

Agenda

Planning and regulatory committee

Date: **Wednesday 14 June 2017**

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

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

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

For any further information please contact:

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Agenda for the meeting of the Planning and regulatory 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 TM James
	Councillor FM Norman
	Councillor AJW Powers
	Councillor A Seldon
	Councillor WC Skelton
	Councillor EJ Swinglehurst
	Councillor LC Tawn

Agenda

	Pages
1. APOLOGIES FOR ABSENCE To receive apologies for absence.	
2. NAMED SUBSTITUTES (IF ANY) To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
3. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4. 160852 - CALDICOTT FARM, BROAD OAK, HEREFORD, HR2 8QZ Retrospective engineering works to provide extension to slurry lagoon.	7 - 18
5. 163879 - LAND ADJACENT BROADFIELDS, ASTON INGHAM, ROSS-ON-WYE Demolition of existing outbuildings and erection of new dwelling within landscaped setting.	19 - 34
6. 170677 - LAND AT CASTLE END, LEA, ROSS-ON-WYE Application for up to 10 new residential properties, vehicle turning, manoeuvring and landscaping.	35 - 50
7. DATE OF NEXT MEETING Date of next site inspection – 11 July 2017 Date of next meeting – 12 July 2017	

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MEETING:	PLANNING COMMITTEE
DATE:	14 June 2017
TITLE OF REPORT:	160852 - RETROSPECTIVE ENGINEERING WORKS TO PROVIDE EXTENSION TO SLURRY LAGOON AT CALDICOTT FARM, BROAD OAK, HEREFORD, HR2 8QZ For: Messrs E & O Partridge per Mrs Julie Joseph, Trecorras Farm, Llangarron, Ross-on-Wye, Herefordshire, HR9 6PG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=160852&search=160852
Reason Application submitted to Committee – Redirected by Local Member due to public interest	

Date Received: 17 March 2016

Ward: Bircher

Grid Ref: 348195,221108

Expiry Date: 16 May 2016

Local Member: Councillor DG Harlow

1. Site Description and Proposal

- 1.1 Caldicott Farm and its adjoining barn are Grade II listed buildings located in an open countryside location in close proximity to the main built form of Broad Oak.
- 1.2 The farm is an established livestock business and the holding comprises numerous modern agricultural buildings and infrastructure adjoining the application site. The site is relatively flat having been a former grazing field. Access is proposed from the south via the existing farm track.
- 1.3 The site is stated to measure 0.8ha in the Application Form and the proposed lagoon has a total area of 5376m² with a depth of 2.5m. The site is on agricultural land.
- 1.4 The proposals are for the retrospective engineering works to the extension of a slurry lagoon.

2. Policies

- 2.1 National Planning Policy Framework (NPPF)
- 2.2 The following sections are of particular relevance:

Introduction – Achieving Sustainable Development

Section 7 – Requiring Good Design

Section 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change

Section 11 – Conserving and Enhancing the Natural Environment

Section 12 – Conserving and Enhancing the Historic Environment

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

2.3 Herefordshire Core Strategy Policies

- SS1 - Presumption in Favour of Sustainable Development
- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- SS7 - Addressing Climate Change
- RA6 - Rural Economy
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- LD3 - Green Infrastructure
- LD4 - Historic Environment and Heritage Assets
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Waste Water Treatment and River Water Quality

2.4 Neighbourhood Plan

Broad Oak is located within the Parish of Garway and was designated as a Neighbourhood Planning Area on 22nd November 2012. The NDP is still being drafted and as such has no weight with regards to the assessment and determination of this application.

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

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

3. Planning History

- 3.1 DCSW2003/1781/S – Straw and machinery storage building – Prior Approval Not Required 11th July 2003
- 3.2 SW2002/2986/F and SW2002/2988/L – Change of use and conversion of timber framed and stone barns to form two residential dwellings and associated listed building consent – Approved w/conditions 2nd December 2002

4. Consultation Summary

Statutory Consultations

- 4.1 Natural England comments that the application site is within or in close proximity to 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 within 10 km of the River Wye Special Area of Conservation (SAC), Wye Valley Woodlands SAC which are European sites. The sites are also notified at a national level as River Wye Site of Special Scientific Interest (SSSI), Upper Wye Gorge SSSI, Newton Court Stable Block SSSI, Fiddler Elbow SSSI .

English SACs – No objection with recommendation

The River Wye SAC and the Wye Valley Woodlands SAC are within 10 km of the proposal site. Based on the information provided, Natural England offers the following advice on European sites within England:

- the proposal is not necessary for the management of the European site

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

- that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment

SSSI – This application is within 10 km of the following SSSIs in England and Wales: River Wye SSSI, Upper Wye Gorge SSSI, Newton Court Stable Block SSSI, Fiddler Elbow SSSI. The advice provided on SACs applies equally to the SSSIs.

Natural England notes and welcomes the creation of a manure management plan in support of this application. The proposed amendments to the original application (in the form of revised calculations) are unlikely to have significantly different impacts on the natural environment than the original proposal.

- 4.2 The Environment Agency comments that Silage and Slurry storage for agricultural purposes is subject to The Water Resources (Silage, Slurry and Agricultural Fuel Oil) Regulations 2010 (SSAFO) as amended. Every farmer has to comply with the SSAFO regulations if they build a new store or substantially alter one built before 1 September 1991.

These regulations aim to prevent water pollution from stores of silage, slurry and agricultural fuel oil. They set out requirements for the design, construction and maintenance of new, substantially reconstructed or substantially enlarged facilities for storing these substances. Storage facilities should be sited at least 10 metres from inland freshwater or coastal water and have a 20-year life expectancy.

Farmers must notify their environmental regulator before construction of a facility (new or substantially altered stores). In England, farmers are required to notify us in writing prior to construction of a facility. A completed WQE3 form will need to be submitted once the installation or alterations are complete, and at least 2 weeks before they commence use of the facilities. This could be an 'informative' of any planning consent granted.

Internal Council Consultations

- 4.3 The Council's Transportation Manager has no objection to the application, whilst there are concerns in regards to the state of the highways which is used by the farms and properties along A466, C1239 and U71220, a farmer can increase the number of their herd without planning permission implications. From the submitted documentation the site gains the benefit of accessing the land from the farm, therefore reducing the needs to access the highways network.
- 4.4 The Council's Environmental Health Manager comments are made with regard to any potential noise or nuisance issues that might arise as a result of development. The construction of the slurry lagoon will be regulated by the Environment Agency in accordance with the relevant legislation aimed at the prevention of the contamination of groundwater (The Water Resources (Silage, Slurry and Agricultural Fuel Oil) Regulations 2010 and I understand that dialogue is already underway with the Environment Agency to this effect.

Whilst there are some reservations regarding the siting of this development in relation to the proximity of residential premises immediately to the west, there is no general history of complaints or problems being reported to our department with regard to slurry storage issues. In the event of failure to manage the site appropriately, our department has powers to investigate and take action against alleged Statutory Nuisances under the Environmental Protection Act 1990.

- 4.5 The Council's Conservation Manager – Ecology, has no objection Given the 0.75 latitude in containment mentioned in the email and the approval from he Environment Agency, it is proportionate to find the arrangement satisfactory. Of course, if the construction arrangements regarding overtopping of the lagoon are inadequate, there will be a potential liability for a

pollution event but to my mind it appears that adequate safeguards are in place. Deference is made to the EA, the competent authority, regarding this. Further comments were received, the Ecologist notes that there does not appear to be new concerns or objections from the competent authority – the Environment Agency. Natural England have not raised objection, do not envisage any threat to the R. Wye SAC and their recommendations regarding submission of manure management plans have been fulfilled. The applicant must, of course, comply with best agricultural management practices however (as far as I am aware) this does not come under the regulatory function of the Local Planning Authority.

Following concerns about Great Crested Newts, given the retrospective nature of the works, the 'potential' for impacting on Great Crested Newts is past. There is nothing we can do to reverse the timeline and stop the applicant doing the development. If there has been a misdemeanour with Great Crested Newts by this development we have no proof. If we were to refuse the application on the grounds of lack of Great Crested Newt survey, and only grant the application when we have a survey done, this could be seen as 'mischief making' on the part of the LPA even though the LPA would be strictly complying with NE's 500 metre rule, to what end and purpose would this serve or meaningfully achieve?. Given any overspill is contained within the 0.75m freak flood capacity, the likelihood of overspill and impact on the Great Crested Newts is deemed to be minimal.

The Council's Drainage Engineers comment: In principle we do not object to the proposed development on flood risk and drainage grounds. However should the Council be minded to grant planning permission, recommend that the following information is requested as part of suitably worded planning conditions:

- Demonstration of the management of surface water during extreme events that overwhelm the surface water drainage system and/or occur as a result of blockage;
- Demonstration that appropriate pollution control measures are in place prior to discharge.

The Council's County Land Agent has no objection, however comments:

- They (the applicants) must stick to the law concerning the lee-board to prevent any risk of an overflow.
- They (the applicants) must stick to the manure plan and not risk any pollution incidents. It is a very sensitive area.
- The lagoon itself should be fine. The lagoon is not lined and inevitably there will be some seepage into the soil/rock strata. It might be worth them being requested to drill a test hole to check on seepage every 5 years or so.

5. Representations

5.1 Garway Parish Council objects to the retrospective application as they consider it is contrary to the Herefordshire Core Strategy policies and NPPF as follows –

Policy SS6 – Concerns have been raised by local residents with regard to the possible pollution of pond and water courses near by which the PC concur

Policy SS4 – Broad Oak has small roads and lanes and the increase in tanker movements on and off the site will have significantly damage the road and verges. The slurry is being transported from another farm to the site

Policy SS1 – The slurry lagoon is visible from the highway and surrounding properties close to Caldicott Farm and would have a detrimental impact the character and amenity of the area and to those living in close proximity to the site.

The sustainability of the site is not in accordance with the core principles of the National Planning Policy Framework, with particular reference to 'Achieving sustainable development' (paragraphs 6 to 14), sections, 7, 10, 11, and 13, and paragraphs 186 to 207.

5.2 16 local residents object on the following summarised points:

- Impact on residential amenity
- Highway safety
- Impact on ecology and protected species
- Concerns over pollution
- Application is retrospective and applicants' conduct
- Concerns over water pollution
- Concerns over flies and odour
- Concern over precedent

5.3 A letter of support has been received, stating *As we live in a farming environment, I hope this application finds support from the planning department. There is no way to avoid effluent in the production of food and wool so reasonable solutions to cope with effluent must be found for all farmers. I am sure the applicants will be sympathetic to any concerns householders living nearest to the site may have and will make every effort to address and alleviate them. If this application stands I see great potential for a beneficial permanent wildlife area within the screening of the site.*

5.4 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=160852&search=160852

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

Legislation

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states *"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 Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 state the following respectively:-

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

"In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

6.3 Silage and Slurry storage for agricultural purposes is subject to The Water Resources (Silage, Slurry and Agricultural Fuel Oil) Regulations 2010 (SSAFO) as amended. Every farmer has to comply with the SSAFO regulations if they build a new store or substantially alter one built before 1 September 1991.

- 6.4 These regulations aim to prevent water pollution from stores of silage, slurry and agricultural fuel oil. They set out requirements for the design, construction and maintenance of new, substantially reconstructed or substantially enlarged facilities for storing these substances. Storage facilities should be sited at least 10 metres from inland freshwater or coastal water and have a 20-year life expectancy.

Assessment of Policies

- 6.5 The development plan for Herefordshire is 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.
- 6.6 Paragraph 14 of the NPPF states that there “*is a presumption in favour of sustainable development and for decision taking this means... where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole... or specific policies in this Framework indicate development should be restricted.*”
- 6.7 The NPPF sets out 12 core land-use planning principles in paragraph 17 which should underpin decision taking. These include the principle to ‘*proactively drive and support sustainable economic development to deliver homes, businesses and industrial units, infrastructure and thriving places that the country needs*’. Amongst the core planning principles set out in paragraph 17 of the Framework are that plan making and decision taking *should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.*
- 6.8 If a proposal is considered to represent sustainable development, then the decision taker is required by paragraph 14 of the NPPF and Core Strategy policy SS1 to engage the positive presumption in favour of the proposal. The Government’s definition of sustainable development is considered to be the NPPF in its entirety, though a concise list of core planning principles is offered at paragraph 17. In terms of residential development, bullet points 4, 5 and 7 of this paragraph to be most relevant in requiring that planning and also where the application is deficient or does not comply:
- 4. always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
 - 5. takes account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
 - 7. contribute to conserving and enhancing the natural environment and reducing pollution
- 6.9 Paragraph 9 of the NPPF states that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life, including (but not limited to) improving the conditions in which people live, work, travel and take leisure. The Ministerial forward to the NPPF states *our standards of design can be so much higher. We are a nation renowned worldwide for creative excellence, yet, at home, confidence in development itself has been eroded by the too frequent experience of mediocrity* and goes on to set out the Government’s policies, aims and objectives in Section 7 Requiring Good Design, paragraphs 56-68.

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

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- are visually attractive as a result of good architecture and appropriate landscaping.

6.11 Section 11 of the NPPF, entitled 'Conserving and enhancing the natural environment' in its opening paragraph 109, sets out *The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.*

6.12 Core Strategy policy SS6 describes proposals *should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.*

Policy SS6 then states in its list of criteria:

Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.

Core Strategy policy LD1 criteria require new development must achieve the following:

- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including 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, through the protection of the area's character and by enabling appropriate uses, design and management

Assessment of Proposal

6.13 The proposal is in an open countryside location subject to no landscape designations. The site features Caldicott Farm and its associated farmhouse, land and buildings. The agricultural enterprise is based around livestock. The farm also has holiday let units.

6.14 The business has grown over recent time and the applicants are now milking over 250 cows which will shortly be increased to a milking herd of 300 including milkers and followers. Whilst the majority of the animals are kept at Lower Buckholt, there are in excess of 100 cattle at Caldicott Farm and the majority of the grass leys which provide fodder for the herd are based at Caldicott Farm or in the immediate vicinity.

- 6.15 Caldicott Farm had a small slurry lagoon large enough to accommodate the original beef herd and the farm at Lower Buckholt had sufficient capacity to deal with the initial number of cattle. As the herd grew an application was submitted and approved for a new slurry storage pit at Lower Buckholt, planning reference P14005/F. This approval has the capacity to accommodate the required amount of slurry to meet the projected growth of the dairy herd and is similar in size to that forming part of the current application. However, the lagoon was located on a steep bank and would be very expensive to construct and the majority of the land on which the applicants spread out their slurry is located in the vicinity of Caldicott Farm. As such the applicants` sought to increase their slurry storage capacity at Caldicott Farm.
- 6.16 Core Strategy Policy RA6 recognises that rural areas have consistently played a strong role in local, regional and national food and drink production, particularly in areas such as agriculture and farming. This application directly relates to and enables an existing successful agricultural enterprise to run efficiently and fulfil wider obligations. Policy RA6 aims to support and strengthen local food and drink production where such applications –
- ensure that the development is of a scale which would be commensurate with its location and setting ;
 - do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, noise and dust, lighting and smell;
 - do not generate traffic movements that cannot safely be accommodated within the local road network and
 - do not undermine the achievement of water quality targets in accordance with Policies SD3 and SD4
- 6.17 It is emphasised that the original lagoon has been in situ since the 1960s with no record of aquifer pollution and Officers are advised that the applicants drink water from a bore hole on the farm and it is tested annually. Further, the applicants have worked with the Environment Agency to test the porosity of the lagoon and the tests have come back positively to demonstrate that the lagoon meets their standards.
- 6.18 The lagoon subject of this retrospective application has been designed to accommodate the requisite 5 months storage as required by NVZ Regulations whilst allowing the herd to expand to its 500 milker capacity. The slurry lagoon is an essential requirement of the farm activities.
- 6.19 Sixteen objections have been received from local residents, along with the Parish Council. There is much concern over impact on residential amenity. The nearest third party dwellings curtilages are:
- Lemsford – 83 metres
 - Field House – 83 metres
 - The Villa – 100 metres
 - Old Post Office – 120 metres
 - Hillcroft – 127 metres
- 6.20 It is noted that these properties also adjoin a petrol station and garage and are separated from the proposal by an agricultural field. These properties are also currently and have historically, been adjacent to the existing agricultural infrastructure on site which includes livestock buildings.
- 6.21 Whilst other locations might be preferable, it is clear from technical responses received from Council advisers and external agencies that there is no technical basis to resist regularising the proposal as shown on the amended plans and on the basis of details that are provided.

- 6.22 Review of the Environment Agency's Flood Map for Planning indicates that the site is located within the low risk Flood Zone 1. Flood Zone 1 comprises land assessed as having less than a 1 in 1,000 annual probability of river flooding. Review of the Environment Agency's *Risk of Flooding from Surface Water* map indicates that the site is not located within an area at significant risk of surface water flooding.
- 6.23 As the applicant is not increasing the area of impermeable surface by utilising the existing farm track, and the extended slurry lagoon will collect brown water runoff generated on site, it is not deemed necessary for the Applicant to provide a detailed surface water drainage strategy. However, relevant conditions do ensure appropriate works are carried out and maintained.
- 6.24 As the lagoon is not impounded by an earth bund there is no risk of this collapsing and contaminating the local groundwater and surface water resources. It is not clear from the information submitted as part of the application if the slurry lagoon will be covered. If the lagoon will not be covered then it is recommended that the Applicant demonstrates that there will be no risk of contamination to the local or downstream groundwater and surface water during extreme events that may cause the slurry lagoon to overtop. Relevant conditions along with the Environment Agency's powers will secure this position.
- 6.25 The existing slurry lagoon has not recorded any previous leakages and the Environment Agency have been consulted on the test results of the determination of permeability and are satisfied with the results.
- 6.26 On this basis Officers are satisfied that the proposal does not create a surface water issue hereabouts and measures and safeguards ensure this position and the protection of hydrological and ecological interests. As such Core Strategy policies SD3 and SD4 are satisfied.
- 6.27 A significant landscape planting area has been agreed with the applicants and this will be ensured, retained and managed by a condition. The planting proposals are based upon assessment of historic mapping. Generally orchard planting is used however within this local area orchards weren't that traditional, compared to some areas of the County. Furthermore with a 10m traditional orchard spacing and needing at least 3-4 trees wide by length of slurry lagoon this would mean losing a significant area of the wider field which would be disproportionate and undermine the functionality and viability of the remaining field.
- 6.28 Pursuant to the agreed landscape buffer area, conditions as detailed within the recommendation, below, will require a planting plan that shows:
- Details of species, numbers and stock sizes for all trees (a mix of stock sizes to give some initial height and more standard trees against the more shrubby species).
 - Undersowing with a shade tolerant woodland edge or hedgerow style grass/native wildflower mix eg [http://www.dlf.co.uk/wildflowers/pro-flora-7-\(hedgerows\).aspx](http://www.dlf.co.uk/wildflowers/pro-flora-7-(hedgerows).aspx)
 - Detailed planting and protection methodology
 - 10 year establishment/replacement and formative management plan including relevant grassland cut/collect regime
- 6.29 Measures to enhance the biodiversity of the site are secured in accordance with Paragraph 118 of the NPPF. Additionally, Section 40 of the Natural Environment and Rural Communities Act (2006) 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*'.

- 6.30 This landscaping buffer will mitigate the proposal, assist protecting and maintaining the amenity of the area, and provide surface water and biodiversity and landscape enhancements and represent 'planning gain' in accordance with Core Strategy policies SS6, LD1, LD2 and LD3 and the relevant aims and objectives of the NPPF and above legislation.
- 6.31 With regard to the concerns relating to tourism, the applicants also run two holiday units from the farm. It is reported that no complaints from guests have been made about the lagoon or any smells to date and the bookings substantiate there's no significant issue. The lack of complaints to the Environmental Health department also supports this position.
- 6.32 Having regard to the context, existing buildings and distance, it is considered there is no adverse impact on the setting of Caldicott Farm or the Meadow Barn Grade II listed buildings.
- 6.33 There is no objection from the Transportation Manager on highways grounds and the detailed comments from the Council's Conservation Manager – Ecology and Natural England confirm no objection. Furthermore the landscape planting proposed will provide ecological enhancement and other benefits.
- 6.34 The concerns of the community are noted and respected, however, as described above, there is considered to be no basis upon which to refuse the application and as such approval is recommended as Core Strategy policies SS1, SS4, SS6, SS7, RA6, MT1, LD1, LD2, LD3, LD4, SD1, SD3 and SD4 are satisfied along with the relevant aims and objectives of the NPPF.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. **C01 Time limit for commencement (full permission)**
2. **C07 Development in accordance with approved plans and materials**
3. **C95 Details of Boundary treatments**
4. **C96 Landscaping scheme**
5. **C97 Landscaping scheme – implementation**
6. **CA1 Landscape management plan**
7. **CA2 Landscape maintenance arrangements**
8. **CA3 Landscape monitoring**
9. **On an annual basis for the first three years from the date of this Decision Notice, a Monitoring of seepage report shall be submitted to the Local Planning Authority. The report shall include methodology and results regarding water quality and in the event of issues being identified how they are to be resolved.**

Reason: To protect adjoining land uses, the local and downstream groundwater and surface water and in the interests of human safety and the environment and to comply with Herefordshire Core Strategy policies SS1, SD3 and SD4.

10. **Written demonstrable evidence of the appropriate management of surface water during extreme events that could overwhelm the surface water drainage system and/or occur as a result of blockage shall be provided to the Local Planning Authority for written approval within 3 month from date of this Decision Notice. The**

measures shall thereafter be maintained and used as such.

Reason: To protect adjoining land uses, the local and downstream groundwater and surface water and in the interests of human safety and the environment and to comply with Herefordshire Core Strategy policies SS1, SD3 and SD4.

- 11. Written demonstrable evidence that appropriate pollution control measures are in place for discharge from the development hereby permitted shall be provided to the Local Planning Authority for written approval within 3 month from date of this Decision Notice. The pollution control measures shall thereafter be maintained and used as such.

Reason: To protect local and downstream groundwater and surface water and in the interests of human safety and the environment and to comply with Herefordshire Core Strategy policies SS1, SD3 and SD4.

INFORMATIVES:

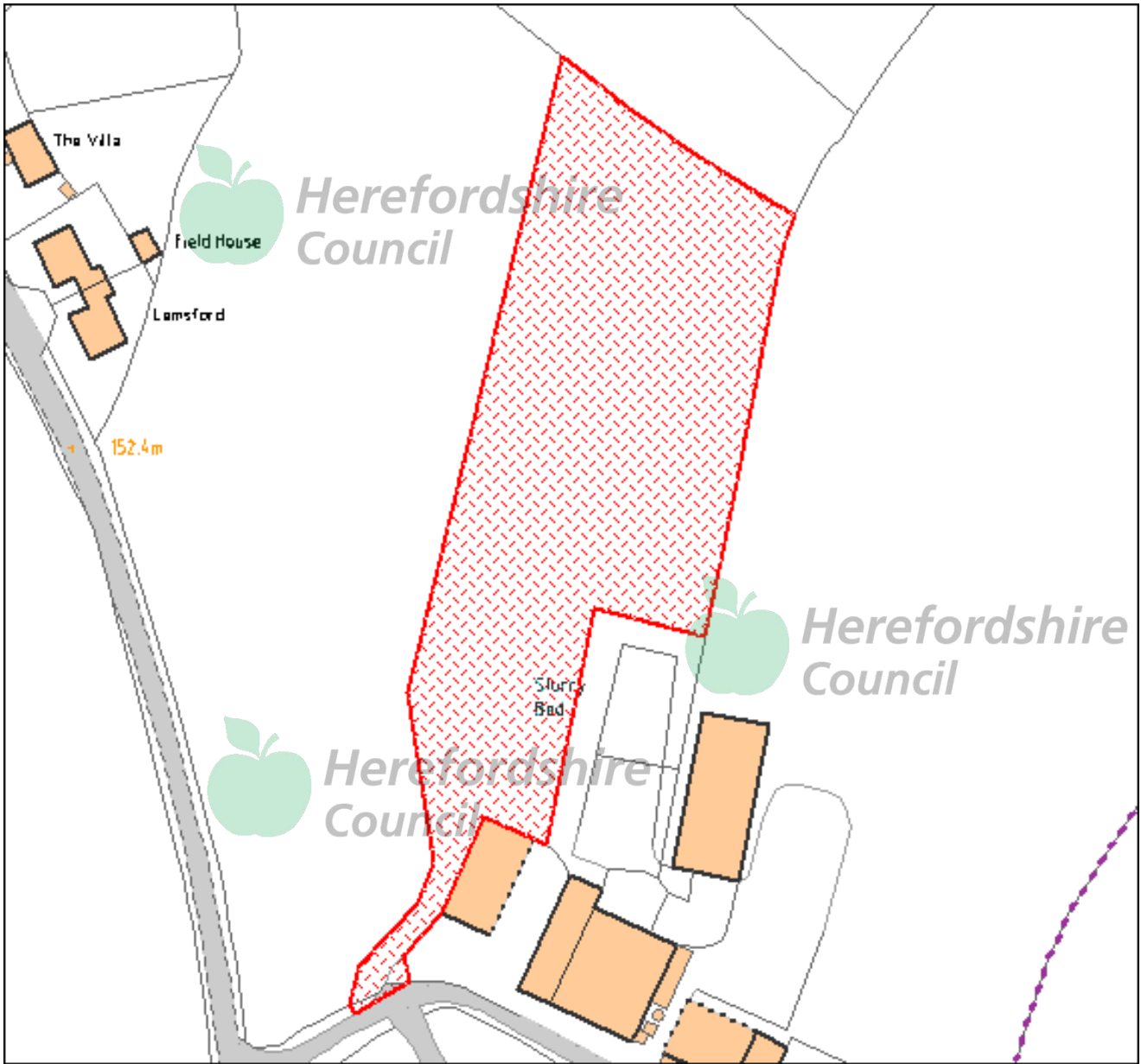
- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2. Reference to requirement to follow submitted manure plan listed under Condition 2
- 3. Further guidance on ‘Slurry reception pits and in-situ or above-ground slurry stores or tanks’ (amended February 2011) is available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290135/LIT_7783_9e2698.pdf
- 4. Further advice is contained within the DEFRA Code of Good Agricultural Practice (CoGAP) for farmers, growers and land managers.
<http://www.defra.gov.uk/publications/files/pb13558-cogap-090202.pdf>

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 160852

SITE ADDRESS : CALDICOTT FARM, BROAD OAK, HEREFORD, HEREFORDSHIRE, HR2 8QZ

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



MEETING:	PLANNING COMMITTEE
DATE:	14 June 2017
TITLE OF REPORT:	163879 - DEMOLITION OF EXISTING OUTBUILDINGS AND ERECTION OF NEW DWELLING WITHIN LANDSCAPED SETTING AT LAND ADJACENT BROADFIELDS, ASTON INGHAM, ROSS-ON-WYE. For: Ms Tucker per Mr Colin Goldsworthy, 85 St Owen Street, Hereford, Herefordshire, HR1 2JW
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=163879&search=163879
Reason Application submitted to Committee – Departure from policy	

Date Received: 2 December 2016

Ward: Penyard

Grid Ref: 368033,223400

Expiry Date: 30 January 2017

Local Member: Councillor H Bramer

1. Site Description and Proposal

- 1.1 The site is located in an open countryside location to the west of Aston Ingham and to the east of the existing dwelling, Broadfields, a bungalow, in an area that formed part of a redundant poultry yard. Currently the whole property comprises Broadfields and its gardens; the central driveway with access into the fields; a vegetable garden; a small holding paddock; a timber workshop and a group of aging redundant timber outbuildings. The new house and gardens are within the current domestic curtilage. The site comprises 3.36 hectares in total, including Broadfields, its gardens and associated non domestic land. It is bounded by a stream in a deep gully along the eastern perimeter. The topography of the site is relatively flat.
- 1.2 Review of the Environment Agency's Flood Map for Planning indicates that the site is located within the low risk Flood Zone 1. Flood Zone 1 comprises land assessed as having less than a 1 in 1,000 annual probability of river flooding. Review of the Environment Agency's *Risk of Flooding from Surface Water* map indicates that the site is not located within an area at significant risk of surface water flooding.
- 1.3 Broadfields was formerly a poultry farm dating from circa 1970. The large poultry barn became a farrier's forge briefly, but since then has only been used for domestic and firewood storage.
- 1.4 Broadfields is currently accessed from the B4222 via a tarmac driveway and splay. The drive extends into the site, opening up into a large tarmac area that was the former farmyard, but now part of the garden. The large poultry barn dominates the eastern boundary. Behind the shed and continuing around to the south, high hedges and a deep gully screen the site from the B4222.

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

- 1.5 The proposal includes the demolition of the large, dilapidated barn and other associated sheds and stores, to be replaced by the new house and landscaped grounds. The site and the buildings have been subject to an Ecology Appraisal and an Asbestos Survey.

2. Policies

2.1 National Planning Policy Framework – NPPF

- 2.2 The following sections of the NPPF are considered particularly relevant to the assessment of this application:

Introduction – Achieving Sustainable Development

Section 6 – Delivering a wide choice of high quality homes

Section 7 – Requiring Good Design

Section 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change

Section 11 – Conserving and Enhancing the Natural Environment

2.3 Herefordshire Local Plan Core Strategy

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS5 - Employment Provision
- SS6 - Environmental Quality and Local Distinctiveness
- SS7 - Addressing Climate Change
- RA1 - Rural Housing Strategy
- RA2 - Herefordshire's Villages
- RA3 - Herefordshire's Countryside
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- LD3 - Green Infrastructure
- SD1 - Sustainable Design and Energy Efficiency
- SD2 - Renewable and Low Carbon Energy
- SD3 - Sustainable Water Management and Water Resources

2.4 Neighbourhood Development Plan

No Neighbourhood Area designated

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

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

3. Planning History

DCSE2006/0057/F – Extension and alterations to existing bungalow – Approved w/conditions 16th February 2006

DCSE2006/2038/F – Erection of timber workshop to replace existing derelict chicken house – Approved w/conditions 30th August 2006

SH892017PF – Extension of dwelling – Approved w/conditions 29th November 1990

4. Consultation Summary

Statutory Consultations

4.1 None

Internal Council Consultations

4.2 The Council's Conservation Manager (Ecology) comments:

I note the ecological report and I am happy that this covers the protected species present on the site and appropriate risk avoidance measures and should be implemented via a Condition should permission be granted. I note that there appears to be no biodiversity enhancements over and above required bat mitigation – eg bird boxes and invertebrate/pollinator homes. Requested conditions are added to the recommendation, below.

Further to original comments regarding drainage and further details being provided, the Conservation Manager (Ecology) comments *I can confirm that I am very happy that the applicant can accommodate the change we discussed on the phone to a full spreader-soakaway system for managing the final outfall from the proposed foul water package treatment plant; thus ensuring there will be no direct discharge of any phosphates (or residual nitrogen or suspended solids) from this development in to the Ell Brook. This will then ensure there is no unmitigated 'likely significant effect' on the nearby and downstream locally important and SSSI designated wildflower hay meadows.*

With reduced surface water run-off volumes and the soakaway final outfall this development will have a small, but beneficial impact, on the Ell Brook, its water quality and reduce local potential flood risk.

4.3 The Council's Transportation Manager considers the proposal is acceptable subject to numerous conditions and informatives. These are added to the recommendation, below.

5. Representations

5.1 Aston Ingham Parish Council has no objection. No further comments are offered.

5.2 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=163879&search=163879

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 Housing Land Supply

The local authority is currently failing to provide a 5 year Housing Land Supply, plus a 20% buffer, which must be met by all local authorities in accordance with paragraph 47 of the NPPF. Paragraph 49 of the NPPF states that '*relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*'.

6.2 Where the existence of a five year land supply cannot be demonstrated, there is a presumption in favour of granting planning permission for new sustainable housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing.

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

- 6.3 Paragraph 14 of the NPPF states that there *“is a presumption in favour of sustainable development and for decision taking this means... where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole... or specific policies in this Framework indicate development should be restricted.”*
- 6.4 In reaching a decision upon new housing, the housing land supply position will need to be balanced against other factors in the development plan and/or NPPF which could result in the refusal of planning permission. This site is therefore assessed and considered on its suitability as being sustainable as regards its location and other material constraints and considerations.
- 6.5 This position has been crystalised following a recent Supreme Court Decision and the implications of this position following the *Suffolk Coastal DC v Hopkins Homes & SSCLG and Richborough Estates v Cheshire East BC [2017] UKSC 37 On appeals from: [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin)*.
- 6.6 The Supreme Court has delivered its verdict on the application and meaning concerning paragraphs 14 and 49 of the National Planning Policy Framework (NPPF), overturning the Court of Appeal’s interpretation of the phrase “relevant policies for the supply of housing”. The legal case brought the two together: *Hopkins Homes v Suffolk Coastal District Council and Richborough Estates v Cheshire East Borough Council*.
- 6.7 The Court of Appeal’s judgment broadened the definition of the “relevant policies for the supply of housing” detail in paragraph 49 of the NPPF so that it can be taken to refer to all policies that create or constrain land for housing development, such as green belt designation. Therefore, where a local authority cannot demonstrate an up-to-date five-year land supply, these relevant policies were to be considered as not up to date.
- 6.8 The Supreme Court has considered and found that the Court of Appeal’s interpretation of what *“relevant policies for the supply of housing”* means was wrong. It said that the “straightforward interpretation is that these words refer to the policies by which acceptable housing sites are to be identified and the five-years supply target is to be achieved. That is the narrow view”.
- 6.9 *“In neither case is there any reason to treat the shortfall in the particular policies as rendering out of date other parts of the plan which serve a different purpose.”*
- 6.10 According to the Supreme Court, the important question is not how to define individual policies, but whether the result is a five-year supply in accordance with the objectives set by paragraph 47.
- “If there is a failure in that respect, it matters not whether the failure is because of the inadequacies of the policies specifically concerned with housing provision, or because of the over-restrictive nature of other non-housing policies. The shortfall is enough to trigger the operation of the second part of paragraph 14.”*
- 6.11 Like the Court of Appeal, the Supreme Court said it is paragraph 14, not paragraph 49, that provides the “substantive advice by reference to which the development plan policies and other material considerations relevant to the application are expected to be assessed”.
- 6.12 This means permission should be granted unless adverse impacts would significantly and demonstrable outweigh the benefits when assessed against the NPPF’s policies taken as a whole. This would also apply where specific policies in the NPPF indicate development should be restricted.

- 6.13 Core Strategy policy RA1 – *Rural housing distribution* sets out the strategic way housing is to be provided within rural Herefordshire and to deliver a minimum 5,600 dwellings. Herefordshire is divided into seven Housing Market Areas (HMAs) in order to respond to the differing housing needs, requirements and spatial matters across the county.
- 6.14 Core Strategy policy RA2 – *Housing outside Hereford and the market towns* identifies the settlements in each HMA area where the main focus of proportionate housing development will be directed, along with other settlements where proportionate housing growth is appropriate.
- 6.15 Aston Ingham is within the Ross on Wye HMA and one of thirty one settlements designated to be the main focus of proportionate growth in that HMA. The Ross on Wye HMA is to provide a minimum 1150 dwellings in the Plan period with an indicative housing growth target of 14%. It is noted the application site is located outside of what is considered to be the main built form of Aston Ingham and is also not adjacent to it.
- 6.16 Core Strategy policy RA3 – *Herefordshire’s countryside* identifies exceptional circumstances where residential development can occur within the open countryside outside settlements listed under RA2 or Hereford city and the market towns.

Legislation

- 6.17 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states “*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.*”
- 6.18 The development plan for Herefordshire is in the main part the Herefordshire Local Plan – Core Strategy. The Core Strategy was adopted on 16 October 2015.

Assessment

- 6.19 The application is supported by Officers as a departure from adopted local plan policies on the following basis:
- Having regard to the Council’s housing land supply position
 - The relative sustainability of the site with regard to its location and proximity to RA2 settlement Aston Ingham and Lea and facilities at the undesignated settlement Aston Crews
 - The use of a ‘brownfield site’
 - Potential fall back position of conversion of the existing building to be removed
 - Landscape enhancement
 - The proposal is considered to represent high quality contemporary design and architecture, raising the standards of design locally and presenting an example of what can (and should) be achieved in terms of design quality
- 6.20 Officers recognise that the site is not locationally sustainable in the purest policy terms, however it is near to Aston Ingham, a settlement identified under Core Strategy RA2 as a suitable location for residential development. Furthermore Lea is reasonably accessible from the site and Aston Crews, an undesignated settlement, and near to the application site, has a public house. The site and existing barn are prominent within the immediate open countryside, which adjoins the highway and principle route from Gorsley/ Lea to Aston Ingham and is a well used route from Newent/ Gorsley to the A40/ Ross areas. Furthermore, sustainability is more than a matter of location. The NPPF states that good design is a key aspect of sustainable development and as such is indivisible from good planning. Amongst other things, it states that decisions should aim to ensure that developments function well and add to the overall quality of the area; and optimise the potential of the site to accommodate development. Permission

should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

- 6.21 The National Planning Policy Framework (NPPF) has 'sustainable development' central to planning's remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and as regards people's quality of life.
- 6.22 The NPPF is a material consideration in the assessment of this application. The following sections are considered particularly relevant:
- Introduction - Achieving sustainable development
 - Section 7 - Requiring good design
 - Section 11 - Conserving and enhancing the natural environment
- 6.23 Paragraph 14 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means that where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted.
- 6.24 The NPPF sets out 12 core land-use planning principles in paragraph 17 which should underpin decision taking. These include the principle to '*proactively drive and support sustainable economic development to deliver homes, businesses and industrial units, infrastructure and thriving places that the country needs*'. Amongst the core planning principles set out in paragraph 17 of the Framework are that plan making and decision taking *should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations*.
- 6.25 If a proposal is considered to represent sustainable development, then the decision taker is required by paragraph 14 of the NPPF and Core Strategy policy SS1 to engage the positive presumption in favour of the proposal. The Government's definition of sustainable development is considered to be the NPPF in its entirety, though a concise list of core planning principles is offered at paragraph 17. In terms of residential development, bullet points 4, 5 and 7 of this paragraph are considered to be most relevant in requiring that planning and also where the application is deficient or does not comply:
4. Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
 5. Takes account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
 7. Contribute to conserving and enhancing the natural environment and reducing pollution
- 6.26 Paragraph 9 of the NPPF states that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to) improving the conditions in which people live, work, travel and take leisure. The Ministerial foreword to the NPPF states *our standards of design can be so much higher. We are a nation renowned worldwide for creative excellence, yet, at home, confidence in development itself has been eroded by the too frequent experience of mediocrity* and goes on to set out the Government's policies, aims and objectives in Section 7 Requiring Good Design, paragraphs 56-68.

- 6.27 It is clear from the NPPF that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states planning policies and decisions should aim to ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
 - optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
 - respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
 - create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
 - are visually attractive as a result of good architecture and appropriate landscaping.
- 6.28 Whilst LPAs are advised not to impose architectural styles, paragraph 60 states it is proper to seek to promote or reinforce local distinctiveness.
- 6.29 Paragraph 61 acknowledges that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.
- 6.30 Paragraph 64 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 6.31 Section 11 of the NPPF, titled 'Conserving and enhancing the natural environment' in its opening paragraph 109, sets out: *The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.*
- 6.32 Core Strategy policy SS6 describes proposals *should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.*
- 6.33 Policy SS6 then states in its list of criteria:
- Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.*
- 6.34 Core Strategy policy LD1 criteria requires new development must achieve the following:
- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including 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, through the protection of the area's character and by enabling appropriate uses, design and management.

- 6.35 Policy RA2 sets out that housing proposals will be permitted in settlements such as Aston Ingham 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.
 2. Their locations make best and full use of suitable brownfield sites wherever possible;
 3. They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and
 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.
- 6.36 Policy RA3 – Herefordshire’s countryside specifies in rural locations outside of settlements either listed under RA2 or adopted Neighbourhood Plans, residential development will be limited to proposals which satisfy one or more of the seven exception criteria.
- 6.37 The site is regarded as one that could be in compliance with criterion 4, which enables development which 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.
- 6.38 The applicants also have a fallback position in that policy RA3 and RA5 would enable the conversion of the existing barn building to residential use, however having regard to the existing building and context, it is clear a far better more sustainable solution is to replace the existing building with a high quality design. It is noted the site is a brownfield site and an existing building is to be demolished, however it is located separate from the main built core of Aston Ingham, however it is within reasonable distance.
- 6.39 Policy RA3 Criterion 6 allows for dwellings of exceptional quality and innovative design satisfying the design criteria set out in paragraph 55 of the NPPF and achieving sustainable standards of design and construction.
- 6.40 The proposal is not advanced as an NPPF Paragraph 55 dwelling however this has been used to inform the development of the proposal and act as a basis to work with. Paragraph 55 permits dwellings in the open countryside where the proposal is of exceptional quality or innovative nature of the design of the dwelling. Such a design is required to:
- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
 - reflect the highest standards in architecture;
 - significantly enhance its immediate setting; and
 - be sensitive to the defining characteristics of the local area.

Assessment of Proposed Design

- 6.41 The dwelling is a single storey unit with a J shape in plan, created by the attached garage. The east and west elevations echo a parallelogram with the elevations running parallel with each other.
- 6.42 The design of the dwelling purposely lacks ornamentation, using traditional reclaimed multi-stock brickwork for the external walls of the house and for the garden parapet walls. The colours within the bricks are proposed to reference the colours found in the natural stone from the area. Panels of reclaimed, square edged horizontal boarding are used and intended to provide contrast in colour and texture. The building draws upon local vernacular materials, but presents

them in a simple, reduced form. This approach is considered an appropriate response demonstrates an understanding of the local context regarding both historic common building materials hereabouts and the character of the location.

- 6.43 Internally, the house allows lots of natural daylight into the house, with the open plan living/dining/kitchen space being capable of subdivision by a sliding wall. Along the central corridor and continuing into the main accommodation areas, a run of automatic rooflights brighten what could be the darkest area of the floor plan and form part of the buildings natural ventilation system.
- 6.44 The new dwelling is intended to meet Passivhaus standard and incorporates renewable energy and water efficiency measures. The proposed dwelling follows the key principles of Passivhaus design and will provide a highly insulated external envelope with a high standard of air tightness. The building will be naturally cooled in summer and have an internal heat recovery system. This MVHR system will supply fresh air for living spaces by recycling the heat from the stale air.
- 6.45 The dwelling will be constructed using Structural Insulated Panel (SIP) technology and clad externally using reclaimed bricks and timber as sustainable building materials. The SIP system will achieve the high levels of insulation required in both the external walls and the roof to minimise heat loss through its inherently high air tightness.
- 6.46 The dwelling is orientated to face south in order to maximise passive solar gain (with shading and natural cooling available to control excessive heat gains in summer). The dwelling can create a major proportion of its heat energy requirements from on-site micro-generation (using solar, thermal and PV panels on the roof). Solar panels mounted on the roof will be hidden from view from the ground. A wood burning stove is provided as an important secondary heat source, the wood for which is currently obtained on site through the planting, management and harvesting of trees for firewood.
- 6.47 Water saving measures will allow water to be harvested for gardening as well as for reuse within the dwelling using an underground storage system that will offset mains water consumption. As a key component of this system, a syphonic rainwater drainage system is proposed. this system is tailored to suit the roof and entails specialist design. This type of drainage system is unusual and not generally specified for domestic projects but with this roof design, it can provide environmental benefits by reducing ground works and materials by 80%.
- 6.48 To treat the waste water from the house, the design includes a WPL Eco Vortex Sewage Treatment Plant. It has a pollution reduction level of 98.9%. Reed beds have been discounted due to the recent reports of performance failure in our northern climate. This system has been selected for:
- a. Having the lowest electrical energy requirements of any electric treatment plant.
 - b. Its verified high performance in reducing pollutants when independently tested to EN12566-3 by the PAI in Germany.
 - c. Its high performance when compared with other treatment plants against the Environment Agency standards for compliance.
- 6.49 External surfaces form part of the SUDS proposal, with permeable gravel for the courtyard and paving blocks for the terraces. Water conservation and attenuation is becoming increasingly important with the threat of climate change.

6.50 These details will be secured by condition and form part of the high sustainability and design qualities that justify the Officer recommendation of approval. On this basis and having regard to the above, the proposal is considered to satisfy the design and built sustainability requirements of Core Strategy policies SS1, SS6 and SS7, RA3, LD1, SD1, SD3 and SD4 and the relevant Design aims and objectives of the NPPF.

Landscape Character

6.51 Paragraph 17 of the NPPF describes twelve core planning principles. This includes taking account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it, and contributing to conserving and enhancing the natural environment and reducing pollution

6.52 Section 11 of the NPPF – *Conserving and enhancing the natural environment*, in its opening paragraph 109, sets out *The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.*

6.53 Core Strategy policy SS6 describes proposals *should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.* Policy SS6 then states in its list of criteria that *Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.*

6.54 Core Strategy Policy LD1 – *Landscape and townscape* states Development proposals should:

- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas;
- Conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, nationally and locally designated parks and gardens and conservation areas; through the protection of the area's character and by enabling appropriate uses, design and management;
- Incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings; and
- Maintain and extend tree cover where important to amenity, through the retention of important trees, appropriate replacement of trees lost through development and new planting to support green infrastructure.

6.55 There are no formal landscape designations applicable to the site or its location but inextricably linked into the concept of accounting for the locality within a Paragraph 55 dwelling is the landscape design. In this case it is considered that landscape considerations and context along with an overall enhancement of the landscape setting has underpinned and influenced the design and resultant proposal as a whole.

Landscape and Visual Effects

6.56 The proposed development site, whilst a residential curtilage, is characterised by the previous poultry and agricultural uses over much of its area. Once the outbuildings are cleared, the grounds can be landscaped to create south facing gardens with a woodland area. Whilst the simple landscaped gardens provide broad interrupted views, there will be low maintenance, easy to manage raised herb, shrub and vegetable beds close to the house with an integrated watering system linked to the rainwater harvesting.

- 6.57 To provide further ecological enhancement and in accordance with the Core Strategy policies, the landscaping proposals include a new dedicated orchard for old Herefordshire heritage apple varieties to be created in the fenced vegetable garden. The landscaping will include measures beyond the immediate site boundaries to include further tree planting within the fields.
- 6.58 A landscaping masterplan informs the approach, with detailed landscaping plans to be agreed by condition based upon this masterplan. The proposed landscaping masterplan indicates the intention to enhance the site to provide significant overall gains in biodiversity, to include enhancement for both plants and wildlife. Overall it is considered there are both landscape and biodiversity enhancements as an integral and integrated part of the proposal. The retention of important trees and hedgerows on the site boundary will support the existing green infrastructure of the site.
- 6.59 As such Core Strategy policies SS6, LD1, LD4 and SD1 and the relevant landscape aims and objectives of the NPPF are satisfied.

Summary

- 6.60 The proposal, notwithstanding its location, is considered to be representative of sustainable development, being of a quality design and making use of a brownfield site with landscape and ecological enhancements which comply with relevant local and national planning policies. The proposal includes replacing a poor building with a contemporary designed building of superior energy efficiency and making a modest contribution to housing delivery in a Parish that is proving challenging with regards to housing delivery. The proposal will raise design standards locally. As part of this conclusion weight has been given to the Council's housing land position, which combined with the above, concludes the proposal is sustainable development, compliant with the NPPF. Reference is made to Core Strategy policies SS1, SS6, RA3, LD1, LD4 and SD1 and the relevant aims and objectives of the NPPF along with the lack of a Neighbourhood Plan that can be attributed any weight. As such on assessing the planning balance, the benefits of the proposal including enhancement of the site, quality of design, use of a brownfield site and modest contribution to housing supply are considered to outweigh the harm of its open countryside location. As such the recommendation is approval with conditions.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. C01 – Time limit for commencement (full permission)**
- 2. C07 – Development in accordance with approved plan and details**
- 3. CAD – Access Gates, 5m**
- 4. CAE – Vehicular access construction**
- 5. CAH – Driveway gradient**
- 6. CAK – Parking and turning**
- 7. CE6 – Water efficiency**

8. The recommendations (mitigation, protection and working methods) as identified in the ecological report by Clarke Webb Ecology dated June 2016 shall be fully implemented as stated, unless otherwise required to obtain a European Protected Species Mitigation Licence, and agreed in writing by the planning authority.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. NERC Act 2006.

9. Prior to commencement of the development, and based on the ecological report by Clarke Webb Ecology dated June 2016 and the outline landscape plan ref 15/768.27, a detailed habitat enhancement scheme integrated with a detailed landscape scheme and accompanied by a 10 year establishment and maintenance plan should be submitted to and be approved in writing by the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006

10. Prior to the commencement of the development hereby permitted, the following details shall be submitted to the Local Planning Authority for written approval –

- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- A detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event and allowing for the potential effects of climate change;
- Details of proposed outfall structures. Any discharge of surface water or foul water to an ordinary watercourse will require Ordinary Watercourse Consent from Herefordshire Council prior to construction.
- Results of infiltration testing undertaken in accordance with BRE365;
- Confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice;
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of.
- Demonstration of the management of surface water during extreme events that overwhelm the surface water drainage system and/or occur as a result of blockage

The development shall thereafter be carried out in accordance with the approved details and thereafter be maintained as such.

Reason: To protect water quality hereabouts, in the interests of the environment and public safety, minimise the impact of development on water quality and surface water flooding and to comply with Herefordshire Core Strategy policies SS1, LD2, SD3 and SD4.

11. **C65 – Removal of Permitted Development Rights**
12. **C95 – Landscaping details**
13. **C96 – Landscaping and planting implementation**
14. **CA1 – Landscape Management Plan**
15. **CC2 – External lighting details**
16. **C13 – External materials and details**

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **The enhancement plan should include details and locations of any proposed Biodiversity/Habitat enhancements as referred to in NPPF and HC Core Strategy. At a minimum we would be looking for proposals to enhance bat roosting, bird nesting and invertebrate/pollinator homes to be incorporated in to the new building as well as consideration for amphibian/reptile refugia; and hedgehog houses within the landscaping/boundary features. No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative. The detailed landscaping scheme should include full details of planting and protection methods as well as a 5 year establishment & replacement scheme and a subsequent 5 year management plan.**
3. **I11 - Mud on highway**
4. **I09 - Private apparatus within highway**
5. **I45 - Works within the highway**
6. **I05 - No drainage to discharge to highway**
7. **I47 - Drainage other than via highway system**
8. **I35 - Highways Design Guide and Specification**

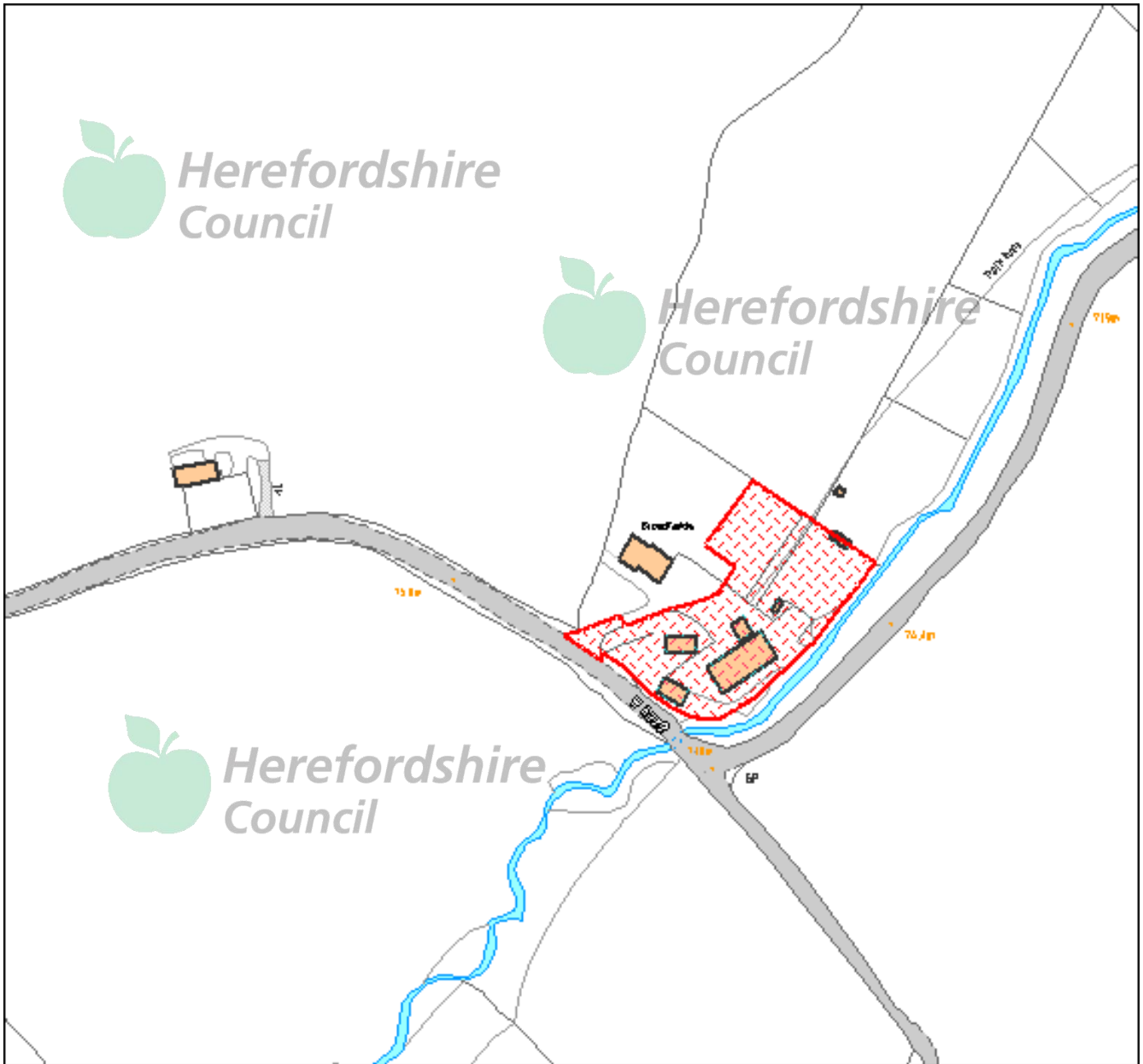
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 163879

SITE ADDRESS : LAND ADJACENT BROADFIELDS, ASTON INGHAM, ROSS-ON-WYE, HEREFORDSHIRE

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



MEETING:	PLANNING COMMITTEE
DATE:	14 June 2017
TITLE OF REPORT:	170677 - APPLICATION FOR UP TO 10 NEW RESIDENTIAL PROPERTIES, VEHICLE TURNING, MANOEUVRING AND LANDSCAPING AT LAND AT CASTLE END, LEA, ROSS-ON-WYE. For: Mr Grindon per Mr John Kendrick, Procuero, St Owens Cross, Hereford, Herefordshire HR2 8LG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=170677&search=170677
Reason Application submitted to Committee – Previous application determined by Committee	

Date Received: 27 February 2017

Ward: Penyard

Grid Ref: 365470,221832

Expiry Date: 24 April 2017

Local Members: Councillor H Bramer

1. Site Description and Proposal

- 1.1 The application site is located on the western side of the A40 Ross-on-Wye to Gloucester Road at Lea, a settlement identified under Core Strategy policy RA2 as an appropriate location for new development. The site is located adjacent to the main built form of one of the cores that comprises Lea village. The site comprises a rectangular parcel of land slightly raised above road level and laid to grass. Castle End Farm is located to the north with residential dwellings to the south (The Lodge) and a housing estate called The Brambles. Opposite the site to the east is a parcel of land which originally formed part of this application; this is also laid to grass. A vehicular access to the rear of Lea Primary School is located immediately to the south of this land. Castle End a Grade 2* listed dwelling is located to the north of the site on the opposite side of the road.
- 1.2 The proposal is an outline planning application for the erection of up to ten dwellings with vehicle turning, manoeuvring and landscaping detailed. Along with the principle of development, access, landscaping and scale are matters under consideration. Appearance and layout are held as reserved matters.
- 1.3 The applicant has appealed against non determination.

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

2. Policies

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

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

2.2 Herefordshire Core Strategy

SS1 - Presumption in Favour of Sustainable Development
SS2 - Delivering New Homes
SS3 - Releasing Land for Residential Development
SS4 - Movement and Transportation
SS7 - Addressing Climate Change
RA1 - Rural Housing Strategy
RA2 - Herefordshire's Villages
H3 - Ensuring an Appropriate Range and Mix of Housing
OS1 - Requirement for Open Space, Sports and Recreation Facilities
OS2 - Meeting Open Space, Sports and Recreation Needs
MT1 - Traffic Management, Highway Safety and Promoting Active Travel
LD1 - Local Distinctiveness
LD2 - Landscape and Townscape
LD3 - Biodiversity and Geodiversity
LD4 - Historic Environment and Heritage Assets
SD1 - Sustainable Design and Energy Efficiency
SD3 - Sustainable Water Management and Water Resources

2.3 Lea Parish Council designated a Neighbourhood Area on 13 May 2014 but the NDP has not progressed to a stage where it can be afforded any weight in decision making

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 162383/O – Outline application for 14 new residential properties, vehicle turning, manoeuvring and landscaping – Withdrawn

141368/O – Proposed site for 14 new residential properties, vehicle turning and landscaping – Refused 25 March 2015
Appeal dismissed 1st Dec 2015

132004/O – Erection of 30 new residential homes including 11 affordable properties, landscaping, vehicular access, egress and turning and manoeuvring areas – Withdrawn

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

120447 - Outline application for a four bedroom dwelling. Refused 30 May 2012.
Appeal Dismissed 13th March 2103

3.2 132004 - Erection of 30 dwellings including 11 affordable.
Withdrawn 27 March 2014

4. Consultation Summary

Statutory Consultations

4.1 Historic England comments and directs the Council to Historic England's guidance contained in 'The Setting of Heritage Assets - Historic Environment Good Practice Advice Note in Planning:3' and also suggest that the views of the Council's specialist conservation and archaeological advisers, as relevant are considered.

4.2 Welsh Water comments the proposed development would overload the existing Waste Water Treatment Works. However, improvements are planned for completion by 31st March 2020. As such Welsh Water offers the following condition to safeguard their security of service to customers and the protection of the environment:

No buildings on the application site shall be brought into beneficial use earlier than 31/03/2020, unless the upgrading of the Waste Water Treatment Works, into which the development shall drain, has been completed and written confirmation of this has been issued by the Local Planning Authority. A number of other conditions are also requested.

No problems are envisaged with the provision of water supply for this development.

Internal Council Consultations

4.3 The Council's Conservation Manager (Ecology) confirms [he has] read the ecological reports based upon the surveys of the site going back to 2012. The biodiversity of the site remains unchanged with little to indicate that the conservation status protected species will be impacted upon. If this is to be given approval it is recommended a condition for biodiversity enhancement is added. These are set out within the recommendation.

4.4 The Council's Conservation Manager (Heritage) has not returned comment at the time of writing and as such comments will be provided as an update.

4.5 The Council's Transportation Manager has no objection. Numerous requested conditions and informatives are attached to the recommendation, below.

5. Representations

5.1 Lea Parish Council objects to the proposal for the following reasons:

1. Sustainability

Herefordshire Council's Core Strategy's indicative target figure for the growth in the number of dwellings to 2031 is 14 per cent for the Ross-on-Wye Housing Market Area. In Lea's case that equates to approximately 43 new homes. Either outline or full planning permission has already been granted for 100 new dwellings however. If approved, the Castle End development would bring the total to 110 - more than 2.5 times the Core Strategy's projected total.

2. Site Access

The applicant states there is unrestricted vehicular access to the site but has failed to produce proof that this is the case.

3. Sewage Disposal

The applicant also states that sewage from the proposed development would be disposed of by connecting to a public sewer near to the staff access road to Lea Primary School. The feasibility of this is questioned, it being understood locally that the sewer was provided with a capacity to cater for no more than the then planned development.

4. 'Urbanisation'

Being sited on an elevated position close to and parallel to the highway, some of the proposed dwellings would strike a discordant note as one approaches Lea along the A40 from the direction of Ross-on-Wye, creating an urban feel to the approach to the village. Earlier development further towards the village centre is set well back from the main road and is unobtrusive.

5. Highway Matters

The installation of a pedestrian crossing to cater for the size of a planned development is considered to be totally unnecessary and only adds to the 'urbanisation' of the approach to the village. Any children living within the proposed development and attending the local Primary School would be required to travel quite a distance along the busy A40 road in order to gain access. (Note that the access nearest to the proposed development is for staff only.)

6. Core Strategy Policy RA2 Issues

The applicant has not consulted locally about his proposals to develop this site. Had he done so he would have realised that there is far more interest in bungalows and accessible homes given the local demographic than in the type of properties planned. The emerging Lea Neighbourhood Development Plan is approaching Reg 14 stage. It is understood that the NDP cannot be taken into consideration until it reaches Reg 16 stage, however, facts obtained as a result of public consultation are important. In this regard Policy RA2 is not satisfactorily dealt with, in particular in that it states that proposed dwellings are required to meet the following rules:

- *"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."*
- *"They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting."*
- *"They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand."*

7. Industrial Use Conflict

The buildings immediately adjacent to the site are authorised for and used as light industrial premises. Noise and other pollution would be foreseeable circumstances creating a clear conflict of interest.

8. Planning Application History

The Planning Inspector dealing with an appeal against refusal of planning application P162383 considered that at that time development of the site for housing development would not be inappropriate, however, the situation has changed significantly and the Parish Council considers that it is now inappropriate.

Lea Parish Council unanimously recommends refusal of the application.

5.2 Nine letters of objection have been received from local residents. Comments are summarised as:

- A similar application for 14 dwellings on this site has already been rejected
- The reduction in numbers to 10 will still attract the same problems as before. The reduction in numbers means that the applicant will no longer have to pay Section 106 monies
- There is already planning approval for 100 new houses in Lea which far exceeds the minimum 43 suggested in the County's Core Strategy
- More 4+ bedroom houses are not what many villagers feel are needed or wanted.
- Reference is made to the Neighbourhood Plan
- Concern regarding highway safety on the A40
- On the basis of the previous Inspectors' conclusion, no s106 monies results in the proposal being unsustainable
- Concern over loss of and future of retained hedgerows
- Proposal is suburban in form and out of character with the location
- No affordable housing provided
- The site is located outside the recognised settlement area on the very fringe of the village
- A third party who owns land on which access to the proposal relies, will not allow such use or sell the land
- Welsh Water has made it very clear that there is no capacity in the existing pumping station for any further development and this is unlikely to change before 2020
- Impact on the setting of heritage assets
- Impact on the setting and appearance of Lea
- Concern regarding highways data provided
- The gross floor area of the proposal amounts to 1,811 sq m according to the applicant's own plans. As such a s106 providing financial contributions is required
- the applicant has no legal or equitable right over the land necessary to provide necessary visibility splays which is in the control of third parties
- The adjacent land owners have repeatedly stated that they will not provide the land necessary to make a safe access and there is no reasonable prospect of the applicant securing a safe access due to land ownership and other legal constraints
- The need for a Pelican or pedestrian crossing must be questioned

5.3 A general comment has been received, comments are summarised as:

- The proposed 2 storey houses style and height, positioned fairly close to the road, will produce a terraced urban effect
- If the front row was reduced to single storey or removed and buildings set back from the road as with the adjacent Brambles, together with tree planting, the development would fit comfortably into the setting
- The species of tree planting fronting the development would need to be carefully considered to be of significant bulk and to link in well with the surrounding tree species

- Appropriate tree planting would be desirable at the back of the development to soften views of houses from the surrounding countryside. This would allow the development to visually integrate into its setting.

5.4 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=170677&search=170677

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 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires local planning authorities to determine applications in line with the provisions of the local development plan unless material circumstances dictate otherwise.

6.2 The application site was subject to a previous Appeal against the refusal by this Committee on 25 March 2015 of planning application reference 141368/O, which was for 14 dwellings. This appeal was assessed against both NPPF and Core Strategy policies. The Inspector appointed to that appeal determined the main issues in the assessment of development upon the site to be as follows:

- whether the setting of the listed building known as Castle End would be preserved
- whether the proposed development would cause unacceptable risk to highway safety on the main A40 road
- whether the proposal would represent a sustainable form of development having regard to local and national policies for the development of housing in rural settlements

6.3 Further to the above and given the passage of time, the impact on ecological interests is also considered to be an important additional material consideration. It is emphasised that the revised proposal has a reduced number of units and is described as a development for *up to ten dwellings*.

Setting of listed buildings

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

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

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

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation

- The wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring
 - The desirability of new development making a positive contribution to local character and distinctiveness
 - Opportunities to draw on the contribution made by the historic environment to the character of a place.
- 6.7 Paragraphs 131 – 133 set out what LPAs should consider in determining planning applications featuring heritage assets. This includes:
- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - The desirability of new development making a positive contribution to local character and distinctiveness.
- 6.8 The Core Strategy sets out heritage policy under LD4. The historic environment is defined as all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora. Those elements of significance with statutory protection are referred to as designated heritage assets. Policy LD4 is applicable to heritage assets throughout Herefordshire whether formally designated e.g. listed buildings and conservation areas, or not.
- 6.9 Policy LD4 – *Historic environment and heritage assets* requires: development proposals affecting heritage assets and the wider historic environment should:
- Protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible;
 - The conservation and enhancement of heritage assets and their settings through appropriate management, uses and sympathetic design. Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas;
 - Use the retention, repair and sustainable use of heritage assets to provide a focus for wider regeneration schemes;
 - Record and advance the understanding of the significance of any heritage assets to be lost (wholly or in part) and to make this evidence or archive generated publicly accessible and where appropriate, improve the understanding of and public access to the heritage asset.
- 6.10 In considering the previous appeal, the Inspector assessed the setting of Castle End, and had regard to current national guidance which has not materially changed since that decision (see paragraph below). The Council’s Conservation Manager previously acknowledged with regards to the previous proposal for 14 units, that the “*more minor extent*” of change to the surroundings of Castle End would not alone justify refusal of the scheme. Furthermore, the Inspector of an earlier appeal for a proposal for a single dwelling on part of the application site, found that the site represented a visual distinction in the transition from settlement to open countryside but he did not expressly associate it with the setting of Castle End. On balance, therefore there is no strong evidence that the site plays more than a very minor role in the setting of Castle End.
- 6.11 The Inspector stated: *All in all, the proposed development would not be discordant or unduly further suburbanise or erode the character of this approach to the village or impair the setting or heritage significance of Castle End* and concluded that the proposed development would preserve the setting of the listed building, in accordance with the clear expectations of Section 66 Planning (Listed Buildings and Conservation Areas) Act 1990, which requires the decision

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

taker to have special regard to the matter. Nor would there be conflict with the NPPF which, at paragraph 132, requires great weight to be given to the conservation of heritage assets, recognising that, the more important the asset, the greater the weight should be. The proposal would also comply with the relevant CS Policy LD4, which seeks to protect, conserve and where possible enhance heritage assets and their settings.

- 6.12 On the above basis, reduced numbers proposed and no material change to local or national planning policies regarding the setting of heritage assets since the above decision, a similar conclusion must be reached. As such Core Strategy policies SS6 and LD4 are satisfied along with the relevant heritage aims and objectives of the NPPF and section 66 Planning (Listed Buildings and Conservation Areas) Act 1990.

Highways

- 6.13 The above referenced Inspector went on to assess the impact of the 14 unit proposal on highway safety grounds. The Inspector concluded that the proposed development would not create unacceptable risk of harm to highway safety on the A40. Accordingly, he found there would be no conflict with the relevant aspects of CS Policy MT1, which include the need to ensure that developments are designed to avoid adverse impacts on the safety and capacity of the highway network and achieve safe access and accommodate all users' needs. Nor would there be significant conflict with the NPPF's objectives of creating safe and suitable access and environments for pedestrians and other road users and facilitating social interaction, as referred to in paragraphs 32, 35 and 69.
- 6.14 This proposal reduces the number of units from 14 to 10 and would therefore have a lesser impact than the previous proposal which was found at that time to be acceptable on highway grounds. Notwithstanding that, given the passage of time and the potential for increased traffic movements on the A40 manifested from the number of new houses built or permitted at Ross on Wye, Weston under Penyard and Lea itself since the appeal, the Council must reassess anew the highways impact, if nothing else, from a duty of care. The previous Inspector noted the A40 is a busy road, as evidenced by the high peak hour flows recorded by the appellant's traffic survey.
- 6.15 Following detailed assessment by the Area Engineer and receipt of further plans and details, Officers are satisfied that the proposal does not represent an unacceptable risk to highway safety. Suitable visibility splays can be achieved, subject to adjoining land owners agreement, along the access/egress point onto the A40. Furthermore it is considered that the proposed crossing can also be achieved linking the development to the other side of the road and providing safe pedestrian access to the school and other parts of the village. The exact location of the crossing can be determined under the section 278 process and as outlined by conditions and informatives, below. Conditions also require the implementation of the approved access splays prior to any further development on site so to ensure highway safety.

Sustainable development and housing land supply

- 6.16 Again, the previous Inspector considered this issue, both at a local and countywide level. Since then the Supreme Court has considered the use of, implication and application of NPPF paragraphs 14 and 49 and the role and weight of the Local Development Plan and its policies.
- 6.17 Paragraph 14 of the NPPF clearly defines '*presumption in favour of sustainable development*' as the golden thread running through the NPPF. It goes on to state that for decision taking this means approving development proposals that accord with the development plan without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or specific policies in the NPPF indicate development should be restricted.

- 6.18 The local authority is currently failing to provide a 5 year Housing Land Supply, plus a 20% buffer, which must be met by all local authorities in accordance with paragraph 47 of the NPPF. Paragraph 49 of the NPPF states that '*relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*'.
- 6.19 Where the existence of a five year land supply cannot be demonstrated, there is presumption in favour of granting planning permission for new sustainable housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing.
- 6.20 Paragraph 14 of the NPPF states that there "*is a presumption in favour of sustainable development and for decision taking this means... where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole... or specific policies in this Framework indicate development should be restricted.*"
- 6.21 In reaching a decision upon new housing the housing land supply position will need to be balanced against other factors in the development plan and/or NPPF which could result in the refusal of planning permission. This site is therefore assessed and considered on its suitability as being sustainable in regards its location and material constraints and considerations.
- 6.22 This position has been crystalised following a recent Supreme Court Decision and the implications of this position following the *Suffolk Coastal DC v Hopkins Homes & SSCLG* and *Richborough Estates v Cheshire East BC* [2017] UKSC 37 *On appeals from: [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin)*.
- 6.23 The Supreme Court has delivered its verdict on the application and meaning concerning paragraphs 14 and 49 of the National Planning Policy Framework (NPPF), overturning the Court of Appeal's interpretation of the phrase "relevant policies for the supply of housing". The legal case brought the two together: *Hopkins Homes v Suffolk Coastal District Council* and *Richborough Estates v Cheshire East Borough Council*.
- 6.24 The Court of Appeal's judgment broadened the definition of the "relevant policies for the supply of housing" detail in paragraph 49 of the NPPF so that it can be taken to refer to all policies that create or constrain land for housing development, such as green belt designation. Therefore, where a local authority cannot demonstrate an up-to-date five-year land supply, these relevant policies were to be considered as not up to date.
- 6.25 The Supreme Court has considered and found that the Court of Appeal's interpretation of what "*relevant policies for the supply of housing*" means was wrong. It said that the "straightforward interpretation is that these words refer to the policies by which acceptable housing sites are to be identified and the five-years supply target is to be achieved. That is the narrow view".
- 6.26 The Supreme Court ruled "*In neither case is there any reason to treat the shortfall in the particular policies as rendering out of date other parts of the plan which serve a different purpose.*"
- 6.27 At practical level, as an example, if local plan policies on heritage or landscape direct the decision maker to refuse, then that assessment and decision is not contrary to the requirements of the NPPF if the harm and material considerations outweigh the benefits of the proposal.

6.28 According to the Supreme Court, the important question is not how to define individual policies, but whether the result is a five-year supply in accordance with the objectives set by paragraph 47:

“If there is a failure in that respect, it matters not whether the failure is because of the inadequacies of the policies specifically concerned with housing provision, or because of the over-restrictive nature of other non-housing policies. The shortfall is enough to trigger the operation of the second part of paragraph 14.”

6.29 Like the Court of Appeal, the Supreme Court said it is paragraph 14, not paragraph 49, that provides the *“substantive advice by reference to which the development plan policies and other material considerations relevant to the application are expected to be assessed”*.

6.30 This means permission should be granted unless adverse impacts would significantly and demonstrable outweigh the benefits when assessed against the NPPF’s policies taken as a whole. This would also apply where specific policies in the NPPF indicate development should be restricted.

6.31 Core Strategy Policy SS1 echoes the Framework’s presumption in favour of sustainable development. Setting out the strategy for delivery of new homes, CS Policy SS2 provides that in the rural areas housing will be acceptable within identified settlements where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of the community.

6.32 CS Policy SS3 reinforces the importance of ensuring a plan-led supply of housing land. CS Policy RA1 identifies a minimum proportionate growth target for housing of 14% within the Ross on Wye Rural Housing Market Area, equating to a minimum number of 43 dwellings for Lea Parish. Permission has been granted for 38 dwellings on a largely greenfield site elsewhere in Lea, whilst two other schemes larger than the current appeal scheme have been refused permission. Third parties refer to varying numbers of new dwellings in the pipeline. In the context that the CS target for Lea is expressed as a minimum, with no numerical cap on housing growth per se, it was concluded there was no conflict with the CS strategy for housing land provision or, numerically, that this proposal represented a disproportionate addition to the size of the village.

6.34 The Neighbourhood Development Plan (NDP) for the Parish is still at an early stage in its preparation and has no weight with regards the assessment of this application. Consequently, there are no strong grounds to resist the appeal scheme on the basis that it is premature and would undermine an emerging NDP. Accordingly, there would be no conflict with CS Policy RA2, which confirms that adopted NDPs will allocate sites for housing, but in the interim applications will be assessed against their relationship to the built form of the settlement.

6.35 Overall therefore, with regard to the issue of sustainable development and housing land supply, the Inspector concluded that the proposal for 14 dwellings would represent a sustainable form of development having regard to local and national policies for the development of housing in rural settlements. At the time of that appeal, the Council was able to demonstrate it had a five year supply of housing land. That is not the current case or position as outlined above and accordingly adds greater weight to the requirement to grant planning permission where the adverse effects do not outweigh any harm identified

6.36 The Inspector noted with respect to assessing *‘sustainable development’* and housing land supply, the same findings would apply but with even greater emphasis if an under-supply had been identified at that time. Overall the Inspector found no fundamental conflict with the

proposal for 14 dwellings vis-à-vis the adopted development plan strategy for housing in the rural area, with any emerging Neighbourhood Development Plan or with the Framework's core principle that development should be plan-led, thereby empowering local people to shape their surroundings. On this basis the proposal for ten units is considered acceptable.

Ecological Issues

- 6.37 The ecology of the site and assessment is based upon the surveys going back to 2012. The biodiversity of the site remains unchanged with little to indicate that the conservation status of protected species will be impacted upon.
- 6.38 Measures to enhance the biodiversity of the site are secured in accordance with Core Strategy policies LD2 and LD3 and Paragraph 118 of the NPPF. Additionally, Section 40 of the Natural Environment and Rural Communities Act (2006) 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'*.

Other Matters

- 6.39 Welsh Water has acknowledged the proposed development would overload the existing Waste Water Treatment Works. However, it confirms improvements are planned for completion by 31st March 2020. Welsh Water do not object to the proposal providing the condition referenced in the consultation section above is attached to any permission to safeguard our security of service to customers and the protection of the environment. The applicant has confirmed they are happy to accept such a condition. It is further confirmed that there is no problem envisaged with the provision of water supply for this development.
- 6.40 Regarding the need for a Section 106 Agreement, based upon cumulative floor sizes of the dwellings, it is highlighted the application is for *up to ten dwellings* with layout a reserved matter for future consideration. A condition is recommended restricting the density of development to *no more than ten dwellings*. Should the applicant want to exceed this restriction a new application would be required along with a Section 106 Agreement for financial and/ or affordable housing contributions. As it stands on the basis of the application, this position and the Council's relevant policies and SPD, no section 106 contributions are required.

Summary

- 6.41 The conclusion from the previous appeal was that a development of a greater density was deemed acceptable on the site in relation to highways, heritage and other material considerations with the appeal only dismissed on the basis of the lack of a unilateral undertaking or Section 106 to mitigate that proposal regarding impact on local infrastructure. It is noted that the proposal of ten units, in accordance with Core Strategy policies, is below the threshold to require such contributions. As such the reason for the appeal being dismissed is overcome. The reassessment of material considerations demonstrates that there are no sustainable grounds to refuse the application. On the basis of this and all the above approval is recommended as relevant Core Strategy and NPPF policies are satisfied.
- 6.42 Members will note that the applicants have appealed against non-determination. The report above does not identify any harm that would warrant a recommendation for refusal and therefore subject to the appeal being withdrawn it is recommended that planning permission be granted subject to the conditions listed below.

RECOMMENDATION

Subject to the appeal being withdrawn that planning permission be granted subject to the following conditions:

1. C02 – Time limit for submission of reserved matters (outline permission)
2. C03 – Time limit for commencement (outline permission)
3. C04 – Approval of reserved matters
4. C06 – Development in accordance with the approved plans
5. No buildings on the application site shall be brought into beneficial use earlier than 31/03/2020, unless the upgrading of the Waste Water Treatment Works, into which the development shall drain, has been completed and written confirmation of this has been issued by the Local Planning Authority.

Reason: To prevent overloading of the Waste Water Treatment Works and pollution of the environment and to comply with Herefordshire Core Strategy policies SS1, SD3, SD4 and ID1.

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

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment and to comply with Herefordshire Core Strategy policies SS1, SD3, SD4 and ID1.

7. The recommendations set out in the ecological reports from Penny Anderson Associates (April 2012) and NKM associates (July 2016) should be followed in relation to habitat enhancement unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

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) and 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).

8. 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) and 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).

9. CAB 93MX2.4 Southbound – (running lane), 65.5m – Northbound – Visibility splays
10. CAE – Vehicular access construction
11. CAH – Driveway gradient
12. CAL – Access, turning area and parking
13. CAS – Road completion in 2 years
14. CAT – Wheel washing
15. CAZ – Site operatives parking
16. CB2 – Secure covered cycle parking
17. CAP – S278 works should be reviewed in accordance with the approved plans drawing number 2016 – W006-012
18. The planning permission hereby granted is for no more than ten dwellings. Should the cumulative floor of the resultant number of dwellings exceed 1,000 sq metres a section 106 agreement providing financial contributions inline with Herefordshire Council's Supplementary Planning Document and Herefordshire Council's Core Strategy shall be provided, signed and completed prior to the approval of any subsequent Full or Reserved Matters application.

Reason: To regulate the permission and define maximum density and to ensure planning obligations are secured should the threshold floor area be exceeded so to mitigate the development and comply with relevant policies of the Herefordshire Core Strategy

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. I11 - Mud on highway

- 3. I09 - Private apparatus within highway
- 4. I45 - Works within the highway
- 5. I08 - Section 278 Agreement
- 6. I07 - Section 38 Agreement & Drainage details
- 7. I05 - No drainage to discharge to highway
- 8. I49 - Design of street lighting for Section 278
- 9. I47 - Drainage other than via highway system
- 10. I35 - Highways Design Guide and Specification

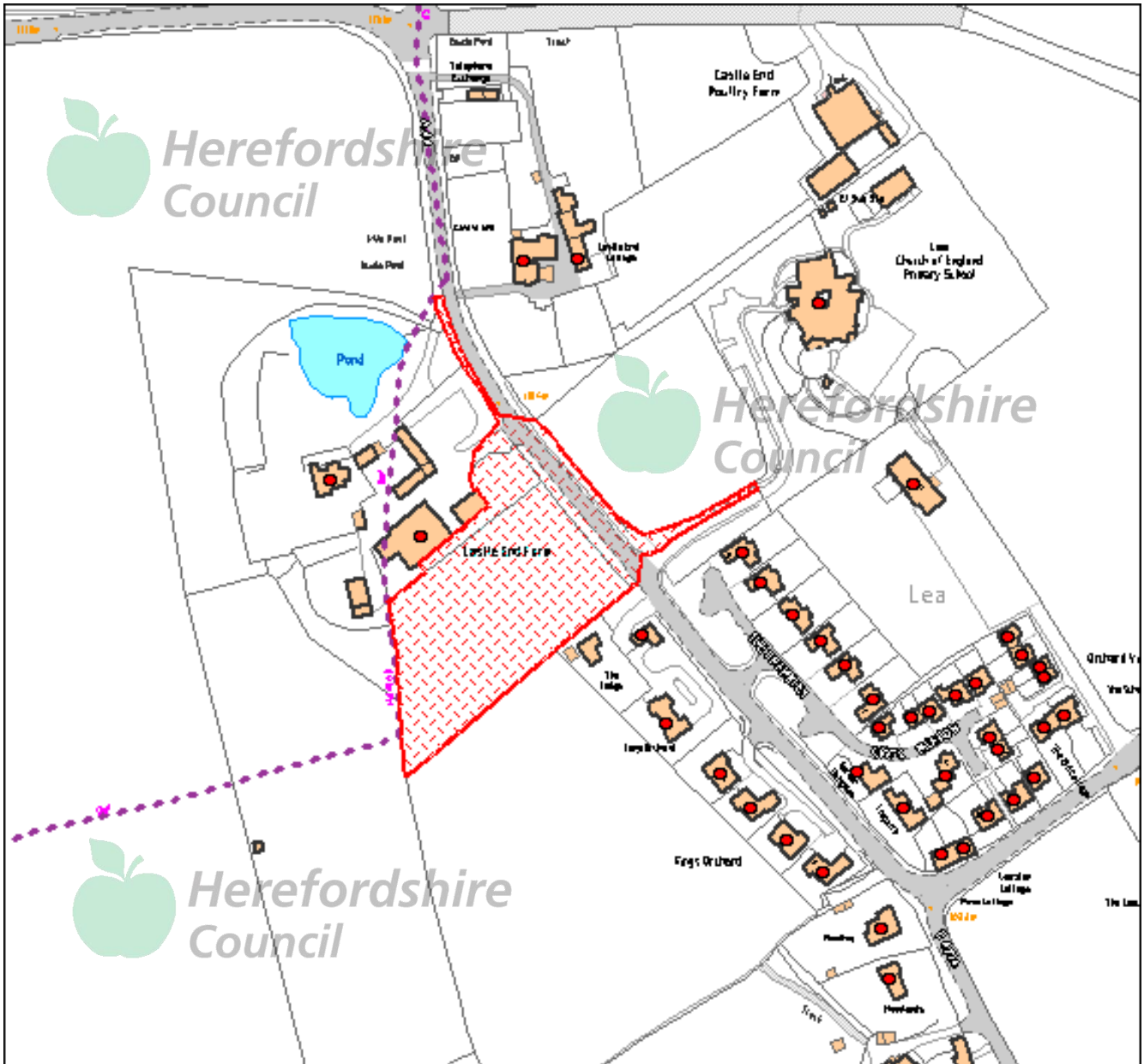
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 170677

SITE ADDRESS : LAND AT CASTLE END, LEA, ROSS-ON-WYE, HEREFORDSHIRE

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