The development plan for Herefordshire is in main part the Herefordshire Local Plan - Core Strategy. The Core Strategy was adopted on 16 October 2015. This followed Examination hearings in February 2015 and the Inspector's subsequent conclusion that, with modifications

as proposed, the Core Strategy is sound and provides an appropriate basis for the planning of the District.

- 6.3 The application site is allocated for housing via Policy RW2 of the Core Strategy. This allocation followed extensive consultation over a number of years as alluded to at section 4.6 above. The site consists predominantly of land defined as being of 'low to medium' landscape sensitivity in the Urban Fringe Sensitivity Analysis 2010 – a key component of the evidence base underpinning housing allocations at Hereford and the market towns. The principle of residential development of the site is thus identified within the Core Strategy, is plan-led and a key component of housing delivery within the early part of the Core Strategy Plan Period and essential to maintaining the annualised trajectory for housing completions set out in Appendix 4 to the Core Strategy. This trajectory envisaged that the site would yield 30 dwellings during the period 2016/17. It can thus be seen that delays in delivery are such that this yield will not be delivered, which in turn perpetuates the housing land supply issue.

Housing Delivery

- 6.4 The Core Strategy sets out a number of policies in chapters 3, 4 and 5 for the delivery of housing. Core Strategy policy SS2, Delivering new homes, makes an overall provision for the delivery of a minimum 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. Of these, just under two fifths are directed to Hereford, which is required to deliver a minimum of 6,500 homes. This reflects Hereford's role as the main centre in the County. A further 4,700 are to be delivered in Herefordshire's five market towns, 900 of which are to be delivered in Ross-on-Wye.
- 6.5 Policy SS3, Ensuring sufficient housing land delivery, sets out a range of measures to be undertaken should a material shortfall in the rate of housing delivery be identified through the annual monitoring process. The policy addresses the relationship between the delivery of strategic housing sites and key elements of infrastructure.

Housing Land Supply

- 6.6 The Examination Inspector concluded that there was a marginal but realistic five year housing land supply (HLS) on the basis of the Core Strategy provisions. The supply was assessed at 5.24 years.
- 6.7 The Council updated this assessment in January 2016, following completion of the annual monitoring round. This exercise had a base date of April 2015 and demonstrated a housing land supply of 5.01 years. Subsequent amendments reduced this to 5.00 years.
- 6.8 Housing land supply has been further examined in recent Inquiry discussions in the County in respect of appeals for proposed housing developments at Leintwardine and Ledbury. In both cases the respective Inspectors concluded that the Council was unable to demonstrate a robust five-year supply of deliverable housing sufficient to meet its identified needs. This view was reached on an assessment of the amount of housing reasonably likely to be delivered on the strategic sites allocated in the Core Strategy. This was the main area of dispute between the parties in respect of housing land supply.
- 6.9 This position was also adopted at the Public Inquiry concerning a 100 dwelling development at Bartestree (Ref: 143771), where a HLS of 3.63 years was agreed for the purpose of the appeal – a deficit of 1,564 dwellings. The Council conceded that delays in delivering housing on the strategic sites was a key contributor to the continued absence of housing land supply.
- 6.10 The most recently published Annual Monitoring Report for 2015/16 concludes that the position as of April 2016 is that the current HLS stands at 4.49 years. This is not a NPPF compliant position.

- 6.11 On this basis, NPPF paragraph 49 provides that relevant policies for the supply of housing should not be considered up-to-date. In this case, whilst it is accepted that policies relevant to the supply of housing *may* carry reduced weight, the fact that the site is allocated in the Development is of significant material weight and officers consider that assessment of the proposals in the light of Policy RW2, supplemented by other relevant policies and material considerations is appropriate. Moreover, as recent case law has confirmed, the fact that housing policies are out-of-date does not direct the decision-maker on the matter of the weight that may be attributed these policies.
- 6.12 Policy RW2 signifies the formal allocation of the land at Hildersley for residential development, and in your officer's view, given the plan-led system, is equivalent to acceptance that the development of the site is acceptable in principle. Given the application is made in outline with only access for determination now, compliance with some of the criteria within RW2 cannot be assessed to the fullest extent now but will be considered at the detailed or Reserved Matters stage. What is clear from the submitted documentation, however, is that the policy requirements have fully informed the work undertaken to date. Insofar as is practical, this appraisal now assesses the application against these individual criteria, before looking at any other matters raised in consultation responses that are considered to be material to the determination of the application.

Assessment against Policy RW2 – Land at Hildersley

Criteria 1: a minimum of 200 new homes at an average density of up to 35 dwellings per hectare, comprising a mix of market and affordable house sizes and types that meet the requirements of Policy H3 and the needs identified in the latest version of the Herefordshire Local Housing Market Assessment;

- 6.13 The proposal exceeds the minimum requirement of 200 new homes. In its amended form it proposes 212 dwellings. As a consequence of other amendments made to address representations made by the MoD and the Council's Ecologist, the developable area of the site has been reduced from 10.9 hectares to approximately 6.5 hectares. In terms of the area to be developed, and based on 212 dwellings, this equates to a density of 33 dwellings per hectare.
- 6.14 As confirmed above, the Housing Officer supports the proposed affordable housing provision. The precise mix of open market housing will be agreed via Reserved Matters.

Conclusion

It is your officers' opinion that the scheme complies with this criterion.

Criterion 2: a target of 40% of the total number of dwellings shall be affordable housing;

- 6.15 The Heads of Terms Agreement attached as an appendix to this report confirms the provision of 40% affordable housing in accordance with policy requirements.

Conclusion

It is your officers' opinion that the scheme complies with this criterion.

Criterion 3: the provision of and contributions towards any identified need for new/improved community facilities/infrastructure improvements. This shall include contributions towards the provision of: additional pre-school places; additional classrooms at John Kyrle High School for secondary, post 16 and youth/community infrastructure and further special educational needs provision;

- 6.16 This criterion is a requirement that the development mitigate adverse impacts on existing infrastructure. The Council has negotiated a contribution using the Planning Obligations SPD

methodology. Members will note that the Heads of Terms Agreement includes a contribution of £54,256 for improvements to primary care medical facilities within the catchment area. It also includes contributions toward the improvement of primary school facilities at Ashfield Park Primary School, with final contributions dependent upon open market house types. It will be noted that no contributions are requested for secondary school improvements at John Kyrle. This is due to the fact that the Council has already pooled more than five contributions since 6th April 2010 through previous developments and a request here would consequently be contrary to the Community Infrastructure Levy Regulations 2010, Regulations 122 and 123(3) as amended.

Conclusion

It is your officers' opinion that the scheme complies with this criterion.

Criterion 4: the provision of a sport/recreation space either on or off site as an alternative to the existing on site John Kyrle High School playing field;

- 6.17 The comments of the Council's Parks & Countryside Officer confirm the preference for off site rather than on site provision of sports facilities. The Playing Pitch Assessment outlines in detail the specific requirements for Ross-on-Wye over the plan period. These principally relate to the improvement of football and rugby facilities within the town. Off site contributions are detailed in the Heads of Terms Agreement and are based on the findings of the Playing Pitch Assessment. Your officers are content that this approach is both policy and CIL compliant.
- 6.18 The illustrative masterplan also makes a generous provision of on-site open space provision which comprises one large integrated area of open space including a formal play area, semi natural open space which can provide both informal play and recreation opportunities. This overall concept is supported.

Conclusion

It is your officers' opinion that the scheme complies with this criterion.

Criterion 5: the creation of new green infrastructure within the development area to benefit residents, local bat populations and other flora and fauna;

- 6.19 The technical appraisals supporting the application refer specifically to local bat populations and the presence of Dormice on the site. The Dormouse survey is particularly concerned with the loss of habitat; particularly the tree plantation towards the centre of the site and existing hedgerows.
- 6.20 The revisions to the site layout, and reduction in developed area that has resulted, has facilitated the provision of a larger area to mitigate the impacts of the development on wildlife. The illustrative masterplan indicates a significant amount of woodland planting along the western boundary and the creation of green corridors generally running north/south across the site.
- 6.21 The Council's Ecologist has indicated his satisfaction with the revised submissions made by the applicants, particularly in terms of the improved connectivity for bats and dormice. It is concluded that the proposal provides for the biodiversity needs of the site in accordance with this particular criteria of policy RW2 and also Policy LD2 – Biodiversity and geodiversity. The precise layout of the development will be dealt with at the reserved matters stage but the imposition of a condition requiring the development to be carried out in accordance with the recommendations of the attendant survey reports will ensure that the appropriate mitigation measures are included.

Conclusion

It is your officers' opinion that the scheme complies with this criterion.

Criterion 6: new pedestrian and cycle links from the area towards the town and nearby employment sites, to ease road congestion and limit CO2 emissions;

- 6.22 In accordance with the requirements of this criterion the applicants have included the track running from the north western corner of the site to the A40. This land falls within the ownership of Herefordshire Council and was previously used to access the former playing fields. It provides a direct link between the two and in turn emerges onto the A40, close to the Ross Town Trail.
- 6.23 The comments from the Council's Transportation Manager acknowledge the need to provide improvements between the site, town centre and employment areas, and this is reflected in the recommendations made and the projects identified in the Heads of Terms Agreement to improve connectivity and sustainable transport within the local area.
- 6.24 Some concerns have been raised that the use of the track will bring pedestrians and cyclists into conflict with vehicles that currently use it to access the firing range. However, on the basis of the information that has been made available to the Council, it would appear that the firing range is used 4-5 times a month by a limited number of vehicles. The track is not currently conducive to use by vehicles at high speeds and any risk of conflict between motorised vehicles, pedestrians and cyclists is marginal.
- 6.25 The use of the track offers a convenient and obvious direct connection to the town in accordance with this criteria of policy RW2 and also policy MT1 of the Core Strategy. Distance may be a prohibitive factor for some and personal choice will ultimately dictate whether people do walk or cycle rather than use private modes of motorised transport, but the scheme will put these opportunities in place.

Conclusion

It is your officers' opinion that the scheme complies with this criterion.

Criterion 7: appropriate mitigation measures to be implemented, which ensure that acoustic and safety issues relating to the proximity of the adjacent firing range are satisfactorily addressed;

- 6.26 This criteria has proved the single-most difficult to try and resolve. Members will be mindful of the objections raised by the MoD and will have read their detailed correspondence that is appended to this report. In very simple terms the issue is whether development on the site will suffer unacceptable levels of noise disturbance as a result of the use of the firing range.
- 6.27 There are a number of points to note in this regard. First, the site has been allocated for housing in the Core Strategy. As Members will be fully aware, its adoption came after a lengthy period of public consultation and engagement with stakeholders and interested parties. This included the Ministry of Defence. The MoD were engaged throughout the process. Their comments did refer to the potential allocation of land around Ross-on-Wye; specifically that it was not their intention to dispose of their land assets and therefore the Council's proposals were not viable. At no time was mention made of concerns about noise emanating from the firing range and the effects that it might have on new dwellings. This would have represented a significant constraint in the Council's Strategic Housing Land Availability Assessment (SHLAA) and, in your officers opinion, had this been raised at an early stage may well have led to other sites being considered for the town's strategic provision.

- 6.28 Second, the range does not give rise to regular complaints to the Council's Environmental Health team. Their comments highlight the fact that only three complaints have been made to them. Members should however be aware that the firing range benefits from Crown Exemption and therefore any complaints would be dealt with directly by the MoD and not the Council. Notwithstanding this, it is reasonable to expect that members of the public would be more likely to contact the Council's Environmental Health department to lodge a complaint in the first instance. The limited number of complaints would logically lead to a conclusion that the use of the firing range does not cause a nuisance to local residents, some of whom live in very close proximity.
- 6.28 Third, the Council has been provided with information by the MoD which confirms that the range is used around 4 or 5 times a month and typically during the daytime. The objection received from the MoD suggests that the use of the firing range is not controlled by any planning conditions, and that it could be used far more frequently and at any time, day or night.
- 6.29 Your officers do not dispute either of these points. However, this should not necessary preclude this development. The likelihood of more frequent use occurring should be considered in context. There is no historical evidence to suggest that the range has been used more frequently than it is currently, nor that it is used during the night time. Furthermore, the MoD's own advice leaflet on environmental noise acknowledges that:
- "The MOD has a duty of care to protect members of the public as well as the natural environment from the effects of noise generated by its activities, while at the same time providing for realistic training."*
- "...however the noise nuisance that is generated from these activities must be managed appropriately to prevent it becoming a nuisance."*
- 6.30 With regard to the undertaking of training activities it also goes on to state that:
- Training objectives should be met in the day when ever practicable and should not extend into the night unless absolutely unavoidable. Such training that does extend into the night shall be conducted to minimise noise as activities at night are more likely to cause disturbance, as noise levels are subjectively louder when the background sound is low.*
- 6.31 It is quite clear from the above that avoiding nuisance where private property is within proximity to the MoD's training facilities is an important operating consideration for them. In your officers view this, combined with the evidence provided of historic use of the firing range, clearly indicates that the probability of it being used with a greater degree of frequency or during the night is unlikely.
- 6.32 Fourth, planning permission has been granted for dwellings within the same proximity to the firing range as the dwellings now proposed here. The application was supported by a noise assessment, completed by the same acoustic consultant now acting on behalf of the applicants here, and did not attract any objections with regard to noise. This application proposes the same noise mitigation measures that were deemed to be acceptable for the site at Rossleigh.
- 6.33 The plan below shows the noise contours in a worst case scenario. The use of the firing range is such that firing takes place from different positions on the range. The source of the noise is the smaller blue/purple area and the contours show the reduction in noise the further away from the source at 5 dB intervals.
- 6.34 The plan shows a previous version of the illustrative masterplan imposed on the noise contour plan, and it can be seen that some of the developed area falls within a higher noise contour level than existing dwellings, and the site at Rossleigh, which is indicated by the white star. Accordingly the masterplan was revised, the full plan provided in an earlier section of this report.

An extract of the same plan is also re-produced below. The dotted yellow line indicates the same 95 dB noise contour and demonstrates that all of the areas to be developed are within that contour; the same as existing dwellings and the site at Rossleigh.

6.35 National Planning Policy Guidance offers some assistance on the matter of noise and says that:

Increasing noise exposure will at some point cause the significant observed adverse effect level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is above this level the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout. Such decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused.

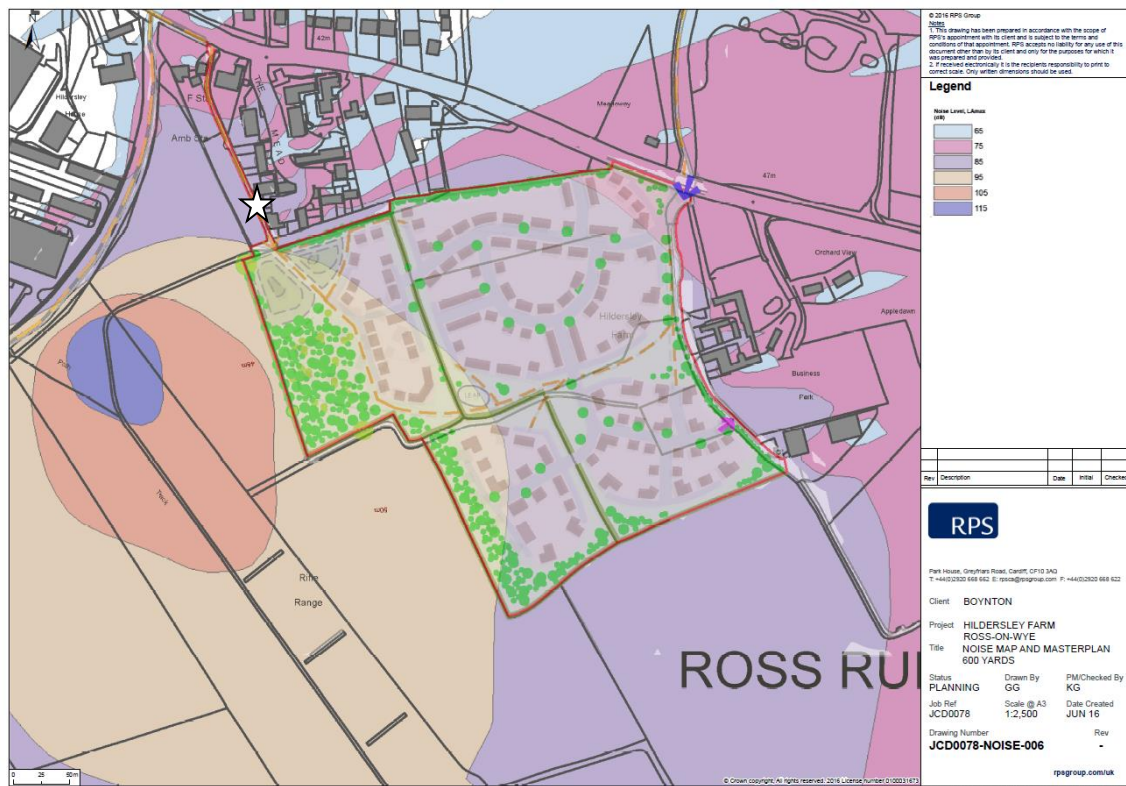
At the highest extreme, noise exposure would cause extensive and sustained changes in behaviour without an ability to mitigate the effect of noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be prevented from occurring.

6.36 In your officers view the applicants have demonstrated that they have had regard for noise and taken steps to mitigate its impact. The illustrative masterplan provides parameters for development and, should planning permission be granted, it is recommended that it is referred to by condition.

Conclusion

It is your officers' opinion that the scheme complies with this criterion.

Plan showing noise contours with illustrative masterplan overlaid



Plan showing extract of revised masterplan with 95dB contour (yellow dashed line)



Criterion 8: adverse impacts on the Water Source Protection Zone should be avoided or mitigated, including through the incorporation of sustainable urban drainage solutions such as rain gardens and swales; and the production by the developer of a Surface Water Management Plan;

- 6.37 The Council's Land Drainage Engineer has considered the technical submissions made with this outline application and raises no objection in principle to the application. It is noted that the large area of open space on the western boundary is also indicated to incorporate a surface water attenuation pond and it is evident that there is sufficient space within the site for it to be accommodated. Matters of detail will be provided in any reserved matters application if planning permission is forthcoming here, and this is reflected in the comments of the land Drainage Engineer who recommends the imposition of a condition to require the information to be submitted.

Conclusion

It is your officers' opinion that the scheme complies with this criterion.

Criterion 9: avoid and mitigate adverse impacts from noise and air pollution and vibration (during both construction and occupation of new homes) on the River Wye SAC, Wye Valley Woodlands SAC and the Wye Valley and Forest of Dean Bat Sites SAC;

- 6.38 In terms of the construction phase, impacts from noise, air pollution and vibration can be dealt with through the imposition of a condition requiring the submission of a construction management plan, and this is reflected in the recommendation at the end of this report. With regard to impacts upon occupation, the measures to be put in place to encourage the use of cycle and pedestrian routes; and thus provide alternatives to the private motor car, will mitigate impacts from air pollution. The matter of noise has also been dealt with in depth in earlier sections of this report. Precise design details of dwellings may also provide further mitigation, but this will be considered at the reserved matters stage.

Conclusion

It is your officers' opinion that the scheme complies with this criterion.

Criterion 10: development of bespoke, high quality and inclusive design, including accommodation that will meet the needs of older persons and that contributes to the distinctiveness of this part of Ross-on-Wye and enhances the setting of the adjacent Wye Valley Area of Outstanding Natural Beauty.

- 6.39 Policy SD1 of the Core Strategy deals with sustainable design and energy efficiency and thus underpins this criterion of Policy RW2. SD1 opens with a requirement that development proposals should create safe, sustainable and well-integrated environments for all members of the community and incorporate a range of requirements, including the efficient use of land, maintenance of local distinctiveness whilst making a positive contribution to the architectural diversity and character of the area and the safeguarding of residential amenity for existing and proposed residents.
- 6.40 The outline application makes no specific undertaking to meet the needs of older persons but this could be a matter to be dealt with through reserved matters if a specific need for a particular type of accommodation were to be identified.

Conclusion

It is your officers' opinion that the scheme complies with this criterion.

Other Matters

Highway Impacts

- 6.41 Policy MT1 of the Core Strategy and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 30 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 32 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where *'the residual cumulative impacts of development are severe.'*(NPPF para. 32).
- 6.42 The provision of cycle and pedestrian links has already been discussed in some detail so this section of the report will focus on the proposed means of vehicular access to the site. The illustrative masterplan shows the access to be located at the north eastern corner, in the location of an existing access used by vehicles entering and leaving the Hildersley Business Park. The intention is to upgrade this but for it to remain as a priority junction.
- 6.43 The Stage 1 Road Safety Audit (RSA) has been submitted at the request of the Transportation Manager. Various options were explored prior to the completion of the RSA and these included the provision of a protected right turn (ghost island) and a roundabout. The former is included in the assessment made by the RSA.
- 6.44 The RSA confirms that a protected right turn is an acceptable solution for the quantum of development proposed, subject to improvements which include the extension of the 30mph speed limit and the re-location of bus stops. These are reflected in the recommendation before committee which include Section 106 contributions for improvement to pedestrian links and bus stops within the locality. On this basis the proposal is considered to be compliant with the requirements of Policy MT1 of the Core Strategy and the NPPF.

Landscape Impacts

- 6.45 It is accepted that any built development will have an impact on the landscape. The introduction of built development into an area that is currently used for agricultural purposes will inevitably change its character. In terms of identifying appropriate areas for new development it has to be the case for largely rural areas like Herefordshire that this will invariably take place around the fringes of its market towns.
- 6.46 The Urban Fringe Sensitivity Analysis for Ross-on-Wye concludes that the site at Hildersley is of low to medium sensitivity, due to the fact that the landscape character is mixed. It highlights elements that include the business park, modern estate developments on the fringes of the town and the firing range as influencing this conclusion. As a result the landscape is visually incoherent and it does not provide a distinctive gateway to the town in landscape terms.
- 6.47 The analysis is a key component used to identify suitable housing sites and it is clear that this site is much less sensitive than others around the town. It is close to the Wye Valley AONB boundary but, when considered in context, it will be seen this incorporates the built environs of Ross-on-Wye which includes residential and industrial estates within 500 metres of the application site. The area is not typical of the character of the AONB and it is not considered that the development of this site will have a significant impact upon it such that permission should be withheld.

7. Conclusion

- 7.1 The proposal is for development of the only strategic housing allocation for Ross-on-Wye. It is integral to the delivery of new homes in the market towns as outlined by policy SS2 over the lifetime of the Core Strategy. The principle of development is supported via the Council's adopted policies.
- 7.2 The application is made in outline with all matters bar access reserved, yet sufficient information is provided to enable consideration against the policy requirements set out in RW2 as reported above. Overall, officers consider that the scheme is well-conceived and capable of delivering the high-quality sustainable development that the Core Strategy envisages.
- 7.3 The contribution the scheme makes to the supply and delivery of housing in the county is a significant material consideration telling in favour of the scheme. In environmental terms the scheme offers the ability to mitigate flooding locally and also offers improved access to public transport and opportunities for cycling and walking, linking the development to the rest of the town and offering genuine travel alternatives. These opportunities will be secured through financial contributions towards bus services and upgrades to walking and cycling infrastructure that will be delivered by the developer.
- 7.4 Impacts associated with the development are inevitable. The proposal will inevitably change the character of the area simply through the introduction of built development where none currently exists. The loss of agriculturally productive land and the impacts on biodiversity amenity are all adverse impacts. Some of these can be mitigated through sensitive design and the setting aside of areas of open space within the development and as a consequence they do not in isolation or cumulatively amount to sustainable grounds to resist the development in the light of the substantial benefits.
- 7.5 The Council's Environmental Health and Trading Standards Manager has confirmed that the noise levels associated with the adjacent MoD firing range can be mitigated. The applicants have shown that noise levels for new development will be no worse than those experienced by existing dwellings and, through the imposition of a condition to require the details of mitigation

measures to be employed in each dwelling, the likelihood is that the noise levels experienced by new residents will be lower than those presently residing in properties close to the range.

- 7.6 The recommendation is subject to the completion of a Section 106 Agreement to secure the affordable housing, provision and maintenance of the requisite levels of public open space; and financial contributions to mitigate impacts arising on educational infrastructure, the local transport network, off-site sports infrastructure, health care provision and waste collection.
- 7.7 Planning conditions that are further necessary to regulate development in accordance with the tests prescribed at paragraph 204 of the NPPF are set out below. Conditions will include a requirement that the Reserved Matters layout is informed by the revised indicative masterplan.

RECOMMENDATION

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

1. **C02 - A02 Time limit for submission of reserved matters (outline permission)**
2. **C03 - A03 Time limit for commencement (outline permission)**
3. **C04 - A04 Approval of reserved matters**
4. **The submission of reserved matters in respect of layout, scale, appearance and landscaping and the implementation of the development shall be carried out in substantial accordance with the revised Illustrative Masterplan – Drawing Number 503 Revision H.**

Reason: To define the terms of the permission and to conform to Herefordshire Local Plan - Core Strategy Policies RW1, LD1, LD2, LD3 and MT1.

5. **None of the dwellings shall be occupied until the roadworks necessary to provide vehicular access from the A40 have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.**

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

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

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

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

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

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

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

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

9. **Prior to the commencement of any development full details of surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details which should address the following:**
- **Provision of a detailed drainage drawing, including supporting calculations, showing the proposed surface and foul drainage networks including the location and size of all soakaways;**
 - **Soil infiltration rates (soil infiltration tests should be undertaken in accordance with BRE365 guidance) and groundwater levels;**
 - **If infiltration is not feasible on the site, evidence that the Applicant is providing sufficient on-site attenuation storage to ensure no flood risk to the development and no increased flood risk to third parties outside the development between the 1 in 1 year event and up to and including the 1 in 100 year rainfall event, with appropriate increase in rainfall intensity to**

allow for the effects of future climate change. The Applicant should refer to the latest Environment Agency guidelines for climate change allowances at <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>;

- Evidence that the Applicant has considered the management of surface water runoff in extreme rainfall events;
- Demonstration that appropriate pollution control measures are in place prior to discharge;
- Evidence that the Applicant has sought and agreed all necessary permissions to discharge foul water from the site with the relevant authorities;
- Confirmation of the proposals for adoption and maintenance of the surface and foul water drainage strategies.

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, and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan Core Strategy.

10. No building shall be occupied until the drainage system for the site has been completed in accordance with the approved details. Thereafter no further surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

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

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

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

12. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice

b) if the risk assessment in (a) confirms the possibility of a significant pollutant

linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

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

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

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

14. The Remediation Scheme, as approved pursuant to condition 12 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

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

15. The recommendations for species mitigation and enhancements set out in the RPS ecology reports for dormice (2014), badger (2014), reptile (2015) and bat activity (2014) together with additional information and updates of these reports from the Ecology Technical Note dated December 2016 should be followed unless otherwise agreed in writing by the local planning authority. Working method statements for mitigation of the protected species present should be submitted as a single document to the local planning authority in writing. The work shall be implemented as approved.

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

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

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

17. An additional 5 year Ecology Management Plan for the existing and newly created habitat should also be required by condition as follows:

Prior to commencement of development, a five year Ecology Management Plan shall be submitted for approval in writing by the local planning authority. This shall include details of habitat establishment, management and monitoring of species based upon the recommendations of the protected species reports with proposed ecological enhancements. The Plan shall be implemented as approved.

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

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.
3. I 09 Private apparatus within the highway
4. I 11 Mud on the highway
5. I 35 Highways Design Guide
6. I 41 Travel Plans

7. **I 45 Works within the highway**
8. **All investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission to discharge condition 12**
9. **The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com.**
10. **The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

DRAFT HEADS OF TERMS

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

Planning Application – P150930/O

Site address:

Land at Hildersley Farm, Hildersley, Ross-on-Wye

Planning application for:

Proposed development of approximately 212 dwellings including affordable housing, public open space and associated works

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

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

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

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

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

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

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

£1,966.00 (index linked) for a 2 bedroom open market unit

£2,949.00 (index linked) for a 3 bedroom open market unit

£3,932.00 (index linked) for a 4+ bedroom open market unit

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

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

- a) Contribution to upgrade A40 southern footpath to shared use between Fire Station and eastern access point by Hildersley Farm to tie in with Model Farm active travel accesses.
- b) Upgrading the bus stops for Hildersley including real time information to full specification bus stops. The bus stops should also include secure cycle parking.
- c) Upgrading of the existing bus stops/shelter adjacent to the Fire Station. The bus stop should also include secure cycle parking.
- d) Contribution to formal crossing at A40 end of Town and Country trail to allow access to Hildersley – will also link in with northbound shared use path along the A40 toward the

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

Tanyard Lane development. This would also enhance the safer route to school network.

- e) Traffic Regulation Order for waiting restrictions around Ashfield Park primary school.

NOTE: A Section 278 agreement will be required to deliver;

- Upgrade to shared use through Town and Country Trail and Alton Road with the potential to formally surface and light the route;
 - Uphill cycle lane on ledbury Road as part of safer route to John Kyrle High School network
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£80.00** (index linked) per dwelling. The contribution will be used to provide 1x waste and 1x recycling bin for each property. The sum shall be paid on or before the commencement of the development.
 4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£54,256.00** (index linked). The contribution will be used by NHS England to provide primary medical care facilities in the catchment. The sum shall be paid on or before the commencement of the development
 5. The developer covenants with Herefordshire Council to provide a minimum of 0.23 ha of on-site Public Open Space and 0.46h for children's play.
 6. The maintenance of any on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council and/or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

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

7. The developer covenants with Herefordshire Council to pay **£1,082.00** (index linked) per open market dwelling for outdoor sports facilities. The money shall be used by Herefordshire Council in accordance with the priorities identified in the Playing Pitch Assessment for Hereford Area 2012, updated 2014 and the Outdoor Sports Investment Plan for projects in Ross on Wye. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
8. The developer covenants with Herefordshire Council that 40% (53% social rent and 47% intermediate) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H1 of the Herefordshire Core Strategy or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.

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

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

9. All the affordable housing units shall be completed and made available for occupation in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
10. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used

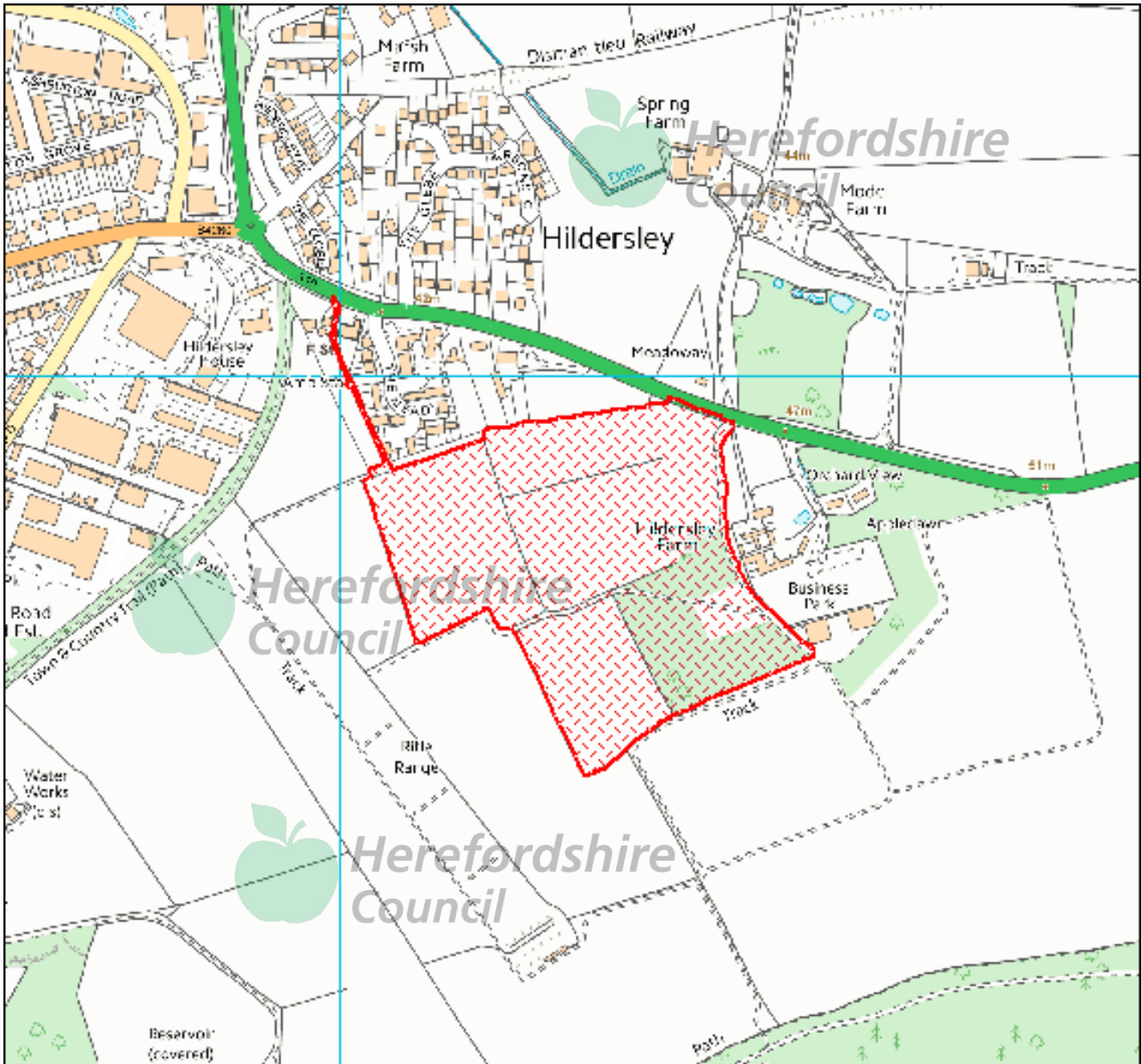
Further information on the subject of this report is available from Mr A Banks on 01432 383085

for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-

10.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and

10.2 satisfy the requirements of paragraphs 11 & 12 of this schedule

11. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
 - 11.1 a local connection with the parish of Ross-on-Wye
 - 11.2 in the event of there being no person with a local connection to Ross-on-Wye then any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 20 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 10.1 above.
12. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - 12.1 is or in the past was normally resident there; or
 - 12.2 is employed there; or
 - 12.3 has a family association there; or
 - 12.4 a proven need to give support to or receive support from family members; or
 - 12.5 because of special circumstances;
13. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4 and 7 above, for the purposes specified in the agreement within 10 years of the date of payment, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
14. The sums referred to in paragraphs 1, 2, 3, 4 and 7 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
15. If the developer wishes to negotiate staged and/or phased trigger points upon which one or more of the covenants referred to above shall be payable/delivered, then the developer shall pay a contribution towards Herefordshire Council's cost of monitoring and enforcing the Section 106 Agreement. Depending on the complexity of the deferred payment/delivery schedule the contribution will be no more than 2% of the total sum detailed in this Heads of Terms. The contribution shall be paid on or before the commencement of the development.
16. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.



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APPLICATION NO: 150930

SITE ADDRESS : LAND AT HILDERSLEY FARM, HILDERSLEY, ROSS ON WYE

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



Defence Infrastructure Organisation

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Mr Andrew Banks
Planning Services
Herefordshire Council
Franklin House
4 Commercial Road
Hereford
HR1 2BB

24th January 2017

Dear Mr Banks,

Re: Planning Application Reference P150930/O – Proposed Development of Approximately 250 Dwellings Including Affordable Housing, Public Open Space and Associated Works on Land at Hildersley Farm, Ross-on-Wye, Herefordshire

I write, on behalf of the Secretary of State for Defence, in connection with the above planning application.

Following a further review of this planning application on Herefordshire Council's website, it is the MoD's understanding that the Agent, RPS Planning & Development, has now submitted additional and amended documentation in support of the Applicant's planning application. This documentation includes: Drawing No. 503 Rev H (Concept Plan – dated 30th November 2016); Drawing No. 505 Rev B (Land Budget Plan – dated 9th December 2016); Drawing No. 508 Rev B (Access and Movement Parameter Plan – dated 9th December 2016); Drawing No. 506 Rev B (Density Parameter Plan – dated 9th December 2016); Drawing No. 507 Rev B (Building Heights Parameter Plan – dated 9th December 2016); a letter reference KG/JCD0078 dated 16th December 2016; a Technical Note for noise dated 2nd December 2016 (prepared by Sharps Gayler); a Landscape & Visual Appraisal Technical Note (reference OXF10013 – prepared by RPS) and an Ecological Technical Note (dated December 2016 – prepared by RPS).

In view of the above, it is the purpose of this letter to provide the Secretary of State for Defence's formal consultation response in respect of this additional and amended documentation. However, please be advised that this consultation response should be read in conjunction with our previous consultation responses dated 5th June 2015, 24th June 2015, 6th July 2015, 15th October 2015, 17th December 2015, 29th March 2016, 8th June 2016 and 29th September 2016 respectively.

RPS Letter Reference KG/JCD0078

With regard to the letter reference KG/JCD0078, the Secretary of State has the following comments:

- The Agent, within paragraph 1 on page 1 of the letter, outlines that the indicative 'Concept Plan' (Drawing No. 503 Rev D), and subsequent amended versions of this drawing, which were submitted in support of this planning application, has been amended (now in version Rev H). By virtue of amending the original and subsequent amended versions of the 'Concept Plan', this would perhaps suggest that the Applicant acknowledges that the issue of noise remains a significant concern in respect of the proposed development, and that the proposed development (as previously proposed) would not be acceptable. However, the Applicant has still failed to demonstrate that the revised proposal will indeed be acceptable.

- Within paragraph 2 on page 1 of the letter, the Agent refers to the amended indicative 'Concept Plan' and outlines the proposed amendments to the proposed development scheme; which includes a landscape buffer of up to 150 (assumed to be metres) in width, albeit no evidence has been submitted to demonstrate that a 150m wide landscape buffer would be sufficient in this case. Having done so, the Agent states *"More importantly, however, it means that the proposal does not introduce any housing closer to the firing range than already exist at The Mead, or as have been permitted at Rossleigh under planning permission P/161659."* Unfortunately, the Agent has not substantiated this conjecture.

In respect to the Agent's reference to *"Rossleigh"*, it is worth highlighting to the Local Planning Authority, and the Applicant, that the Defence Infrastructure Organisation (DIO) were not consulted by the Local Planning Authority in connection with Planning Application reference P/161659, in which case we were not aware of this application and were not provided with an opportunity to submit comments in connection with the proposed development. Had we have been consulted, it is suggested that the Secretary of State for Defence would have raised an objection to this application; for similar grounds raised in connection with this planning application.

Notwithstanding the above, it is again worth highlighting to the Local Planning Authority that the development of the application site in any case would result in a significant number of the proposed dwellings being located closer to the firing range, especially in context of the particular firing positions (100, 200, 300, 400 yard firing positions) within the range, than those existing located on The Mead. Therefore, it is the MoD's contention that the statement made by the Agent is inaccurate and significantly misleading.

- The Agent, within paragraph 3 on page 1 of the letter, outlines that the number of units proposed on the application site has been further reduced and would now stand at up to 212 no. This represents a further reduction of 12 no. units from the Applicant's previous amendment, and a total of 38 no. units from the Applicant's original proposal. The MoD supports this position; albeit it is suggested that the technical matter of noise has still failed to be addressed by the Applicant. Accordingly, it remains unclear as to whether or not up to 212 no. residential units will be appropriate for the application site.
- The list of bullet points under Paragraph 4 does not include the technical matter of noise as a separate bullet point. It is listed under the fourth bullet point *"Flood Risk Assessment & Drainage Noise."*
- Paragraphs 1 and 2 on page 2 of the letter refers to the Herefordshire Local Plan Core Strategy 2011-2031, which was adopted on 16th October 2015, in particular Policy RW2.

The Agent, within Paragraph 2 on page 2 of the letter, states *"the Core Strategy identifies the application site as being suitable for a sustainable urban extension of a minimum of 200 new homes under Policy RW2."*

Policy RW2 states:

"The strategic residential development on land to the south east of Ross-on-Wye at Hildersley will be required to include the following to deliver a comprehensively planned sustainable urban extension of the town:

- ...
- *Appropriate mitigation measures to be implemented, which ensure that acoustic and safety issues relating to the proximity of the adjacent firing range are satisfactorily addressed.*
- ..."

It is the MoD's contention that whilst the principle of residential development on the application site is established under Policy RW2, residential development on the application site will not be acceptable unless appropriate mitigation measures are implemented which satisfactorily address the technical matters of noise and safety, and other material considerations, in connection with the MoD's firing range at Ross-on-Wye, which adjoins the application site.

The MoD's position in respect of this planning application is well documented within this, and our previous consultation responses.

It remains the MoD's contention that the Applicant has, thus far, failed to demonstrate that the issue of noise can be satisfactorily mitigated. In addition, the MoD continues to have concerns as to whether or not this issue can indeed be satisfactorily mitigated in any case.

Furthermore, it is suggested that the Applicant has, thus far, also failed to demonstrate that the MoD's concerns with regard to the issues of national security, public safety and flood risk can be satisfactorily addressed.

Accordingly, the MoD considers that the proposed development would not be in accordance with Policy RW2 of the adopted Core Strategy (N.B. an assessment of the proposed development against other adopted planning policies has not been undertaken as part of this consultation response). In this case, it is suggested that it would be appropriate for the Local Planning Authority to refuse planning permission in connection with the proposed development.

- Within paragraph 3 on page 2 of the letter, the Agent refers to the Council's housing land supply position. In view of the fact that the Council can only demonstrate a 4.49 years' supply of housing land, as per the Council's Hereford Five Year Housing Land Supply Interim Position Statement (September 2016), the Agent has outlined the position of Paragraph 49 of the National Planning Policy Framework (NPPF) (March 2012). The MoD do not dispute this position; however, do have concerns in respect of the Agent's statement "*the shortage of housing land within Herefordshire is, therefore, a material consideration that should be given considerable weight in the determination of this application in accordance with the NPPF's advice on adequately planning for local housing need.*" It is suggested that whilst the housing land supply position should be given appropriate weight, the application should be considered on balance in respect of all material planning considerations.
- The Agent, within paragraph 1 on page 5 of the letter, states "*the application site is located within close proximity of a firing range.*" It is the MoD's contention that this statement is slightly misleading. The MoD firing range is not just within close proximity of the application site, it immediately adjoins the western boundaries of the application site.

The Agent continues to state "*the frequency and duration of when the firing range is used varies from week to week and some weeks it is not used at all.*" The MoD do not dispute this position. However, for a more accurate picture of the historic use of the MoD rifle range, unlike the picture presented by the Applicant, please refer to our previous consultation responses.

- Within paragraph 2 on page 5 of the letter, The Agent states "*Notwithstanding the infrequent use of the firing range, following discussions with the Local Planning Authority, the scheme has been revised to ensure that the impact of the firing range, when in use, on the future occupants of the proposed dwellings is mitigated against.*"

The Agent has not outlined the nature of the discussions had with the Local Planning Authority. Notwithstanding this, it is the MoD's contention that the Applicant has failed to submit any evidence in support of his/her planning application that would demonstrate to the Local Planning Authority, and the MoD, that the proposed development has been amended to ensure that the impact of noise associated with the MoD rifle range can be mitigated against. This will be discussed in further detail later on within this consultation response, below.

- Potential mitigation measures are outlined within paragraph 3 on page 5 of the letter, which the Agent advises are discussed in further detail within the Technical Note for noise dated 2nd December 2016, which has been prepared by Sharps Gayler. These mitigation measures will be discussed in further detail later on within this consultation response, below.
- Within paragraph 4 on page 5 of the letter, the Agent states "*The technical note advises that the positive result of the amended concept masterplan is that the proposal does not now introduce houses significantly closer to the firing range than already exist at the Mead, or as have been recently permitted at "Rossleigh".*" This statement appears to conflict with the Agent's statement made within paragraph 2 on page 1 of the letter, which states "*the proposal does not introduce any housing closer to the firing range than already exist ...*" Perhaps the Agent can provide further clarification in respect of the Applicant's position in connection with this matter.

Notwithstanding the above, as outlined above, and outlined within our previous consultation responses, the development of the application site, in any case, would result in a significant number of the proposed dwellings being located closer to the MoD firing range, especially in context of the particular firing positions (100, 200, 300, 400 yard firing positions) within the range, than those existing residential properties located on The Mead. Therefore, it is the MoD's contention that the statement made by the Agent is inaccurate and significantly misleading.

Furthermore, each application should be considered on its individual merits. Therefore, whilst planning permission has been granted in connection with Planning Application reference P/161659, this would not automatically suggest that planning permission should be granted for this application.

In respect to the Agent's continued reference to "*Rossleigh*", it is again worth highlighting to the Local Planning Authority, and the Applicant, that the Defence Infrastructure Organisation (DIO) were not consulted by the Local Planning Authority in connection with Planning Application reference P/161659, in which case we were not aware of this application and were not provided with an opportunity to submit comments in connection with the proposed development. Had we have been consulted, it is suggested that the Secretary of State for Defence would have raised an objection to this application; for similar grounds raised in connection with this planning application.

- The Agent, within paragraph 5 on page 5 of the letter, suggests that by virtue of the amended Site Concept Plan, which is indicative in nature and is not reflective of the final site layout design which will form part of the 'Reserved Matters' planning application, the proposed dwellings would not be located within the 95 dB LA_{max} noise contour (based on the evidence previously submitted by the MoD, prepared by Amec Foster Wheeler Environment & Infrastructure UK Limited). The Applicant has failed to submit any evidence that would demonstrate this to be case. Indeed, the Applicant's latest position appears to rely on the MoD's evidence base which had been prepared in context of previous design schemes (the original and previously amended indicative Site Concept Plan) and has not been updated to reflect this latest amendment. Therefore, in view of the fact that the Applicant has failed to submit any evidence to support the Agent's position, this statement cannot be confirmed.
- Within paragraph 6 on page 5 of the letter, the Agent again refers to the operation of the MoD rifle range, specifically during the night-time. It states "*the technical note also notes that whilst firing does not generally take place at night, the AMEC report sets out a position, whereby firing could take place at night (as there are no restrictions which would prevent it). In those instances, the AMEC report proposes a position whereby noise levels in bedrooms must achieve 45 dB LA_{max} in order to prevent sleep disturbance were firing to take place at night (based on the recommended guidelines for residential accommodation set out (sic) BS8233:2014). The Noise technical note advises that with mitigation measures in place this can be achieved for the proposed development.*"

The technical note appears to contradict the Agent's statement. Paragraph 4 of the Technical Note states, in context of the 45 dB LA max guideline value, "... *this would seem, in our view (Sharps Gayler), to be a very stringent requirement in addressing noise from an activity that does not (but could) take place at night.*" Sharps Gayler appear to be suggesting that the MoD rifle range is not in use at night, which is clearly not the case.

As outlined in DIO's email correspondence to the Local Planning Authority dated 5th September 2016, the range was in use during night-time hours (defined as 23:00 to 07:00 hours) on 30th August 2016, between 18:00 and 00:30 hours. This use of the range was well documented as it is understood that Herefordshire Council received at least 1 no. complaint from a member of the public in connection with the Army's use of the range on this occurrence. Therefore, for Sharps Gayler to suggest that the range is not in use during the night-time is completely unfounded and significantly misleading.

Notwithstanding the above, the Applicant has failed to submit any evidence that would demonstrate that the suggested mitigation measures (identified within the Technical Note) would indeed ensure compliance with the guideline values of British Standard (BS) 8233:2014 or the World Health Organisation's (WHO) 'Guidelines for Community Noise' 1999 in connection with night-time noise levels internally within the bedrooms of the proposed dwellings.

In addition, it would appear that the Applicant has failed to consider the internal or external noise levels to the proposed dwellings, other than for bedrooms. Furthermore, the Applicant has failed to submit any evidence that would demonstrate compliance with the guideline values of British Standard (BS) 8233:2014 or the World Health Organisation's (WHO) 'Guidelines for Community Noise' 1999 in respect of internal or external noise levels to the proposed dwellings.

Accordingly, the acceptability of the proposed development in context of the adjoining MoD rifle range is unclear.

- The Agent, within paragraph 7 on page 5 of the letter, in context of the mitigation measures proposed within the Technical Note, states "... *these represent a reasonable and robust approach to noise from a firing range ...*" The Agent has failed to submit any evidence that would substantiate this conjecture.
- Within paragraph 8 on page 5 of the letter, the Agent states "*In summary ... the proposal does not now introduce dwellings in closer proximity, or exposed to higher noise levels, than already exist ... and the new properties would, given the mitigation measures set out in the Noise technical note, be better protected from noise than the vast majority of existing dwellings.*" For the reasons outlined above, and as per the DIO's previous consultation responses, it is suggested that the Applicant has failed to submit any evidence that would substantiate this conjecture.
- The Agent, within paragraph 9 on page 5 of the letter, states "*it is our view that, with the masterplan amendments and mitigation measures set out, future noise levels for residents within BS8233 and WHO guidelines can be achieved.*" For the reasons outlined above, and as per the DIO's previous consultation responses, it is suggested that the Applicant has failed to submit any evidence that would substantiate this conjecture.

The Agent continues to state "*It can be concluded, therefore, that the development could proceed, with mitigation measures, without significant impact on future residents or on the ability of the firing range to continue as is.*" Again, for the reasons outlined above, and as per the DIO's previous consultation responses, it is suggested that the Applicant has failed to submit any evidence that would substantiate this conjecture.

- Within paragraph 1 on page 6 of the letter, the Agent states "*we trust that armed with this revised submission you will now be in a position to proceed with the determination of the application because any relevant concerns have been addressed by the amended Concept Masterplan.*"

For the reasons outlined above, and below, and as per our previous consultation responses, it is the MoD's contention that the Local Planning Authority are not in a position to proceed with the determination of this application, unless it is the Authority's intention to refuse planning permission.

Technical Note for Noise

- Within paragraph 2, Sharps Gayler state "*the positive result of the amended masterplan is that the proposal does not now introduce residences significantly closer to the firing range than already exist at the Mead, or as have been recently permitted at "Rossleigh."* Sharps Gayler do not define what they consider 'significant' to represent. Perhaps Sharps Gayler can, therefore, provide further clarification in respect of their understanding of 'significant' in this case.

For reasons previously outlined, above, it is the MoD's contention that this statement is inaccurate and particularly misleading. The development of the application site, in any case, would result in a significant number of the proposed dwellings being located closer to the MoD firing range, especially in context of the particular firing positions (100, 200, 300, 400 yard firing positions) within the range, than those existing located on The Mead.

In respect of Sharps Gayler's reference to "*Rossleigh*", it is again worth highlighting to the Local Planning Authority that the DIO were not consulted in connection with Planning Application reference P/161659, in which case we were not aware of this application and were not provided with an opportunity to submit comments in connection with the proposed development. Had we have been consulted, it is suggested that the Secretary of State for Defence would have raised an objection to this application; for similar grounds raised in connection with this planning application.

- Sharps Gayler, within paragraph 3, state "*the principle established by the Rossleigh permission (Ref: 161659) was that properties would not be exposed to LAMAX levels from firing in excess of 95 dB.*"

In respect to Sharps Gayler's reference to "*Rossleigh*", the MoD's comments in connection with paragraph 2 of the Technical Note (the above bullet point) are considered to be equally relevant in this case.

Each planning application should be considered on its individual merits. Therefore, whilst planning permission has been granted in connection with Planning Application reference P/161659 ("*Rossleigh*"), this would not automatically suggest that planning permission should be granted for this application. The same can be said in context of 'principles' that may or may not have been established in respect of Planning Application reference P/161659.

Notwithstanding the above, Sharps Gayler suggests that by virtue of the amended Site Concept Plan, which is indicative in nature and is not reflective of the final site layout design which will form part of the 'Reserved Matters' planning application, the proposed dwellings would not be located within the 95 dB LAmax noise contour (based on the evidence previously submitted by the MoD, prepared by Amec Foster Wheeler Environment & Infrastructure UK Limited). The Applicant has failed to submit any evidence that would demonstrate this to be case. Indeed, the Applicant's latest position appears to rely on the MoD's evidence base which had been prepared in context of previous design schemes (the original and previously amended indicative Site Concept Plan) and has not been updated to reflect this latest amendment. Therefore, in view of the fact that the Applicant has failed to submit any evidence to support Sharp Gayler's position, this statement cannot be substantiated.

- Within paragraph 4, Sharps Gayler refers to the operation of the MoD rifle range, specifically during the night-time. Initially, Sharps Gayler state "*It is understood that firing does not generally take place at night*"; however, they appear to then change their position given that they state, later on within this paragraph, "*...an activity that does not (but could) take place at night.*" The two statements contradict one another, and the latter statement further contradicts the Agent's statement outlined within the above letter.

Historically, prior to 30th August 2016, there had been no recent (within the previous 5-years) night-time use of the MoD rifle range; however, by virtue of the night-time use of the range on 30th August 2016, this position has now changed.

As outlined in DIO's email correspondence to the Local Planning Authority dated 5th September 2016, the range was in use during night-time hours (defined as 23:00 to 07:00 hours) on 30th August 2016, between 18:00 and 00:30 hours. This use of the range was well documented as it is understood that Herefordshire Council received at least 1 no. complaint from a member of the public in connection with the Army's use of the range on this occurrence.

Accordingly, for Sharps Gayler to suggest that the range is not in use at night is completely unfounded and factually incorrect, which in turn is significantly misleading.

Notwithstanding the above, there is evidence of recent weekend live-firing activity on the range, in addition to night-time usage, as previously confirmed to the Local Planning Authority. This material change in the usage of the MoD rifle range should be reflected within the Applicant's consideration and assessment of the technical matter of noise.

- The MoD's comments in connection with paragraph 3 of the Technical Note are considered to be equally relevant in context of Sharps Gayler's statement made within paragraph 5.

Notwithstanding the above, in respect of the 500 and 600 yard firing positions at the MoD rifle range, whilst these are the closest firing positions to "*Rossleigh*", these are not the closest firing positions to the application site. Firing positions 100, 200, 300 and 400 yards are more appropriate in this case. Furthermore, Sharps Gayler have failed to provide any reference to the effects of the directivity of the noise; the prevailing wind direction and wind speed; and the reverberation of the noise from the cliff at the far end of the application site. Accordingly, the MoD would question the relevant use of the 95 dB LAmax noise contour in this case.

- Sharps Gayler have failed to provide any evidence to substantiate their position outlined within paragraph 6.
- In respect of paragraph 7, and the potential design solution including "*whole-house mechanical ventilation heat recovery (MVHR)*" (as an alternative ventilation to opening a window) as a method of mitigating the internal sound pressure levels of a building in order to ensure compliance with the appropriate guideline values of the WHO 'Guidelines for Community Noise' and British Standard (BS) 8233:2014, it is the MoD's contention that this would not result in an acceptable design solution. It is suggested that the requirement for windows to remained closed, a consequence that would arise from the proposed development in order to avoid undesirable exposure to noise (from the MoD rifle range)

within the proposed dwellings, would result in an undesirable internal living environment for the future occupants of the proposed development. Such a 'sealed box' solution would detract from future occupants' quality of life.

- Sharps Gayler have failed to provide any evidence to substantiate compliance with the appropriate guideline values of the WHO 'Guidelines for Community Noise' 1999 and BS 8233:2014 in respect of day-time internal sound pressure levels to be experienced within the proposed dwellings.
- With regard to external sound pressure levels experienced within private amenity spaces of the proposed dwellings, these should not exceed the guideline noise levels outlined within BS 8233:2014 and WHO's 'Guidelines for Community Noise' 1999. Should the Applicant not be in a position to demonstrate compliance with the guideline noise levels of these documents, then it is suggested that this would result in an undesirable external living environment for the future occupants of those dwellings, and would detract from future occupants' quality of life.

Sharps Gayler have failed to demonstrate that the proposed development, including the mitigation measures identified within paragraph 10, will ensure compliance with the BS and WHO guidance in respect of external sound pressure levels.

- For the reasons outlined above, and as per the DIO's previous consultation responses, it is the MoD's contention that Sharps Gayler have failed to substantiate their conjecture made within paragraph 11, i.e. that *"the mitigation measures ... represent a reasonable and robust approach to noise from a firing range"*.
- Within paragraph 12, Sharps Gayler state *"the proposal does not now introduce dwellings in closer proximity, or exposed to higher noise levels, than already exist ... and the new properties would, given the mitigation measures set out above, be better protected from noise than the vast majority of existing dwellings."* The MoD's comments in connection with paragraph 5 of the Technical Note are considered to be equally relevant in context of Sharps Gayler's statement made within this Paragraph.

For the reasons outlined above, and as per the DIO's previous consultation responses, the Applicant has failed to submit any evidence that would substantiate this conjecture.

- Sharps Gayler, within paragraph 14, state *"it is our view that, with the masterplan amendments and mitigation measures set out, future noise levels for residents within BS8233 and WHO guidelines can be achieved."* For the reasons outlined above, and as per the DIO's previous consultation responses, it is suggested that the Applicant has failed to submit any evidence that would substantiate this conjecture.
- Following the above statement, Sharps Gayler, within paragraph 15, state *"It can be concluded, therefore, that the development could proceed, with mitigation measures, without significant impact on future residents or on the ability of the firing range to continue as is."* For the reasons outlined above, and as per the DIO's previous consultation responses, it is suggested that the Applicant has failed to submit any evidence that would substantiate this conjecture.

In view of the above, and the MoD's previous comments, the Secretary of State for Defence does not consider that the technical evidence base, submitted by the Applicant, concerning the technical matter of noise to be sufficient, and fails to fully address the issue of noise in connection with the MoD firing range which adjoins the application site. Accordingly, it is the MoD's contention that this Planning Application should be supported by a new/revised Noise Impact Assessment.

Notwithstanding the above, in the absence of this information, the Secretary of State for Defence does not believe that the Local Planning Authority are currently in a position whereby they can fully consider the impact of noise in connection with the live-firing activities associated with the MoD firing range on the proposed development. In addition, it is the Secretary of State for Defence's contention that the Applicant has, thus far, failed to demonstrate that the issue of noise has been sufficiently considered and can be satisfactorily mitigated accordingly; however, the Secretary of State for Defence has concerns as to whether or not the issue of noise can be satisfactorily mitigated in any case.

In summary of the above, it is the Secretary of State for Defence's contention that it would not be unreasonable for the Local Planning Authority to refuse planning permission in this case.

Accordingly, the Secretary of State for Defence wishes to reinforce the MoD's extant objection to this planning application and in doing so respectfully request that the Local Planning Authority refuse planning permission for the proposed development.

The Secretary of State for Defence will leave the above for the Local Planning Authority's consideration.

Should you wish to discuss the above comments further, please do not hesitate to contact me.

Yours sincerely,

(Signed by electronic transmission)

Jeremy Eaton MRTPI
Town & Country Planner

on behalf of the Secretary of State for Defence



MEETING:	PLANNING COMMITTEE
DATE:	15 MARCH 2017
TITLE OF REPORT:	162891 - (RETROSPECTIVE) CHANGE OF USE OF LAND TO RESIDENTIAL CURTILAGE. RETENTION OF GARDEN ROOM, DECKING, TIMBER STAIRS AND STEPS AT 11 HARTLAND CLOSE, BELMONT, HEREFORD, HR2 7SL For: Mr Woodcock per Mr Paul Smith, First Floor, 41 Bridge Street, Hereford, Herefordshire, HR4 9DG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=162891&search=162891
Reason Application submitted to Committee - Redirection	

Date Received: 5 September 2016 Ward: Belmont Rural Grid Ref: 349093,238859

Expiry Date: 7 March 2017

Local Member: Councillor TL Bowes

1. Site Description and Proposal

- 1.1 The application relates to a detached dwelling positioned at the head of the cul-de-sac known as Hartland Close, which is located on the northern edge of the Belmont housing estate. The property has a small foregarden and parking area and an enclosed rear garden.
- 1.2 Retrospective permission is sought to regularise the change of use of land immediately to the north of the original garden to also form part of the residential curtilage and for the erection of two decked platforms, erection of a 'garden room' and steps. The rectangular area of land subject to this application extends some 26.4 metres from the original rear garden and is 10.8 metres wide. It slopes steeply down from the original rear garden to the southern bank of the River Wye.
- 1.3 A timber decked platform has been constructed immediately adjacent to the original northern boundary of the rear garden with a set of timber stairs to a lower timber platform on which the 'garden room' is sited on part. The 'garden room', also of timber construction with a felt roof, has a footprint of 3.6 metres by 2.7 metres, with a mono-pitched roof which oversails the footprint to the north by some 0.7 metres and has a ridge and eaves height of 2.53 metres and 1.96 metres, respectively. The decked platform on which the garden room is sited projects some 1.8 metres from its north elevation, whereupon a set of timber stairs, some 7.6 metres in length, extend down the slope. There is one external electric light on the northern elevation of the garden room. A 0.9 metre height timber, picket fence demarks the northern boundary of the created garden area. Beyond that, to the river bank, the land is in the applicants' ownership, but no change of use is sought for this area.

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

- 1.4 The sloping land, to which this application relates, is part of a Special Wildlife Site (SWS), described as the 'Belmont wood and Hunderton rough'. The most northerly section of the application site is also within the Site of Special Scientific Interest (SSSI) Impact Risk Zone, which extends down to the river. The lower section of the site is within Flood Zones 2 and 3, but the decking and garden room are outside of these. It is understood that the land to the north of the Belmont development was previously in single, private ownership, but was however subdivided into individual parcels and a number of dwellings on the edge of the estate adjoining this land exercised an option to purchase the individual parcels which tie in with their existing plot widths.
- 1.5 The applicants' agent provided a covering letter with the submission, setting out the background to the works and providing an assessment of the effect of the development and review of the relevant planning policies. This confirms that the applicants have cleared the steep bank of undergrowth and coppiced five trees, but have not felled any. It states that two oaks continue to stand on the site, with a further tree at the bottom of the bank. It states that the applicants were incorrectly advised that they did not require planning permission to clear the bank, use it as part of their garden and undertake development normally associated with a private garden. The agent's assessment is that the development is rather stark, when viewed from the floodplain and a section of the public footpath on the other side of the river, but considers that views are limited and planting, that has already commenced, will provide effective screening. It is acknowledged that development encroaches into the attractive, natural, linear feature of the treed bank, but the applicants' agent considers the impact on the integrity of the bank as a whole to be modest. It is further contended that this impact would reduce over time.
- 1.6 The application was accompanied by a Flood Risk Assessment (FRA), which states that only a section of picket fence has been erected in Flood Zones 2 and 3. The FRA suggests that no development is proposed in Zones 2 and 3 and this could be controlled by the Council if permission were granted for the change of use.
- 1.7 During the consideration of the application the agent has provided an Ecological Assessment and an indicative planting scheme and plan. The Ecological Assessment advises that only ground clearance and coppicing has taken place, with the oak trees either side of the site left intact. It is states that the staircase from the lower deck was elevated to avoid the oaks' roots. The assessment acknowledges that the site lies outside of the boundaries of the River Wye SSSI/SAC, but is within their identified impact zones and within local wildlife site known as the Belmont Wood and Hunderton Rough. The assessment concludes that the works have not prejudiced the SSSI or SAC. It recommends that the external lighting is removed, a film applied to the garden room glazing to reduce light spill, a 'fedge' and additional planting is provided to improve biodiversity and bat and bird boxes are provided.

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
SS6	-	Environmental Quality and Local Distintiveness
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
SD1	-	Sustainable Development and Energy Efficiency

2.2 NPPF

Introduction

Achieving Sustainable Development

Chapter 7 - Requiring good design

Chapter 11 - Conserving and enhancing the natural environment

Decision-taking

2.3 NPPG

- 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

- 3.2 A similar application on land further along the banks of the River Wye towards Hereford was refused in 2004 and dismissed at Appeal in 2005 for change of use of land to residential and construction of decking area. (DCCW2004/2278/F)

4. Consultation Summary

Statutory Consultations

Natural England

- 4.1 Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.
- 4.2 The Wildlife and Countryside Act 1981 (as amended) The Conservation of Habitats and Species Regulations 2010 (as amended)
- Objection - Further information required.
- 4.3 Natural England advises that potential impacts on otters and the riparian habitat which form part of the designation of the River Wye Special Area of Conservation (SAC)/ Site of Special Scientific Interest (SSSI) have not been considered, and therefore currently there is insufficient information for you to undertake a Habitats Regulation Assessment of the proposed development.
- 4.4 It should be noted that the SSSI boundary includes the channel and banks of the river, areas of riparian habitat and land essential for securing water quality up to a maximum of 10 metres; a boundary which is subject to change due to channel movement.

Internationally and nationally designated sites:

- 4.5 The application site is partly within a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the River Wye Special Area of Conservation (SAC) which is a European site. The site is also notified at a national level as River Wye Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.
- 4.6 In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Further information required:

- 4.7 The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment. In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. We recommend you obtain the following information to help undertake a Habitats Regulations Assessment:
- Details of how impacts on riparian habitat will be avoided and how the riparian habitat will be managed. Part of the proposed curtilage is within the SAC/SSSI boundary and this should remain as riparian habitat. It should be noted that removing vegetation from the river banks can destabilise the bank and increase erosion.
 - Details of the planting scheme.
 - Details should be provided on how impacts on otters will be avoided. Otters are known to use this stretch of the River Wye SAC and are a notified feature of the SAC and SSSI. Further information on the consideration of otters in the planning process can be found in Natural England's standing advice on otters.
 - Details of the lighting. Information should include but not be limited to, location of lighting, lux levels and light spill.

River Wye SSSI – further information required.

- 4.8 This application is partly within the River Wye SSSI. The details set out in the SAC section apply equally to the SSSI notified features.
- 4.9 Should the application change, or if the applicant submits further information relating to the impact of this proposal on the SSSI aimed at reducing the damage likely to be caused, Natural England will be happy to consider it, and amend our position as appropriate.

- 4.10 If your Authority is minded to grant consent for this application contrary to the advice relating to the River Wye SSSI contained in this letter, we refer you to Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon your authority, requiring that your Authority:
- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and
 - Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

Other advice:

- 4.11 We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:
- local sites (biodiversity and geodiversity)
 - local landscape character
 - local or national biodiversity priority habitats and species.

- 4.12 Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation documents) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

Protected Species:

- 4.13 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.

- 4.14 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.

- 4.15 If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk.

Biodiversity enhancements:

- 4.16 This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Internal Council Consultations

4.17 Conservation Manager (Landscape) - Object.

I have read the documents and seen the photographs submitted as part of the application.

Having walked a length of the Wye Valley Walk, and viewed the proposal from the public right of way BT1, I agree with the planning consultant's comments in respect of the stark appearance of the development. This is as a combined result of the introduction of an extensive quantity of hard landscaping, compounded by the clearance of all vegetation on site.

4.18 In terms of landscape character the sensitivity of the site is high; it represents a transition between the urban fringe and the surrounding natural landscape which includes the River Wye SSSI, SAC less than 40m from the development. This transition in the landscape is demonstrated by the change in landscape character types-which runs along the bank- from urban to Riverside Meadows; defined as essentially unsettled landscapes.

4.19 This sensitivity is further explained within the HC Urban Fringe Sensitivity Analysis 2004, supplementary planning guidance: *Within the river corridor, particularly at the eastern and western fringes of the city, key characteristics of Riverside Meadows are still apparent: unsettled landscape, pastoral land use and linear patterns of willow and alder.*

4.20 The integrity of the tree belt which runs along this section of the river bank known as Belmont Wood and Hunderton Rough, a Special Wildlife Site has until this point remained intact, performing the important function of a landscape buffer between the built and natural environment. The clearance of the site has therefore resulted in a break in vegetation exacerbated by the extensive use of hard landscaping the full effects of which can be appreciated due to the topography of the site from the public right of way.

4.21 Acknowledging that the application is retrospective, consideration has to be given to any potential mitigation of the effects. In this instance I am not convinced that replanting or repainting is an appropriate way forward because of the sensitivity of the site. Instead I would recommend the removal of the lower section of the terracing including the summerhouse and steps with balustrade to the river bank. The site should be replanted with the same species as were removed in order to reinstate the tree belt and a planting plan should be submitted to that effect – consideration should be given to the size of species planted in order to gain a reasonable amount of vegetative coverage.

Two final points in respect of this application are also set out below:

4.22 Any lighting as part of this proposal whilst not mentioned in the application would also be considered an intrusion into this natural landscape.

Vegetative cover such as this tree belt performs an additional important function on steep sites such as this, as the roots assist in retaining the soil and avoiding land slip.

4.23 Conservation Manager (Landscape) – amended details:

I have seen the indicative planting plan proposed as mitigation for the works carried out.

- 4.24 The Special Wildlife Site Belmont Wood and Hunderton Rough is described as - *A mixed woodland with a dense understorey. Species present include oak, ash, yew and other conifers.*
- 4.25 I am not convinced that what is proposed is acceptable in terms of either species – several of which are ornamental or domestic varieties, or layout – which has a formal aspect to it with linear hedgerows marking boundaries.
- 4.26 As stated in my earlier response the wood formed an expansive tree belt which served an important function in terms of providing a landscape buffer between the built form and natural environment. The mitigation proposed will address the issue of bare earth and given time screen aspects of built form, but will not reinstate what has been lost and will therefore take on character of its own not in keeping with the natural environment.
- 4.27 Conservation Manager (Ecology) - Object.
- 4.28 Thank you for consulting me on this retrospective application. I am troubled by this development. The belt of woodland has wildlife site designation as the Belmont Wood and Hunderton Rough Special Wildlife Site. Clearly, the continuity of woodland here is broken by the substantial construction which has been erected. As a functional feature alongside the River Wye, the woodland performs a function creating a buffer of vegetation along the riverbank which clearance of trees erodes.
- 4.29 However, my gravest concern is the potential impact upon the River Wye which has international designation as a Special Area of Conservation (SAC) and is a Site of Special Scientific Interest (SSSI) – this development lies within the impact zone for the SAC/SSSI. Natural England have standing advice concerning developments in SSSI Impact Zones which includes residential development as potential impact. Unfortunately, with a retrospective development the local authority have had no opportunity to advise. Consequently what has resulted is the clearance of buffer vegetation near the River Wye with a commensurate removal of biodiversity on a site designated for its nature conservation interest. Under planning regulation this would be unacceptable and, with no pre-development ecological assessment of the site, the impacts of this remain unknown. Hence this development receives an objection.
- 4.30 Conservation Manager (Ecology) – amended details:
- You have my original comments regarding the development in which I raised an objection. The original brief description for this Special Wildlife Site is that of “*A mixed woodland with a dense understorey. Species present include oak, ash, yew and other conifers*”. I would agree that the two oaks may have caused lighter vegetation growth but the construction of the structure has clearly breached the continuity of the understorey referred to above. The ecological report which was welcome and helpful in assessing the situation seeks to redress this situation somewhat with suggestions for a ‘fedge’ and “an under storey of woodland habitats will be created by planting a mixture of Holly, Hazel and Field Maple ...”. (The ash recommended in the report in association with this should not be planted given the national problem with ash dieback disease).
- 4.31 I would agree that this is an acceptable way forward and a good ecological basis on which to proceed. If the application is to be approved and the structure to be retained the planted environment must be commensurate with existing/pre-existing vegetation. The planting plan submitted for approval is not in keeping with this where exotic trees and shrubs are included. Within this woodland designated for its native species, it is inappropriate to include *Salix X Chrysocoma*, *Ilex ‘Golden King’* or *Amelanchier lamarkii*. I welcome the planting of the other species but not these three exotics.

- 4.32 I have no objection to the amenity use of the woodland – indeed the woodland may have been planted or modified for its amenity value within the landscape of the nearby great house. However, formalising this woodland plot through planting non-native species is inappropriate for a designated wildlife site and is contrary to Herefordshire Council's Policies LD2 Biodiversity and Geodiversity and LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031.
- 4.33 The planting 'around the edge' of the plot should remain informal and not tightly hedged in order to delineate any boundary. Any ground cover/perennial planting should be of native species and not invasive exotics such as cotoneaster. I notice one of the photographs also shows a mown sward down to the river's edge which should really be left natural with occasional cuts.
- 4.34 If the application is to be approved and a change of use to residential curtilage adopted I would not object at this stage provided that the amendments above are made to the planting plan with suitable substitute planting to exclude and replace the exotic varieties named above.
- 4.35 Conservation Manager (Ecology) – additional comments:
- Thank you for passing on my comments to the applicants. My previous comments still stand. As a result of Natural England's concern that the LPA do not have enough information to carry out a Habitats Regulations Screening I have looked into the detail of this application. Since this response an ecological assessment has been conducted and protection measures for the SWS and R. Wye SSSI/SAC have been suggested to the applicant.
- 4.36 I note that the northern boundary of the development encroaches upon the SSSI impact zone for the R. Wye SAC by approximately 5 metres but never-the-less, the construction which falls within the impact zone comprises a portion of the steps from the decking and vegetation clearance of the woodland of the Special Wildlife Site. I was concerned in my first response that the (completed) development may impact upon the R. Wye through removal of woodland vegetation.
- 4.37 Exposure of the ground layer of the woodland could lead to soil transport to the R. Wye but I am less concerned that this will happen given that water butts to collect run-off from the buildings have been put in place. I would also expect that the existing root environment will act as a sponge to prevent any such surface flow in the short-term. In the medium to long term, the establishment of trees and shrubs should ameliorate the situation and return the ecological functioning to the area both from a watershed perspective and in biodiversity. I am assured that replanting of native species commensurate with the woodland will be done and that exotic species will not be used at the site (including removal of already planted willows).
- 4.38 The ecological assessment commissioned subsequent to the concerns raised by myself and Natural England, identifies measures for mitigation and avoidance of impact on the qualifying features of the R. Wye SAC. I believe the recommendations from the report together with the above proposals provide sufficient information to formulate mitigation measures. In order that there is no further impact on the R. Wye features such as otter, the applicant must not maintain the bank down to the river as mown strip. However, this area is not within the remit of planning and the applicant is advised to consult upon how best to maintain the 10 metre strip alongside the channel to avoid disturbance to otter and to avoid bank erosion.
- 4.39 I have one more concern that granting planning permission for such works as have been done will set a precedent. I am not enamoured of the thought that other land owners may see this application as acceptable; it is not. The cumulative impact of other development alongside this cannot be seen as easily mitigated and continuing removal of woodland vegetation from the SWS should be seen as degradation of a natural resource and against policy for such sites.

- 4.40 For this application, I believe the mitigation measures above along with minimising lighting of the structure is the best way forward should planning approval be given I would recommend the following conditions:
- 4.41 The recommendations set out in the ecologist's report from Tim Woodcock dated December 2016 should be followed unless otherwise agreed in writing by the local planning authority. A working method statement for establishing protected species mitigation and habitat enhancements should be submitted to the local planning authority in writing. The plan shall be implemented as approved.
- 4.42 An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reasons:

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

- 4.43 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).
- 4.44 An Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include details of vegetation management, means of lighting and measures to minimise potential for soil erosion from use of the development. 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).

- 4.45 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).

- 4.46 Transportation Manager:

Proposal acceptable (no conditions and/or informatives required).

- 4.47 Environmental Health Manager (Contamination):

I have reviewed our records and note that the proposal is to the east of a former landfill site in an area where precautionary gas protection measures were installed in buildings. These should be included in the garden room or a suitable assessment be carried out to consider risk from the landfill to the development.

4.48 Recommended Condition:

"Properties in this area include gas protection measures within their construction and as such it is recommended the same precautionary measures are installed within the garden room OR a suitable risk assessment be carried out to consider risk from the landfill to the development. Where applicable, suitable validation documentation will be required in due course to demonstrate that these works have been carried out."

5. Representations

5.1 Belmont Rural Parish Council - resolved not to support the application because:

- a) It was not in keeping with the landscape.
- b) There was no ecological report and the removal of trees would have an adverse impact on wildlife, particularly foraging badgers.
- c) The Ward Councillor was asked to request that the application be considered at the Planning Committee rather than determined by a Planning Officer.

5.2 Nineteen representations have been received, five objecting, thirteen supporting and one mixed. In summary the main points raised are as follows:

Support

- over the last 10 years sections of land along the riverbank have been purchased from Barwood House and incorporated into back gardens
- objection to harm to the Wye Valley are a little far fetched
- improvement to the appearance of the riverbank
- wooden structure would blend with vegetation and weather in time
- discreet siting amongst trees
- high quality development, has tidied up the area
- planting has taken place
- similar improvements along this stretch and none detract for the area
- would encourage wildlife rather than destroy it, animals can thrive in managed areas
- does set a precedent, but not many could afford such a design so unlikely to see rows of huts
- lots of the small trees and foliage were already rotten, site was a wilderness
- previously there was dense ivy on site, no oaks or yews found on other sites
- cleared vegetation is providing log pile and dead wood habitats
- some of the planting is non-native
- steps are needed to provide safe access to the riverside
- work does not encroach on the SSSI, as the protected area is the river and immediate bank – not the flood plain or area beyond where the development is
- no properties directly look at the development
- difficult to balance development on a housing estate on the urban-rural fringe
- no further loss of wildlife habitat or greater visual impact than any other Belmont property backing onto the Wye
- natural viewpoint of the river, look forward to spending time in this tranquil environment
- permission could be granted with conditions, such as concealing the fencing with plants, preferably wild
- feel more strongly about reduction of Himalayan Balsam and mess from dogs and litter
- more people should take pride in the area like this
- no impact on Hartland Close
- garden extension on the applicants' own land

- other properties have developed their gardens in similar ways – precedent set
- permitted development rights are met, as it is the applicants' property
- lighting does not disturb others
- transformed for the applicants to enjoy
- negatives should not over rule the profound job

Objection

- Works are not in keeping with the natural beauty of the area and totally change the appearance from the river bank
- Can be seen from the other side of the riverbank and are unsightly
- Very stark appearance which would not be restored by replanting
- Harmful to natural beauty of the area, wildlife and their habitat
- No mention in the application of the stair handrails or lighting which have been installed
- Pre-application advice was not sought
- Boundary fence is not post and rail
- Site is within 20 metres of the River Wye
- Incorrectly/incompletely filled application form
- All ground level planting has been removed and tree limbs removed and burnt
- Development will be more obvious in the Autumn
- Retrospective application suggests disregard for the natural beauty of the area
- If allowed would set a precedent for others along the bank to develop
- Unauthorised development should be removed as soon as possible and restored as far as possible
- Removal of trees and excavation give rise to concerns about subsistence
- Other residents who have purchased the land down to the river have developed in keeping with the environment, minimising impact
- Large construction in the middle of the land, large quantities of concrete needed

Other comments

- Was advised that similar works at my property would not be appropriate by the Council at pre-application advice stage
- Applicants had received poor legal advice, but were made aware that the works required planning permission but continued at their own risk. The Council should have enforced a stop of works
- Work carried out without architect's plans, structural engineer's report or compliance with Building Regulations
- Application should be considered on its own merits

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=162891&search=162891

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

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

6. Officer's Appraisal

6.1 The legal starting point for the consideration of this application is that set out in section 38 (6) of the Planning and Compulsory Purchase Act 2004. This states that:

"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 The development plan is, for the purpose of this application, the Herefordshire Local Plan – Core Strategy 2011-2031 (CS). There are no specific policies contained within the CS relating to the change of use of land or the provision of new buildings and structures on such land. Consequently, the application falls to be considered against policies relating to the impacts of such developments. In this case the key issues are considered to be the landscape impact, the effect on biodiversity and the potential risk from contaminated land and the relevant CS policies pertaining to these issues are SS1, SS6, LD1, LD2 and SD1. These policies relate to sustainable development principles and environmental impacts on the landscape and biodiversity.
- 6.3 Setting out the overarching objective of the CS, the presumption in favour of sustainable development, policy SS1 promotes a positive approach reflective of the National Planning Policy Framework (NPPF). It states that solutions will be sought to facilitate approval of development that improves the social, economic and environmental conditions of the County.
- 6.4 CS policy SS6 states that ‘*Development proposals should conserve and enhance those environmental assets that contribute towards the county’s distinctiveness, in particular its settlement patterns, landscape, biodiversity and heritage assets and especially those with specific environmental designations.*’ The policy advocates an integrated approach, based on sufficient information from the outset to determine the effect on specified considerations, including amongst others, the landscape, biodiversity especially SACs and SSSIs, green infrastructure and local amenity.
- 6.5 Policy LD1 – Landscape and townscape, states that:
- Development proposals should:*
- *Demonstrate that the 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.*
- 6.6 Policy LD2 – Biodiversity and geodiversity states that proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire, through the retention and protection of nature conservation sites and habitats, and important species in accordance with their status. Development that is likely to harm sites and species of European Importance will not be permitted. Development that would be liable to harm SSSIs or nationally protected species will only be permitted if the conservation status of their habitat or important physical features can be protected by conditions or other material considerations are sufficient to outweigh nature conservation considerations. Development that would be liable to harm the nature conservation value of a site or species of local nature conservation interest will only be permitted if the importance of the development outweighs the local value of the site, habitat or physical feature that supports important species. Development that will potentially reduce the coherence and effectiveness of the ecological network of sites will only be permitted where adequate compensatory measures are brought forward. Proposals should provide for the restoration and enhancement of existing biodiversity and geodiversity features on site and

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

connectivity to wider ecological networks; and the creation of new biodiversity features and wildlife habitats.

- 6.7 The Environmental Health Manager has advised that the proposal lies to the east of a former landfill site in an area where precautionary gas protection measures were installed in buildings. CS policy SD1 states that where contaminated land is present it is required to undertake appropriate remediation and that development should safeguard the residential amenity of residents.
- 6.8 The NPPF is a material planning consideration in decision taking. It promotes sustainable development and recognises that there are three dimensions to this: economic, social and environmental. It states that these three roles are not to be undertaken in isolation, as they are mutually dependent. It is a core planning principle of the NPPF that planning should contribute to the conservation and enhancement of the natural environment. Chapter 11 of the NPPF provides more detailed guidance on the approach to conserving and enhancing the natural environment. This advises that planning should aim to conserve and enhance valued landscapes, recognise the wider benefits of the ecosystem, minimise impacts on biodiversity and provide net gains where possible. Development likely to have an adverse impact on a SSSI should not normally be permitted (paragraph 118 - NPPF). An exception only being made where the benefits clearly outweigh both the impacts on the specific features of the site that make it important and the broader impacts on the national network of SSSIs. Continuing the chapter advises that opportunities to incorporate biodiversity should be encouraged.
- 6.9 Turning to the contamination issue, the NPPF states that sites must be suitable for the new use taking into account, amongst other matters, pollution arising from previous uses. Furthermore, where a site is affected by contamination the responsibility for securing safe development rests with the developer/landowner. Amongst the core planning principles the NPPF lists the need for a good standard of amenity for all occupants of land/buildings. This is relevant as the garden room is used incidentally to the use of the dwellinghouse.
- 6.10 Finally, in planning policy guidance terms, the NPPF promotes good design, which promotes developments responding to local character and history, reflecting the identity of the surroundings and visually attractive schemes as a result of good architecture and appropriate landscaping.
- 6.11 As identified and detailed in the Conservation Manager's (Landscape) comments, the site is highly sensitive; representing a transition between the urban fringe and the surrounding natural landscape which includes the River Wye SSSI and SAC. Cumulatively, the works comprise the provision of two decked areas, the provision of stairs and steps and a garden room. As shown on the submitted cross section plan the lower of these decked areas, on which the garden room is located, is elevated by approximately 1.1 metre above the natural sloping land levels. The steps down to the river from this deck start at the same height and include a hand rail of some 1.3 metres in height. The upper deck, adjacent to the original rear garden, is some 0.3 metres above the lower ground level. None of these structures benefit from 'permitted development rights', because they are not within the curtilage of the dwellinghouse and the applicants now understand this.
- 6.12 Notwithstanding, the revised, indicative planting scheme, it is considered that the provision of the decking areas, garden room and associated steps/staircases have a harmful impact on the landscape. They represent an incursion of the built form, by way of the extension of a suburban character into this natural area. It appears incongruous with the attractive landscape of this part of the river corridor, which is prominent from the Wye Valley walk, on the opposite side of the river. The proposal for further planting has been carefully considered, but in this case, due to the siting, size and design of the structures and the land levels, Officers are not persuaded that this would satisfactorily overcome the identified harm in the short or long term. Conversely, to some limited degree, the planting would provide a delineation of the northern boundary of the

lower part of the embankment, which the Conservation Manager (Landscape) considers would create further harm. The development fails to respect its context and does not demonstrate that the landscape has positively influenced its site selection, scale or design. Therefore, the development fails to accord with CS policies SS6 and LD1 and the requirements of the NPPF.

- 6.13 With regards biodiversity the Conservation Manager (Ecology), has concluded on the basis of the submitted ecology report and illustrative planting (subject to some further modifications) that the identified adverse impacts could be suitably mitigated if controlled by suitably worded conditions. Whilst the Ecologist considers that in this specific case the adverse impacts can be ameliorated, due to the sensitivity of the site in its wider context and the potential for other owners of the strip of land from their rear garden to the riverbank to propose similar development, there is a potential that a cumulative impact could not be mitigated.
- 6.14 Turning to the potential for contamination, the Environmental Health Manager has recommended a condition to ensure that the use of the garden room is safe, if permission is granted. Given the site's location near to a landfill site this is considered to be a proportionate approach and a condition requiring this would meet the tests for the imposition of such, as set out in the National Planning Policy Guidance.
- 6.15 Assessing the scheme as a whole, in light of the three mutually dependent dimensions of sustainable development, namely economic, social and environmental roles, it is considered that there are only very limited economic benefits through the employment of trades and purchasing of materials and planting and no public social benefits. With regards the environmental role, harm has been identified to both landscape and biodiversity, although the latter is capable of satisfactory mitigation. When considered in the planning balance, the harm to the landscape is sufficient to warrant the development to be unsustainable and as such there is no presumption to approve. The development is considered to be contrary to both CS policies and the NPPF and in the absence of any material planning considerations indicating otherwise a decision should be made in accordance with the Development Plan.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1. By virtue of their siting, scale and design, the decking, garden room and associated staircases/steps appear as intrusive, prominent and incongruous structures on the bankside, adversely affecting the character and amenity of the landscape, contrary to policies SS6 and LD1 of the Herefordshire Local Plan – Core Strategy.**

Informative:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal. The applicants have been given the opportunity to address the issues raised where possible. However, the issue of landscape impact is fundamental and it is considered not to be possible to negotiate a satisfactory way forward due to the harm which has been clearly identified within the Committee Report and the reason for the refusal. Approval of the scheme is not possible.**

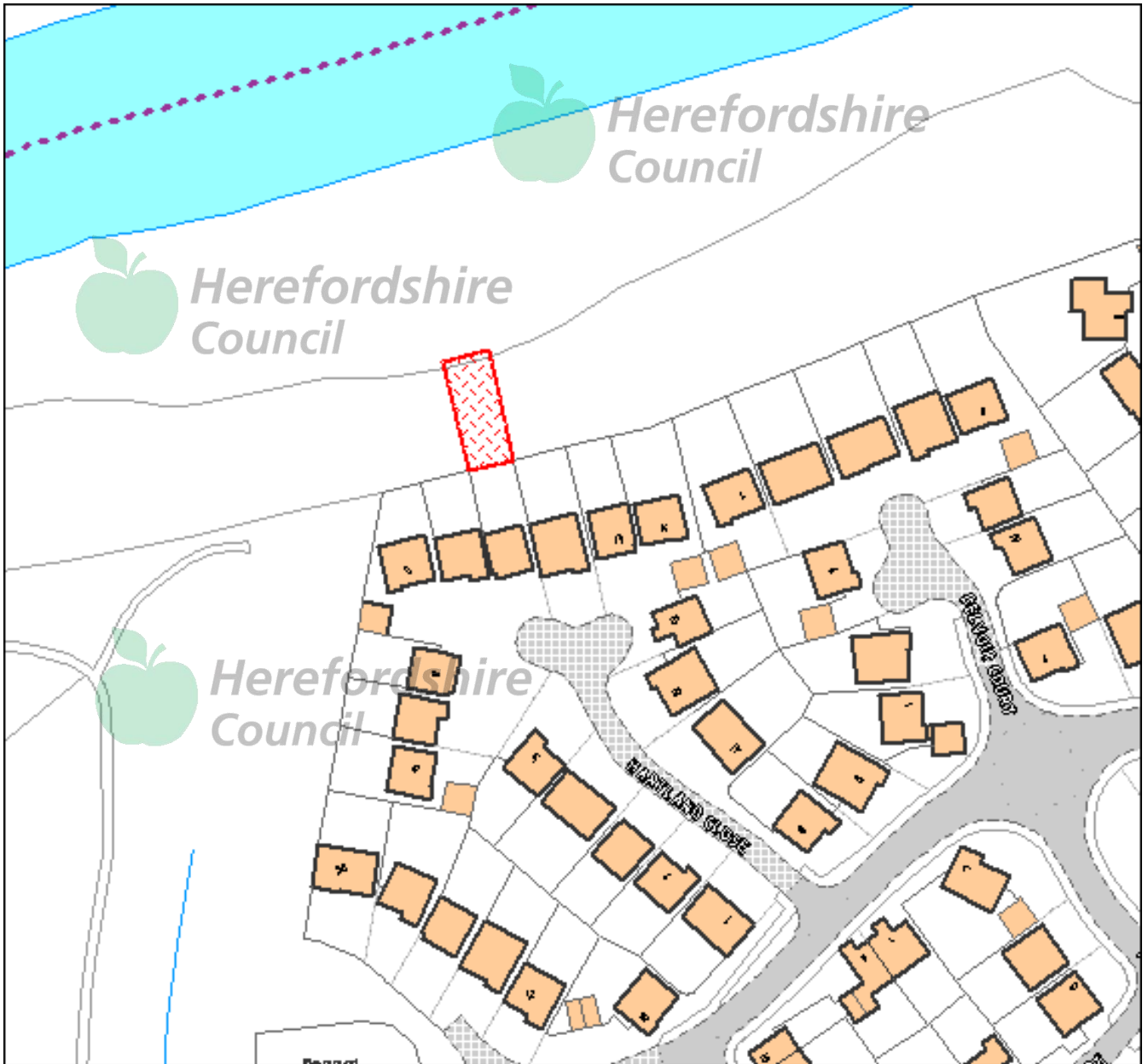
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 162891

SITE ADDRESS : 11 HARTLAND CLOSE, BELMONT, HEREFORD, HEREFORDSHIRE, HR2 7SL

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MEETING:	PLANNING COMMITTEE
DATE:	15 MARCH 2017
TITLE OF REPORT:	<p>163322 - ERECTION OF A HOUSING UNIT COMPRISING OF AN INDEPENDENTLY ACCESSED SINGLE STOREY ONE BEDROOM DWELLING AND A TWO BEDROOM DORMER STYLE BUNGALOW AT LAND AT THE FIELD STUD FARM, POPLANDS LANE, RISBURY, LEOMINSTER, HR6 0NN</p> <p>For: Mr & Mrs Harcombe per Mr & Mrs Dudley & Susan Harcombe, The Field Stud Farm, Risbury, Leominster, Herefordshire HR6 0NN</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=163322&search=163322
Reason Application submitted to Committee - Redirection	

Date Received: 17 October 2016

Ward: Hampton

Grid Ref: 355180,255376

Expiry Date: 15 March 2017

Local Member: Councillor BA Baker

1. Site Description and Proposal

- 1.1 The proposal site is accessed the eastern side of Poplands Lane, an unclassified road (U94009), that leads northwards from the cross-roads at Risbury. The proposal site comprises the applicants' two-storey dwelling, outbuildings and paddocks to the south and north of the access drive leading from Poplands Road.
- 1.2 The proposal is a detailed one for a detached two-bedroom dwelling with self-contained accommodation of one bedroom, bathroom and kitchen area/living room area. The site is in part the site of an existing mobile home occupied by the applicants' disabled son. The applicants will it is proposed live in the two-storey element and their disabled son will live in the adjoining accommodation. The building will be finished in brick slip cladding and Buff sandstone cladding matching that used on the existing dwelling under a blue /grey natural slate tiled roof. The new dwelling is sited down slope and to the south-east of the applicant's property that will be occupied by their daughter who will also provide care for her brother. The dwelling and annexe will be sited in a paddock fringed by three boundaries of hedgerow and picket fence on the north-eastern side. Access will be taken off the existing driveway serving the applicants' property, it will comprise a new 46 metres long, 3.2 metres wide track that will adjoin a hedgerow boundary. It will be finished in stone chippings matching the existing driveway. A SUDs drainage system will be provided
- 1.3 This application follows one for a detached dwelling alone i.e with no accommodation for the applicants' son on a site to the west and higher elevation in the landscape that was withdrawn at the request of the applicant (reference 160643/F)

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

2. Policies

Herefordshire Local Plan – Core Strategy

- 2.1
- 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
 - RA3 - Herefordshire's Countryside
 - 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
 - SD1 - Sustainable Design and Energy Efficiency
 - SD3 - Sustainable Water Management and Water Resources
 - SD4 - Wastewater Treatment and River Water Quality

Neighbourhood Planning

- 2.2 The site falls within the Parish of Humber.

The Neighbourhood Development Plan for Humber, Ford and Stoke Prior was adopted on 18 August 2016. Residential development is to be provided within identified settlement boundaries which includes one for Risbury, in Policy HFSP5.

Therefore in line with paragraph 216 of the NPPF significant weight can be attributed to the plan.

The relevant policies are considered to be:

Policy HFSP2 : Development strategy
Policy HFSP3 : Housing development
Policy HFSP5 : New homes in Risbury

NPPF

- 2.3 The following chapters are of particular relevance to this proposal:

Introduction
Achieving sustainable development
Section 1 – Building a strong, competitive economy
Section 4 - Promoting sustainable transport
Section 6 - Delivering a wide choice of high quality homes
Section 7 - Requiring good design
Section 8 - Promoting healthy communities
Section 11 - Conserving and enhancing the natural environment

- 2.4 NPPG

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

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/core-strategy/adopted-core-strategy>

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

3. Planning History

3.1 160643/F – Detached dwelling and garage – Withdrawn 11 April 2016

DC2006/3581/F – Proposed temporary mobile home to allow independent living for a disabled person – Approved 20 December 2006

DC2004/3369/F – Single-storey rear conservatory – Approved 19 November 2004

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water:

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

However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

Internal Council Consultations

4.2 Transportation Manager has not responded to date.

5. Representations

5.1 Parish Council

The Planning Committee of Humber, Ford & Stoke Prior Group Parish Council considered this application at its meeting on 21 November 2016, at which the applicants were present. The Committee resolved to submit the following comments:

The Council supports the application, and recommends that it be considered by the Planning Committee of Herefordshire Council as having material considerations (namely the requirements of a disabled person and their carers) which fall outside of approved planning policy, as provided by the NPPF paragraph 2. The proposed development is aimed at meeting the particular housing needs of a resident, which is a general principle of the overarching NDP Policy HFSP1. It specifically meets the needs of a person with disabilities and their carers, under paragraph 50 of the NPPF, but on which the Core Strategy and NDP are silent. Although outside the Settlement Boundary for Risbury, the proposed dwelling is in part a replacement for an existing dwelling (under Core Strategy Policy RA3) and the exceptional circumstances of the application justify this having to be larger. The design of the development complies with the requirements of the Core Strategy and Policy HFSP5, and earlier objections from neighbours in this respect are reported to have been overcome by the revised proposal.

5.2 Two letters of support have been received raising the following points:

- Revised application, objected to siting for previous proposal, now support new siting. Have always supported principle
- Will not affect neighbouring property
- Clear need: sustainable care
- With cuts to adult care, even more paramount that care be provided

5.3 A petition with 11 signatures has been received

- I, the undersigned, submitted a letter of support (see attached) for a previous application to develop a dwelling at The Field Stud Farm (reference: 160643) in order to ensure ongoing support for the applicants' son's disability needs.
The applicants, have amended their application to build supported accommodation for Stuart, their disabled son, as a replacement dwelling for a mobile home, in which he has resided for almost 10 years.
- This revised application and proposal (reference: 163322) which I fully support, will consist of a double housing unit comprising a single bedroom dwelling for Stuart, with a two bedroom 'dormer' style bungalow attached thereto for occupation by Mr and Mrs Harcombe, who will remain as his principal carers. This will enable their daughter, Sarah, and her family to move into the main house of The Field Stud Farm to provide sustainable ongoing support for her brother, and her parents, the applicants, as the depredations of age emerge for them. Most importantly, it will ensure the current level of support and assistance for Stuart may continue.

5.4 A further petition received appended by 111 signatures

- support double housing unit, comprising a independently accessed single –storey dwelling as replacement dwelling for an existing mobile home occupied for 10 years without objection or complaint and a two bedroom one and a half storey dormer bungalow to enable continued role as primary carers for their son.

5.5 The consultation responses can be viewed on the Council's website by using the following link:-
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=163322&search=163322

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

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

6. Officer's Appraisal

6.1 The legal starting point for the consideration of this application is that set out in section 38 (6) of the Planning and Compulsory Purchase Act 2004. This states that:

"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 The development plan is, for the purpose of this application for residential development, the Herefordshire Local Plan – Core Strategy 2011-2031 (CS). The Humber Neighbourhood Development Plan (HNDP) was adopted on 18 August 2016.

6.3 The National Planning Policy Framework (NPPF) is a material planning consideration in decision taking. It promotes sustainable development and recognises that there are three dimensions to this: economic, social and environmental. It states that these three roles are not to be undertaken in isolation, as they are mutually dependent. Similarly to the NPPF, the pursuit of sustainable development is a central principle of the CS. Again, the pursuit of these objectives falls under similarly worded headings of 'social progress', 'economic prosperity' and 'environmental quality'. CS Policy SS1 reflects the positive presumption in favour of sustainable development and the NPPF paragraph 14 decision-making process insofar as development according with the CS should be approved unless material considerations indicate otherwise. Where policies are silent or otherwise out of date, CS policy SS1 follows the same two-limb approach set out in paragraph 14 of the NPPF.

- 6.4 In terms of new housing provision across the County CS policy RA1 identifies that Herefordshire's rural areas will need to find a minimum of 5,300 new dwellings between 2011 and 2031 to contribute towards the county's housing needs. The policy states that the dwellings will be broadly distributed across the identified seven Housing Market Areas (HMAs), with specific indicative housing growth targets set to reflect the different housing needs of these areas. CS policy RA2 - Housing in settlements outside Hereford and the market towns, states that sustainable housing growth will be supported in or adjacent to those settlements identified in Figures 4.14 and 4.15 and this will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the communities concerned.
- 6.5 The proposal site is located outside of the adopted settlement boundary of Risbury, the main concentration of development in the settlement will be along the main thoroughfare that starts at Risbury crossroads and leads eastwards to Pencombe and comprises residential development on both sides of the highway. Therefore, given that the proposal site is outside the defined settlement boundary the proposal falls to be determined by Policy RA3 of Core Strategy.
- 6.6 The preamble to CS policy RA3 advises that outside of settlements listed in figures 4.14 and 4.15, new housing will be restricted to avoid unsustainable patterns of development. It confirms that residential development outside of these listed settlements will therefore be limited to those proposals which meet the criteria listed in Policy RA3. This policy limits residential development to proposals which satisfy one or more of the following seven specified criteria:
1. Meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or
 2. Accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with Policy RA4; or
 3. Involves the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage, of the existing dwelling; or
 4. Would result in the sustainable re-use of a redundant or disused building(s) where it complies with Policy RA5 and leads to an enhancement of its immediate setting; or
 5. Is rural exception housing in accordance with Policy H2; or
 6. Is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 of the National Planning Policy Framework and achieves sustainable standards of design and construction; or
 7. Is a site providing for the needs of gypsies or other travellers in accordance with Policy H4.
- 6.7 It is stated that this is an application that constitutes one for a replacement dwelling, one of the accepted exceptions for development that the Group Parish Council confirms constitutes development in the open countryside. This is though not the case given that the dwelling proposed to be replaced is a mobile home and is not a dwelling with a lawful use as stipulated by Policy RA3 of Core Strategy and Paragraph 55 of NPPF.
- 6.8 This policy, taking a similar stance to CS policy RA3, indicates that outside of the settlement boundary only dwellings in line with Core Strategy policies H2, RA3, RA4 and RA5 should be permitted. As the application is outside of the settlement boundary of Risbury, and would not comply with any of the exceptions set out in CS policies H2, RA3, RA4 or RA5, the proposal is not compliant with the HFSPNDP. The NDP is the development plan for Risbury and defines the terms of new residential development. Paragraph 50 of the NPPF is referred to by the Parish

Council and the applicants, as providing support for the proposal. This paragraph in the NPPF requires that local authorities provide for a range of groups in communities including amongst others 'people with disabilities'. This is referred to in the text to Policy SS2 of Core Strategy. This requirement does not though fall within the exceptions to development in Policy RA3 of Core Strategy and is a matter that should be addressed in the remit of NDPs i.e within defined settlement boundaries. Paragraph 50 of NPPF does not provide justification for residential development outside of settlement boundaries. The HFSPNDP sets the local planning context for appraising the proposal in line with the Government's promotion of localism, and in this case the scheme does not accord with these locally prepared policies. Furthermore, it does not meet the vision of the plan as the proposed dwelling is not in an area agreed by local people in the Neighbourhood Development Plan.

- 6.9 The applicants are contending that the personal circumstances stated meet the criteria set out in CS policy RA3, however the CS and NDP policies are quite clear that it should be prevented, as it would not be a sustainable form of development.
- 6.10 Whilst the personal circumstances cited are appreciated, they are not unique nor so compelling such that they would outweigh the well established policy position to protect the countryside from unjustified residential development. No weight should be given to these circumstances as there is no legal mechanism to ensure that the dwelling and annex proposed would ever be occupied by the applicants, even in the very short term, despite their intentions, if permission is granted. This is because a condition attempting to restrict occupation in such a manner would fail to meet the tests for the use of planning conditions set out in the NPPG. This states that '*A condition used to grant planning permission solely on grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building.*' It is understood that the applicants clear intention is to construct and live in the dwelling proposed, but circumstances could change such that this is not ever realised, or only in the short term.
- 6.11 The Council currently cannot demonstrate that it has a 5 year housing land supply. However, Risbury has an adopted NDP and the housing supply exceeds 3 years and in accordance with a Ministerial Statement of 12 December 2016 this factor has a material bearing on the determination of this proposal. This is given that it is stated that 'where a planning application conflicts with a NDP that has been brought into force, planning permission should not normally be granted', which is the case for this proposal.

Conclusion

- 6.12 The proposed development would be contrary to the relevant housing CS policies and the adopted Neighbourhood Development Plan, being an unjustified dwelling in the open countryside. The new development is outside the defined settlement boundary in the NDP and does not accord with any of the exceptions allowed for in Policy RA3 of Core Strategy.
- 6.13 Taking all of the above into account, it is considered that the proposal would not constitute sustainable development. The personal circumstances are acknowledged but in the planning balance such considerations cannot outweigh the provisions of the development plan.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1. The proposal represents unjustified and unsustainable new residential development in an open countryside location contrary to Herefordshire Local Plan Core Strategy Policies SSI, SD1, RA2 and RA3 and Humber, Ford and Stoke Prior Neighbourhood Development Plan policies HFSP3 and HFSP5 and the relevant aims and objectives of the National Planning Policy Framework.**

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.

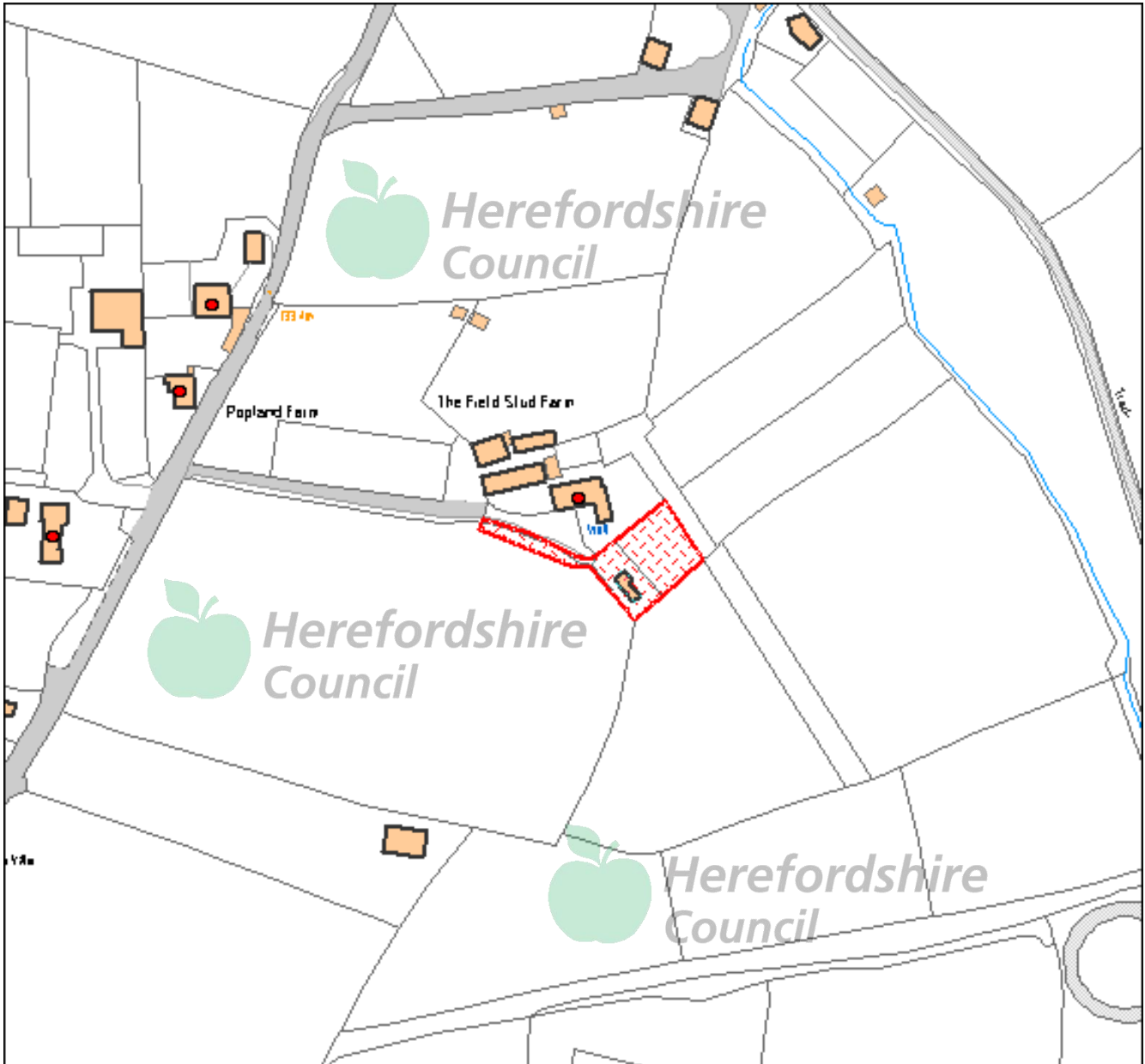
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 163322

SITE ADDRESS : LAND AT THE FIELD STUD FARM, POPLANDS LANE, RISBURY, LEOMINSTER, HEREFORDSHIRE, HR6 0NN

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