

# Agenda

## Planning and regulatory committee

Date: **Wednesday 22 August 2018**

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Time: **10.00 am**

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

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

For any further information please contact:

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If you would like help to understand this document, or would like it in another format, please call Tim Brown, Democratic Services Officer on 01432 260239 or e-mail [tbrown@herefordshire.gov.uk](mailto:tbrown@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the meeting of the Planning and regulatory committee**

## **Membership**

<b>Chairperson</b>	<b>Councillor PGH Cutter</b>
<b>Vice-Chairperson</b>	<b>Councillor J Hardwick</b>
	<b>Councillor BA Baker</b>
	<b>Councillor CR Butler</b>
	<b>Councillor PJ Edwards</b>
	<b>Councillor DW Greenow</b>
	<b>Councillor KS Guthrie</b>
	<b>Councillor TM James</b>
	<b>Councillor MD Lloyd-Hayes</b>
	<b>Councillor FM Norman</b>
	<b>Councillor AJW Powers</b>
	<b>Councillor A Seldon</b>
	<b>Councillor NE Shaw</b>
	<b>Councillor WC Skelton</b>
	<b>Councillor SD Williams</b>

## Agenda

		Pages
<b>GUIDE TO THE COMMITTEE</b>		
<b>1.</b>	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
<b>2.</b>	<b>NAMED SUBSTITUTES (IF ANY)</b> To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
<b>3.</b>	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
<b>4.</b>	<b>MINUTES</b> To approve and sign the minutes of the meetings held on 25 July 2018.	9 - 24
<b>5.</b>	<b>CHAIRPERSON'S ANNOUNCEMENTS</b> To receive any announcements from the Chairperson.	
<b>6.</b>	<b>181384 - FIELD ADJOINING A4112 AND CHESTNUT AVENUE, KIMBOLTON, HEREFORDSHIRE</b> Proposed residential development of 25 dwellings along with new access and associated works.	25 - 48
<b>7.</b>	<b>180157 - GREEN BANK, SUTTON ST NICHOLAS, HEREFORD, HR1 3AX</b> Proposed new 2 bedroom dwelling.	49 - 66
<b>8.</b>	<b>181825 - WOODYATTS FIELD, WOODYATTS LANE, MADLEY, HEREFORDSHIRE, HR2 9NN</b> Proposed 4 bedrooms low level dwelling.	67 - 78
<b>9.</b>	<b>180193 - LAND AT WESTBROOK COURT, WESTBROOK, HEREFORD.</b> Proposed erection of 5 single bed holiday chalets and associated parking.	79 - 94



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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.

The Chairperson or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.

## Guide to Planning and Regulatory Committee

The Planning and Regulatory Committee consists of 15 Councillors. The membership reflects the balance of political groups on the council.

Councillor PGH Cutter (Chairperson)	Conservative
Councillor J Hardwick (Vice-Chairperson)	Herefordshire Independents
Councillor BA Baker	Conservative
Councillor CR Butler	Conservative
Councillor PJ Edwards	Herefordshire Independents
Councillor DW Greenow	Conservative
Councillor KS Guthrie	Conservative
Councillor TM James	Liberal Democrat
Councillor MD Lloyd-Hayes	It's Our County
Councillor FM Norman	Green
Councillor AJW Powers	It's Our County
Councillor A Seldon	It's Our County
Councillor NE Shaw	Conservative
Councillor WC Skelton	Conservative
Councillor SD Williams	Conservative

The Committee determines applications for planning permission and listed building consent in those cases where:

- (a) the application has been called in for committee determination by the relevant ward member in accordance with the redirection procedure
- (b) the application is submitted by the council, by others on council land or by or on behalf of an organisation or other partnership of which the council is a member or has a material interest, and where objections on material planning considerations have been received, or where the proposal is contrary to adopted planning policy
- (c) the application is submitted by a council member or a close family member such that a council member has a material interest in the application
- (d) the application is submitted by a council officer who is employed in the planning service or works closely with it, or is a senior manager as defined in the council's pay policy statement, or by a close family member such that the council officer has a material interest in the application
- (e) the application, in the view of the assistant director environment and place, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- (f) the application, in the reasonable opinion of the assistant director environment and place, raises issues of a significant and/or strategic nature that a planning committee determination of the matter would represent the most appropriate course of action, or
- (g) in any other circumstances where the assistant director environment and place believes the application is such that it requires a decision by the planning and regulatory committee.

The regulatory functions of the authority as a licensing authority are undertaken by the Committee's licensing sub-committee.

### Who attends planning and regulatory committee meetings?

Coloured nameplates are used which indicate the role of those attending the committee:

Pale pink	Members of the committee, including the chairperson and vice chairperson.
Orange	Officers of the council – attend to present reports and give technical advice to the committee
White	Ward members – The Constitution provides that the ward member will have the right to start and close the member debate on an application.  In attendance - Other councillors may also attend as observers but are only entitled to speak at the discretion of the chairman.

### Public Speaking

The public will be permitted to speak at meetings of the Committee when the following criteria are met:

- a) the application on which they wish to speak is for decision at the planning and regulatory committee
- b) the person wishing to speak has already submitted written representations within the time allowed for comment
- c) once an item is on an agenda for planning and regulatory committee all those who have submitted representations will be notified and any person wishing to speak must then register that intention with the monitoring officer at least 48 hours before the meeting of the planning and regulatory committee
- d) if consideration of the application is deferred at the meeting, only those who registered to speak at the meeting will be permitted to do so when the deferred item is considered at a subsequent or later meeting
- e) at the meeting a maximum of three minutes (at the chairman's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes will be allowed for public speaking
- f) speakers may not distribute any written or other material of any kind at the meeting
- g) speakers' comments must be restricted to the application under consideration and must relate to planning issues
- h) on completion of public speaking, councillors will proceed to determine the application
- i) the chairman will in exceptional circumstances allow additional speakers and/or time for public speaking for major applications and may hold special meetings at local venues if appropriate.



**Minutes of the meeting of Planning and regulatory committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 25 July 2018 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairperson)  
Councillor J Hardwick (Vice-Chairperson)

**Councillors:** BA Baker, PJ Edwards, DW Greenow, JA Hyde, TM James, MD Lloyd-Hayes, FM Norman, AJW Powers, A Seldon, J Stone and SD Williams

**In attendance:** Councillors BA Durkin and RJ Phillips

**11. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors CR Butler, KS Guthrie and WC Skelton.

**12. NAMED SUBSTITUTES**

Councillor JA Hyde substituted for Councillor CR Butler and Councillor J Stone substituted for Councillor KS Guthrie.

**13. DECLARATIONS OF INTEREST**

**Agenda item 7: 181089 – Land at Porthouse Farm Tenbury Road Bromyard**

Councillor A Seldon declared a non-pecuniary interest as he had been a member of Bromyard and Winslow Town Council at the time the application had been approved.

**REVISED NATIONAL PLANNING POLICY FRAMEWORK**

The Lead Development Manager reported that the revised National Planning Policy Framework had been issued on the afternoon of 24 July. Officers would update references in the reports during their presentations. However, the Committee was requested to give delegated authority to officers to determine the granting or otherwise of planning permission at the meeting as directed by the Committee so that it could be established that any decision would not conflict with the new National Planning Policy Framework. If any conflict were discovered the relevant application would be brought back to the Committee.

**14. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 27 June be approved as a correct record and signed by the Chairperson.

**15. CHAIRPERSON'S ANNOUNCEMENTS**

None.

**16. 180256 - PLAYFORD, MUCH MARCLE, LEDBURY, HR8 2NN**

*(Proposed camp site and temporary dwelling.)*

The Committee had deferred consideration of the application at its meeting on 27 June 2018.

The Development Manager gave a presentation on the application highlighting matters the Committee had required further information on. An update was provided in the update sheet, as appended to these minutes.

In accordance with the criteria for public speaking Mrs R Rennick, the applicant spoke in support of the application

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

He made the following principal comments:

- He continued to support the application.
- The scheme was not just to provide a simple camping site but had many benefits.
- A dwelling was needed to enable the site to be managed. However, a three year temporary permission was appropriate.
- The relocation of the access was acceptable to the Transportation Manager.
- The hedge was of value but would be translocated.
- The road was similar to many in Herefordshire which were used by pedestrians. The amenities at Much Marcle were only one mile away.
- The project was viable, would benefit tourism, provide some employment and had community support.
- The introduction to the Much Marcle Neighbourhood Development Plan stated it was supportive of appropriate, sustainable development in the countryside.

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

- The scheme had benefits.
- One concern at the previous meeting had been the nature of the proposed dwelling. The amendments made to the proposed caravan and the granting of a temporary permission for it were in the application's favour.
- Another concern had been about whether access could be secured. The access had been improved.
- The possible impact on a nearby listed building appeared to have been addressed.
- The relocation of the hedge was an issue. Hedges were a valuable asset and it was important that the relocation was done properly.
- A concern was expressed that granting approval might set a precedent for development in the open countryside. There were also examples of such sites being extended over time.
- Account should be taken of the fact that whatever the merits of the application it was contrary to a range of Core Strategy policies and the Much Marcle Neighbourhood Development Plan as set out at Paragraph 6.39 of the report.

The Development Manager clarified that the temporary permission for the temporary dwelling, which fell within the definition of a caravan, would be reviewed after three years. At that point consideration would be given to whether the scheme was demonstrating that it was viable. The buildings associated with the development did not have permanent foundations and could be removed relatively easily if appropriate. He recommended that the temporary permission should apply to the buildings as well as to the dwelling.

The Lead Development Manager reminded the Committee of the three strands of sustainable development. Approving the application would not set a precedent because each application had to be determined on its own merits.

The local ward member was given the opportunity to close the debate. He considered the site was in an appropriate location. However, it would be important that the high standards it aspired to were maintained and that the hedge relocation was carried out properly. The granting of a temporary permission would allow for this to be reviewed.

Councillor Greenow proposed and Councillor Norman seconded a motion that the application be approved on the basis of policies SS5, RA6, E4 and SD1. The motion was carried with 8 votes in favour, 2 against and 4 abstentions.

**RESOLVED: That officers be authorised to grant a three year temporary permission applying to the dwelling and buildings on the basis that the application was supported by policies SS5, RA6, E4 and SD1, subject to conditions considered necessary by officers named in the scheme of delegation to officers and subject to there being no provision in the new National Planning Policy Framework that required the matter to be brought back to the Committee.**

*(The meeting adjourned between 10.55 and 11.05)*

**17. 181089 - LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD.**

*(Proposed construction of a suds drainage pond and associated works including the construction of a maintenance access roadway.)*

*(Because the application was by the Council's development partner Councillor Shaw as a cabinet member took no part in the debate and did not vote)*

The Development Manager (DM) gave a presentation on the application,

A Member drew attention to Bromyard and Winslow Town Council's objection to the application because of concerns about the high risk of flooding.

Attention was also drawn to the comments of the Ecologist set out at section 4.3 of the report and the importance of adhering to the conditions that had been recommended.

No comments had been received from the Land Drainage Engineer (LDE). The DM commented that there was already an approved drainage scheme for sustainable urban drainage and the impact on the River Frome had been previously considered.

It was suggested that officers should be authorised to approve the application subject to there being no objection from the LDE.

Councillor James proposed and Councillor Lloyd-Hayes seconded a motion that the application be approved in accordance with the printed recommendation, with appropriate delegations. The motion was carried with 10 votes in favour, 2 against and 1 abstention.

**RESOLVED:** That planning permission be granted subject to the following conditions and any further conditions considered necessary by officers named in the scheme of delegation to officers and subject to there being no objection from the Land Drainage Engineer, following consultation with the Local Ward Member and Chairperson, and there being no provision in the new National Planning Policy Framework that required the matter to be brought back to the Committee:

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **Development shall not commence until a final Works and Engineering Programme has been submitted to and approved in writing by the local planning authority. The scheme shall include details and plan sections of the engineered profiles and gradients of the attenuation basin. The development shall be carried out in accordance with the agreed Programme.**

**Reason:** To ensure a satisfactory form of development and to accord with Policies LD2, SD1 and SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. **No development shall commence on site until an ecological survey and habitat enhancement scheme (based on the recommendations of the survey) which contains proposals to enhance the habitat on site for wildlife and biodiversity has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.**

**Reason:** The proper consideration of potential impacts on protected species and biodiversity assets is a necessary initial requirement before any groundworks are undertaken in order to ensure that diversity is conserved and enhanced in accordance with the requirements of the NERC Act 2006 and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

5. **Before any work begins, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) shall be supplied to the planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.**

**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.

6. **If during the course of the development unexpected contamination not previously identified is found to be present at the site then the work shall be stopped and no further development shall be carried out unless or until the developer has submitted a written method statement to be approved in writing by the local planning authority. The method statement shall include details about how the unexpected contamination shall be dealt with. Thereafter the development of the site will be carried out in accordance with the appropriate method statement.**

**Reason: In the interests of human health and to comply with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

**INFORMATIVE:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, 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.**

**18. 174451/174452 - FORMER COACH HOUSE AND LAND AT WILCROFT, BARTESTREE, HEREFORDSHIRE, HR1 4BB**

*(Proposed change of use and conversion of former coach house to form a 2 bedroom dwelling together with provision of turning and parking facilities and private amenity area at former coach house.)*

*(Councillor Greenow fulfilled the role of local ward member and accordingly had no vote on this application.)*

The Development Manager (DM) gave a presentation on the application.

In accordance with the criteria for public speaking, Mrs W Soilleux, of Bartestree and Lugwardine Parish Council spoke in opposition to the Scheme. Mr R Jones, a local resident, spoke in objection. Mr B Eacock, the applicant's agent, spoke in support.

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

He made the following principal comments:

- He referenced the refusal of several previous applications as set out at paragraph 3.1 of the report. In his view nothing had changed that supported approval of the latest application.
- The proposal would bring the rights of the farmer to access his livestock shed into conflict with the proposed amenity space.
- The coach house was immediately adjacent to the livestock shed raising environmental health issues.
- The access lane should serve no more than 5 properties and this had already been exceeded.
- The proposal would have an adverse impact on the amenity of the existing farmyard and any residents who might occupy the property and was contrary to Core Strategy policy SD1 and Bartestree and Lugwardine Neighbourhood Development Plan (BLNDP) policy BL3 and the Parish Council did not support the application.

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

- Paragraph 7 of the appeal decision appended to the report stated that the development of the coach house was incompatible with the farm use. It was questioned how this objection was considered to have been overcome. The DM commented that the proposed amenity area and parking area for that application had

been ambiguous. In the absence of clarity the Inspector had not been prepared to grant permission. The amenity space had now been restricted to the area immediately in front of the coach house and the parking area was now set back. The space available to the farmer would be no different to the space currently available to him.

- The farm use involving livestock and hay storage presented a health and fire risk to a residential property so close to it. The proposal remained incompatible with the farm use.
- The proposal was contrary to the NDP and the Parish Council opposed the application.
- The access to the property was difficult.

The Lead Development Manager commented that it had been thought that the proposal could overcome the grounds that had led to previous refusals. However, it was clear that Members did not consider this to be the case. He outlined Core Strategy policies and the provisions in the NDP that could be advanced in support of the refusal of the application.

The local ward member was given the opportunity to close the debate. He reiterated his opposition to the scheme.

Councillor Baker proposed and Councillor Williams seconded a motion that the application be refused on the grounds that it was contrary to Core Strategy Policies RA3, RA5 and SD1 and Bartestree and Lugwardine Neighbourhood Development Plan policies BL3 and BL6. The motion was carried with 12 votes in favour, none against and 1 abstention.

It was advised that it would accordingly be premature to approve the accompanying application for listed building consent.

**RESOLVED: That planning permission be refused on the grounds that the application was contrary to Core Strategy Policies RA3, RA5 and SD1 and Bartestree and Lugwardine Neighbourhood Development Plan policies BL3 and BL6 and officers named in the Scheme of Delegation to Officers be authorised to detail these reasons together with refusal of listed building consent.**

**19. 180889 - LAND ADJACENT CHURCH TERRACE, ALMELEY, HEREFORDSHIRE, HR3 6LB**

*(Proposed erection of 2 detached dwellings with detached garages.)*

The Lead Development Manager commented that because there were significant relevant provisions in the new National Development Framework of which account needed to be taken it was suggested that consideration of the application should be deferred and a site visit undertaken.

**RESOLVED: That consideration of the application be deferred pending a site visit and further information.**

**Appendix 1 - Schedule of Updates**

The meeting ended at 1.01 pm

**Chairman**

# **PLANNING COMMITTEE**

**Date: 25 July 2018 (morning)**

## **Schedule of Committee Updates/Additional Representations**

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

## **SCHEDULE OF COMMITTEE UPDATES**

**180256 - PROPOSED CAMP SITE AND TEMPORARY DWELLING. THIS IS AN AMENDED APPLICATION THAT IS A RESUBMISSION OF APPLICATION NO. 172848 REFUSED 6TH OCTOBER 2017 AT PLAYFORD, MUCH MARCLE, LEDBURY, HR8 2NN**

**For: Mr And Mrs Rennick per Mr Christopher Knock, Tinkers Grove Cottage, Eastnor, Ledbury, Herefordshire HR8 1RQ**

### **ADDITIONAL REPRESENTATIONS**

Following the publication of the updated report, the applicant has submitted an amended plan for the temporary dwelling and a revised access detail seeking to satisfy the concerns about the deliverability of the visibility splay.

### **OFFICER COMMENTS**

The omission of the veranda is such that the remaining structure satisfies the legislative definition of a caravan (twin unit caravan) and as such the use of a temporary condition would be practical in the event that permission is granted.

The position of the access has been changed in order to maximise the achievable visibility. It has moved further away from the nearest affected property, Playford.

The reference to the amount of hedgerow affected by the creation of the visibility splay is incorrect. The actual amount of hedgerow that would be transplanted is approximately 115 metres

### **NO CHANGE TO RECOMMENDATION**



**Minutes of the meeting of Planning and regulatory committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 25 July 2018 at 2.00 pm**

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

**Councillors:** BA Baker, PJ Edwards, DW Greenow, JA Hyde, AW Johnson, FM Norman, AJW Powers, A Seldon and J Stone

**20. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors CR Butler, KS Guthrie, TM James, MD Lloyd-Hayes, NE Shaw and WC Skelton.

**21. NAMED SUBSTITUTES**

Councillor JA Hyde substituted for Councillor CR Butler, Councillor J Stone for Councillor KS Guthrie and Councillor AW Johnson for Councillor WC Skelton.

**22. DECLARATIONS OF INTEREST**

**Agenda item 5: 180403 – 21 The Maltings, Dormington**

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

**Agenda item 6 - Tump Farm Fownhope**

Councillor Hardwick declared a pecuniary interest as landlord of the applicant and a close neighbour and left the meeting for the duration of this item.

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

**23. CHAIRPERSON'S ANNOUNCEMENTS**

The Chairperson reminded Members that following the publication of the revised National Planning Policy Framework on 24 July officers would need to update references in reports and may need to be given delegated authority to determine the granting or otherwise of planning permission at the meeting as directed by the Committee so that it could be established that any decision would not conflict with the new National Planning Policy Framework. If any conflict were discovered the relevant application would be brought back to the Committee.

**24. 180403 - 21 THE MALTINGS, DORMINGTON, HEREFORD, HR1 4FA**

*(Retention of residential use of former converted carport for ancillary accommodation and retention of the non-material conversion works required to be reversed by enforcement notice EN2017/002562/ZZ.)*

*(Councillor Hardwick fulfilled the role of local ward member and accordingly had no vote on this application.)*

The Planning Enforcement Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr D Lloyd, of Dormington and Mordiford Parish Council spoke in opposition to the proposal. Mr V Heeley, a local resident, spoke in objection. Mr E Wilson, the applicant, spoke in support.

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

He made the following principal comments:

- The application was retrospective. He noted that the only planning application on the council website relating to the property was for the provision of 3 new roadside windows to the partially converted barns. The application had been refused. However, the windows had still been subsequently put in. Later the roadside barn had been converted into an annex to provide accommodation for a housekeeper. No planning application had been made but the development had subsequently been allowed by default. The local community had been sympathetic because of the applicant's personal circumstances. However, the current additional development, again without planning permission, was not welcome.
- The unauthorised development was before the Committee following the submission of a planning application made after an enforcement notice had been issued. That notice was currently held in abeyance.
- Evidence recorded over the past two years showed the obstruction and inconvenience neighbours had suffered as a result of the overdevelopment. If the development were permitted he considered the suggested parking arrangements would be almost impossible to enforce.
- He considered that the Committee could decide that the arrangement was contrary to policy SD1 because the proposed parking arrangements would be likely to mean vehicles manoeuvring across the shared driveway with a frequency that would be out of keeping and detrimental to the amenity of the existing occupiers. However, given the history of non-compliance with planning requirements another option was to decline to determine the application under section 70 c of the Town and Country Planning Act 1990 and allow enforcement action to take its course.

The legal adviser to the Committee commented that the Committee could approve the application, refuse it or decline to determine it under 70 c of the Town and Country Planning Act 1990 (as amended). If the Committee chose to determine the application and refused it, the applicant would have a right to appeal to the Secretary of State. If the Committee declined to determine the application there would be no right of appeal and the existing enforcement would have to be complied with. The only way to challenge that decision would be through a judicial review. On the available information she did not consider that there were grounds for a judicial review using section 70c of the Town and Country Planning Act (as amended).

The Lead Development Manager confirmed that if the Committee declined to determine the application enforcement action would then be taken in compliance with the current enforcement notice, the contents of which he outlined. There were no permitted development rights. It was clear that the Committee wanted enforcement action to proceed swiftly. To provide reassurance on this point, the Chairperson and local ward member would be kept informed of progress. In response to a question he commented that a recommendation for approval had been made on the basis that a parking scheme had been submitted that was acceptable to the Transportation Manager.

An observation was made that the situation involved a number of civil issues that were not material planning considerations. To determine the application would have a bearing on those non-material issues.

Councillor Edwards proposed and Councillor Greenow seconded a motion that the Committee should decline to determine the application. The motion was carried with 9 votes in favour, 1 against and 1 abstention.

**RESOLVED: That the Committee decline to determine the application.**

**25. 174625 - TUMP FARM, FOWNHOPE, HEREFORD, HR1 4PJ**

*(Proposed retention of an existing caravan to be used as accommodation for a farm worker (retrospective).)*

*(Councillor Hardwick had declared a pecuniary interest and left the meeting for the duration of this item.)*

The Enforcement Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Dr T Jones, a local resident, spoke in objection to the application.

In accordance with the Council's Constitution, Councillor WLS Bowen fulfilled the role of local ward member on this application on behalf of Councillor Hardwick.

He made the following principal comments:

- The large caravan, in reality a large mobile home, was brightly painted and in a prominent location visible across the valley, detracting from the Wye Valley Area of Outstanding Natural Beauty (WVAONB). The response from the WVAONB stated that the caravan was conspicuous from certain perspectives and should be better screened to fit into the landscape and to comply with the Fownhope Neighbourhood Development Plan (FNDP).
- Even though Fownhope Parish Council had supported the application it was contrary to the FNDP.
- The WVAONB and the FNDP both stressed the importance of effective screening a neutral paint scheme and mature trees. However, the location on the edge of a steep bank would make it difficult to screen with trees.
- The caravan could easily be resited so that it had little impact on the AONB.
- There was an empty caravan nearby in one of the barns that could be used instead when needed.
- The caravan was in effect a dwelling in the open countryside.
- The application should be refused.

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

- It was noted that the WVAONB officer had commented that the application was unlikely to have a significant detrimental impact. However, the caravan should be better screened. The Lead Development Manager clarified screening could take many forms. A member suggested a fence and planting behind it would be better than trees given the location on a bank. Another member commented on the importance of planting being carried out properly and maintained.
- The bank had an abundance of flora and fauna and should not be disturbed.
- Painting the caravan a neutral colour would be of benefit.
- There were other sites where the caravan could be located.
- There were differing views as to whether a stock man was needed on site providing justification for the application in accordance with policy RA3. Reference was made to the County Land Agent's response as set out at paragraph 4.7 of the report in support of the application.
- The caravan was highly visible.
- A number of complaints had been received.

The Lead Development Manager commented that the County Land Agent had advised that there was a need for a dwelling for a stock man. The WVAONB officer had commented that the application was unlikely to have a significant detrimental impact but the need for screening had been identified. The conditions, which he outlined, provided for screening and painting and the intention was that these would be implemented as quickly as possible. Mindful of the comments about landscaping, advice would be sought from the landscaping officer on a landscaping scheme, bearing in mind that the permission would be for three years. The proposal was an exception in accordance with paragraph 79 of the NPPF and policy RA3.

Referring to the request from the public speaker made when addressing the Committee the Chairman requested that if the application was approved mitigating action be expedited.

Councillor Bowen was given the opportunity to close the debate. He reiterated concerns about the ability to screen the caravan on the edge of the bank and whether there was a permanent need for a stock man. He remained of the view that there were better alternative locations that would avoid the need for complex screening arrangements.

Councillor Greenow proposed and Councillor Seldon seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 7 votes in favour, 4 against and no abstentions.

**RESOLVED: That planning permission be granted subject to the following condition below and any other conditions considered necessary by officers named in the scheme of delegation to officers:**

1. **F27 Agricultural occupancy**
2. **F22 Temporary permission & reinstatement of land (mobile home/caravan)**
3. **C96 Landscape scheme**
4. **C97 Landscape implementation scheme**

5. **C86 Colour of caravan**

**INFORMATIVE:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, 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.**

26. **162261 - LAND OFF ASHFIELD WAY, BROMYARD, HEREFORDSHIRE, HR7 4BF**

*(Proposed site for up to 80 dwellings, garages, parking, open space and indicative road layout.)*

*(Councillor Seldon fulfilled the role of local ward member and accordingly had no vote on this application.)*

The Lead Development Manager presented the report which did not relate to the principle of development but sought to resolve omissions in the draft heads of terms presented to the Committee when it had determined the application on 13 September 2017 and in the minutes of that meeting.

In accordance with the Council's Constitution, the local ward member, Councillor A Seldon, spoke on the application. He commented that it was unfortunate that the impression had been given to some in the local community that the principle of the development was to be reconsidered. He welcomed the proposed health contribution which he hoped would be the first of many in S106 agreements. He remarked that in part because of the development Welsh Water were now disputing the strategic housing sites it had been proposed to bring forward.

Councillor Greenow proposed and Councillor Johnson seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 11 votes in favour, none against and no abstentions.

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

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **B01 Development in accordance with the approved plans**
5. **No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:**
  - a. **Wheel cleaning apparatus which shall be operated and maintained during construction of the development hereby approved.**
  - b. **Parking for site operatives and visitors which shall be retained and kept available during construction of the development.**

- c. A noise management plan including a scheme for the monitoring of construction noise.
- d. Details of working hours and hours for deliveries
- e. A scheme for the control of dust arising from building and site works
- f. A scheme for the management of all waste arising from the site
- g. A travel plan for employees.
- h. The agreed details of the CMP shall be implemented throughout the construction period.

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

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

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

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

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

- 8. The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located, marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.

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

9. The recommendations for species mitigation and habitat enhancements set out in the ecologist's reports for this application from Shropshire Wildlife Surveys be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. Prior to commencement of the development, an appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to inspect the site and ensure there is no impact upon protected species by clearance of the area. A species mitigation and ecological enhancement plan should be submitted to the local authority for approval and the scheme implemented as approved.

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

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

10. G03 Retention of existing trees/hedgerows
11. G10 Landscaping scheme
12. G11 Landscaping scheme - implementation
13. H06 Vehicular access construction
14. I44 No burning of materials/substances during construction phase
15. I55 Site Waste Management
16. M17 Water Efficiency - Residential
17. Prior to the commencement of development the developer shall agree in writing with the local planning authority a scheme for the delivery of the open market housing hereby approved. This scheme shall comprise a schedule outlining the number of 2, 3 and 4 (+) bed dwellings proposed at the Reserved Matters stage; the overall mix being in general accord with the Council's Local Housing Market Assessment (or any successor document, adopted for these purposes by the local planning authority).

**Reason:** To define the terms of the permission and to comply with Policy H3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

#### **INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.
3. HN04 Private apparatus within highway
4. HN01 Mud on highway

5. **HN28 Highways Design Guide and Specification**
6. **HN25 Travel Plans**
7. **HN05 Works within the highway**
8. **The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)**
9. **The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.**

**27. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting and the intention to move to a four weekly cycle of meetings.

The meeting ended at 3.50 pm

**Chairman**



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>22 AUGUST 2018</b>
<b>TITLE OF REPORT:</b>	<p><b>181384 - PROPOSED RESIDENTIAL DEVELOPMENT OF 25 DWELLINGS ALONG WITH NEW ACCESS AND ASSOCIATED WORKS AT FIELD ADJOINING A4112 AND CHESTNUT AVENUE, KIMBOLTON, HEREFORDSHIRE</b></p> <p><b>For: Mr Brown per Miss Beth Hamblett, Matthews Warehouse, High Orchard Street, Gloucester Quays, Glos, GL2 5QY</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181384&amp;search=181384">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181384&amp;search=181384</a>
<b>Reason Application submitted to Committee – Contrary to policy</b>	

**Date Received: 12 April 2018**

**Ward: Leominster  
North & Rural**

**Grid Ref: 351783,261253**

**Expiry Date: 16 July 2018**

Local Member: Councillor J Stone

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

- 1.1 The application site lies between pre-existing residential development of The Chestnuts and Stockton Rock, on the northern side of the A4112. It is currently used as pasture land and is an irregularly shaped field that rises from the road.
- 1.2 Planning permission has been granted in outline with all matters apart from access reserved for future consideration (Ref: 151145/O) for the erection of up to 21 dwellings. Subsequently, approval of Reserved Matters pursuant to the outline planning permission was granted on 27<sup>th</sup> March 2018, but not before an earlier submission had been refused and dismissed on appeal. The main issues with the first RM submission revolved around layout and the mix of housing proposed.
- 1.3 The original outline planning permission was granted subject to a Section 106 Agreement. This included a contribution of £270,053.33 in lieu of on site affordable housing provision and was agreed on the basis that there was not a need for additional affordable housing provision in the village.
- 1.4 This application is for a revised residential development made in full as opposed to outline, now comprising 25 dwellings. The scheme has been developed principally to address concerns raised about the absence of affordable housing from the scheme as approved. As a result of detailed discussion and negotiation with the developer, an alternative scheme is now proposed that maintains the originally approved 21 open market dwellings, together with four affordable dwellings that will meet the definitions as set out in Annex 2 of the revised National Planning Policy Framework. For ease these definitions are set out below:

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

**Affordable housing:** housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

- a) *Affordable housing for rent: meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).*
  - b) *Starter homes: is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.*
  - c) *Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.*
  - d) *Other affordable routes to home ownership: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.*
- 1.5 As with the previously approved scheme, the current proposals maintain access from the A4112. A principal spine road cuts through the centre of the site with private drives off it. A surface water attenuation pond is located at the front of the site; this is the lowest lying area, and a landscaped area creates a buffer between the site and The Chestnuts. Field accesses are to be maintained on the eastern boundary and to the northern corner of the site. The site layout is shown on the following page:



1.6 The proposal provides a mix of single and two storey properties, the details of which are provided below:

Plot No.	House Type	Floor Area (m2)
1 to 3	3 bed bungalow	120
4, 5, 7, 8, 9, 10, 15 & 16	2 bed house	84
6, 12, 13 & 14	3 bed house	94
11, 17, 20, 21, 23 & 24	3 bed house	109
18, 19, 22 & 25	4 bed house	141

1.7 The detailed designs of the dwellings are the same as previously approved. They are a result of discussions between the developer and case officer that followed the dismissed reserved matters appeal. A typical street scene is shown below and the detailed design is considered as part of the officer’s appraisal later in this report:



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

- 1.8 The application is submitted with detailed plans and elevations of all of the dwellings and the following supporting documents:
- Design & Access Statement
  - Flood Risk Assessment and Preliminary Drainage Assessment
  - Ecological Assessment
  - Tree Report

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy

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

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

[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

### Kimbolton Neighbourhood Development Plan

The NDP was made on 15<sup>th</sup> June 2018. It identifies the application site as a commitment. As such the Written Ministerial Statement from December 2016 is applicable. For the purposes of decision-making it can be given full weight and the relevant policies are as follows:

K1 - Promoting a Sustainable Community

Among other things, Policy K1 refers to the need to ensure housing meets the ongoing needs of the community with a suitable mix of size, style and tenure.

K2 - Development Strategy

Policy K2 defines the Kimbolton settlement boundary and identifies the application site as one of two where planning permission already exists for 3 or more dwellings.

K3 - The scale of new housing

Policy K3 identifies the need to make provision for proportionate growth, which in this case equates to a minimum of 40 dwellings (35 of which have been constructed or committed between 2011 – 2017; although this figure takes account of the 21 permitted via 151145, which this application seeks to supplant).

K4 - Housing development within the settlement boundary

Policy K4 is intended to guide new development within the settlement boundary and requires that it should be in keeping with the scale, form and character of its surroundings and not prejudicial to the amenity associated with neighbouring properties.

K7 - Design of new housing

Policy K7 is a criteria based policy dealing with the design of new housing developments. The specific criteria are referred to later in the officer's appraisal.

K8 - Ensuring an appropriate range of tenures, types and sizes of houses

Policy K8 has the clear intent of 'evening out' the scale of housing with the village by adding smaller market properties:-

All proposals for new housing development will have to demonstrate how they contribute to maintaining a mix of tenures, types and sizes of dwelling in the Parish. In order to even out the size range of dwellings available in the Parish and meet identified needs, proposals must be for smaller dwellings of two or three bedrooms, unless it can be demonstrated this is not appropriate.

K9 - Affordable housing

Policy K9 describes how the need for affordable housing will be met i.e. via windfall sites of more than 10 dwellings or rural exception sites.

K10 - Protecting and Enhancing Local Character

All development proposals will be expected to respect, reinforce and promote the special qualities, historic character and local distinctiveness of the area in order to help maintain its cultural identity and strong sense of place.

K11 - Heritage Assets

All applications affecting heritage assets will be required to demonstrate consideration of the significance of any heritage asset affected including any contribution made by their setting.

K21 - Open spaces

This policy requires provision of open space in accordance with Core Strategy Policies OS1 and OS2.

[https://www.herefordshire.gov.uk/downloads/file/13542/neighbourhood\\_development\\_plan\\_-\\_february\\_2018](https://www.herefordshire.gov.uk/downloads/file/13542/neighbourhood_development_plan_-_february_2018)

National Planning Policy Framework

Section 2 - Achieving sustainable development

Section 4 - Decision-making

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

Section 5	-	Delivering a sufficient supply of homes
Section 9	-	Promoting sustainable transport
Section 11	-	Making effective use of land
Section 12	-	Achieving well-designed places
Section 14	-	Meeting the challenge of climate change, flooding and coastal change
Section 15	-	Conserving and enhancing the natural environment
Section 16	-	Conserving and enhancing the historic environment

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/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

### 3. Planning History

- 3.1 151145/O - Proposed residential development of up to 21 dwellings along with new access and associated works – Approved by planning committee. Decision notice issued 29/4/16. Planning permission was granted subject to the completion of a Section 106 Agreement.
- 3.2 163693/RM – RM submission pursuant to the outline above (151145/O): Refused and appeal dismissed.
- 3.3 180323/RM – RM submission pursuant to the outline above (151145/O): Further application for approval of Reserved Matters pursuant to 151145/O: Approved 27<sup>th</sup> March 2018.

### 4. Consultation Summary

#### Statutory Consultations

#### 4.1 **Natural England:** No objection

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England's advice on other natural environment issues is set out below.

#### European sites – River Wye Special Area of Conservation

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the River Wye Special Area of Conservation and has no objection to the proposed development.

We advise that surface water should be disposed of in line with Policy SD3 of the adopted Herefordshire Core Strategy and the CIRIA SuDS Manual (2015) C753

To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out. The following may provide a suitable justification for that decision:

- Application form stating that foul effluent will be disposed through sewer mains

#### River Wye/Lugg Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

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

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on “Development in or likely to affect a Site of Special Scientific Interest” (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website. Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

#### 4.2 **Welsh Water:** No objection

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

Welsh Water does not provide sewerage services in his area. The nearby properties are served by a private sewer network and private sewerage treatment works. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development.

#### Internal Council Consultations

#### 4.3 **Service Manager Built and Natural Environment (Landscape Officer):** A permission upon the site for a scheme of 21 dwellings was granted as part of an outline application in 2015, at which time no landscape representation was made. Following on from this 2 proposed layouts were submitted as part of a reserved matters application (P163693/RM and P180323/RM) for which the following landscape comments were provided:

*I am aware that there are no previous landscape comments in respect of this application and I have no comments to make in respect of the internal layout of the proposal.*

*The one point I do wish to raise however is that the application site does protrude beyond the existing line of residential curtilage northwards into open countryside. Whilst I recognise the site boundary is agreed at outline stage. I would recommend that consideration be given to mitigating any adverse visual effects from the nearby PROW through the introduction of a landscape buffer running along the northern boundary, what is currently proposed is native hedgerow and I am not satisfied this is sufficient.*

*I would also like to see the boundary of the dwellings along the northern edge of the site demarcated independently of the hedgerow, as this would reduce the threat of it being removed in years to come.*

*I would recommend the introduction of a boundary marked by native hedgerow with a tree belt of a minimum of 10-20 metres beyond it.*

The current application is for an increase in units to 25 units, I have reviewed both plans and note that the community orchard has been removed from the scheme. As well as garages shifted northwards within the garden space. The loss of open space is unfortunate and the increase in built form beyond the existing residential curtilage conflicts with recommendations. I can therefore only reiterate my comments above.

4.4 **Service Manager Built & Natural Environment (Ecology):** Thank you for consulting me on this application. The ecological survey submitted with the application is now out of date having been carried out in 2015. However, discharge of reserved matters applying to this site were dealt with in 2018 with the development found to be of low impact on biodiversity. On this basis I would suggest including a condition for a site check prior to any development including site clearance. This, plus submission of the enhancement plan informed by the site check, should prove sufficient as follows:

*Prior to commencement of the development, an appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to conduct an ecological inspection at an appropriate time of year and ensure there is no impact upon protected species by clearance of the area. The results and actions from the inspection and survey shall be relayed to the local planning authority upon completion.*

Reasons:

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

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

AND

*The recommendations set out in Section 5 of the ecologist's report from Churton Ecology dated March 2015 and the pre-commencement site checks should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.*

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

Reasons:

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

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

4.5 **Archaeological Advisor:** No objection

4.6 **Service Manager Built and Natural Environment (Historic Buildings Officer):** We have no objections to the proposals on heritage grounds

4.7 **Parks & Countryside Officer:** No objection

Open Space Requirements.  
Core Strategy Policies



OS1: Requirement for open space, sport and recreation facilities  
OS2: Meeting open space and recreation needs

Kimbolton Neighbourhood Development Plan: referendum stage.  
Policy K21: Open Spaces

It is noted that this site has an existing approval for 21 houses (151145/O and 180323/RM). This included an off-site contribution towards POS in lieu of on-site provision as agreed in the heads of terms. This would still be applicable but with the addition that the off-site contribution could be used towards POS improvements in the village as described below.

Core Strategy Policies OS1 and OS2 apply. Open space requirements from all new development are to be considered on a site by site basis and in accordance with all applicable set standards which are set out below. Where on-site provision is not appropriate off-site contributions may be sought where appropriate on an equally beneficial basis for the local community.

Kimbolton Neighbourhood Development Plan Policy K21 although at referendum stage will carry some weight. This recommends that all new development proposals should include the provision of new open space and recreational facilities to meet the needs of those living/working within their developments in accordance with Herefordshire Core Strategy policies OS1 and OS2. Where provision cannot be met on site, developers should look to enhance or extend current provision, including assisting with obtaining land for such purposes. Measures that will increase accessibility to recreational facilities such as the public rights of way network may be advanced as an alternative. Where appropriate, any possible development proposals should ensure such space and the public rights of way network are as accessible as possible, including through a choice of sustainable means, such as cycleways and footways

The Neighbourhood Plan identifies two areas of Local Green Space which includes the land at Chestnut Avenue which is located in the heart of Kimbolton village and adjacent to this site.

Proposal: The proposed site plan for this application does not include any on-site POS and the orchard that was previously proposed is now no longer shown, given the need to accommodate additional housing. It is a shame as its provision could enhance the offer in this part of the village. It is near to the existing POS at Chestnut Avenue which is described in the Neighbourhood Plan as an important open space and the only area publically accessible within the heart of the village. The two areas could have potentially been linked via a footpath and in doing so provide well-connected open space offering a range of opportunities which is seen as good planning.

Off-Site contribution: With no on site provision for POS an off-site contribution is sought in lieu of this in accordance with both Core Strategy and Kimbolton Neighbourhood Development Plan Polices described above. It is calculated in accordance with the SPD on Planning Obligations on market housing only as follows:

1 bed: £193  
2 bed: £235  
3 bed: £317  
4+ bed: £386

The contribution would be used towards improving the public rights of way in and around the village in accordance with the Public Rights of Way Improvement Plan and POS in the village in accordance with the Kimbolton Neighbourhood Development Plan.

#### 4.8 **Land Drainage Officer:** Qualified comment

##### **Overall Comment**

The proposals are largely acceptable in principle, although we recommended that the following information is submitted for a review before a planning permission is granted:-

- Drawing showing the proposed surface water and foul water drainage strategy developed for the current proposal, supported by description of the strategy. The drawing should clearly show the location and type of the proposed SuDS, attenuation measures and package treatment plant.
- Revised calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to and including the 1 in 30 annual probability storm event, and that there will be no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change (including calculations of proposed storage). Note that we recommend that these use FEH methods and 2013 rainfall data.
- Consideration of the risk of water backing up the foul/surface water drainage system from the proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere.
- Confirmation that the proposed construction of c.400m of pipeline below the public highway and subsequent discharge to the watercourse is agreed in principle with the Council. A written agreement will be needed to facilitate the construction of a headwall on third party land.
- Confirmation that the adoption of the surface water drainage system by DCWW (including combined system downstream of the site) is acceptable in principle.
- Assessment of the suitability and sensitivity of the receiving watercourse to receive treated effluent.
- Provision of an Environmental Permit for the proposed Package Treatment Plant and Outfall
- Demonstration that appropriate access is available to maintain foul water drainage features.

Should the Council be minded to grant planning permission, we recommend that the Applicant submits the information requested above along with the following information requested in suitably worded planning conditions:-

- Results of infiltration testing at the location(s) and proposed depth(s) of any proposed infiltration structure(s), undertaken in accordance with BRE Digest 365 methodology.
- Detailed drawings of proposed drainage layout, attenuation features and outfall structures.
- Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to and including the 1 in 2 annual probability storm event.
- Detailed drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system up to and including the 1 in 100 year event with climate change.
- Confirmation that the adoption and maintenance of the drainage systems has been agreed with the relevant authorities.
- Demonstration that appropriate access is available to maintain drainage features.
- Operational and maintenance manual for all proposed drainage features that are to be adopted and maintained by a third party management company.
- Calculations to inform the assessment of the risk of water backing up the foul/surface water drainage system from any proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere, noting that this also includes failure of flap valves.

4.9 **Waste Officer:** Qualified comment

I have concerns that the turning head near plot 21 is not large enough to allow the refuse collection to turn. Turning heads need to meet highways specifications to allow the RCV to turn. Can tracking be provided to show principle whether the RCV can access and turn within the development?

4.10 **Housing Officer:** Comments awaited

4.11 Public Rights of Way Officer: No objection

4.12 Education Officer: Seeks a financial contribution towards adding capacity to the village primary school

4.13 Wye Valley Trust: Using impact assessment formulae, the WVT seeks a contribution of £13,212.21.

**5. Representations**

**5.1 Kimbolton Parish Council**

Kimbolton Parish Council are in favour of the second proposal option to incorporate an additional 4 affordable properties totalling 25 units. We believe that this would provide a vital opportunity to local first-time purchasers in conjunction with the wider development. The additional properties would also have minimum impact on the overall low density layout. We would ask that any "affordable status" legal conditions are applied to the selected properties in perpetuity enabling future purchasers to also benefit from the scheme. Please also see previous comments as below -The introduction of selected stone chimney breasts and traditional oak porches to a small number of the properties would further enhance the development. We would also encourage native planting along the northern boundaries. Treated sewage outflow and surface water management requires clarification to avoid potential flooding of existing low lying properties within the locality of the site.

5.2 One objection has been received from Mr John Read. The content is as follows:-

As you will be aware I objected to the original application for 21 dwellings on the grounds that the treated sewage and the storm water drains were proposed to discharge into the Cogwell Brook, this is also a registered floodplain. It was proposed to discharge on the North side of an already bottlenecked culvert. This culvert adjacent to Chapel House has caused flooding to property and land for many years this situation should not be made worse by directing even more water to this point.

This current application says that the sewage is dealt with by means of a pumping station and main drainage system. The storm water is to be directed to a pool/lake. In my opinion there is not enough information on the application to make a considered opinion at this time as there is no detail on the main drainage system including where it runs or discharges, this also applies to the overflow from the pool/lake.

I trust we will get a further opportunity to comment when the drainage details have been deposited with you.

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

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=181384&search=181384](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181384&search=181384)

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

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

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

## 6. Officer's Appraisal

### *Policy context and Principle of Development*

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

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

6.2 In this instance the adopted development plan consists of the Herefordshire Local Plan – Core Strategy (CS) and the Kimbolton NDP, which is made and on the basis of the Written Ministerial Statement (December 2016), attracts full weight. The National Planning Policy Framework (NPPF) is also a significant material consideration.

6.3 A range of CS policies are relevant to development of this nature, and these are outlined in full at Section 2.1. Strategic policy SS1 of the CS sets out the presumption in favour of sustainable development, which is reflective of the positive presumption enshrined by the NPPF. Policy SS1 also confirms that proposals which accord with the policies of the Core Strategy (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

6.4 Core Strategy policy RA1 explains that the minimum requirement for 5,300 new homes will be distributed across seven Housing Market Areas (HMAs). Kimbolton is a main settlement within the Leominster HMA, which has an indicative growth target of 14% (equivalent to delivering 730 new homes across the plan period). For the parish of Kimbolton, this equates to a minimum of 35 new dwellings.

6.5 In this case the NDP recognises the existing planning permission as a commitment and the principle of new residential development on the site is thus supported.

6.6 It then falls to consider the detailed proposal against the relevant policies of the CS and other material considerations to establish whether there are any adverse impacts associated with the proposed scheme which would outweigh the benefits. This would be towards establishing if the scheme is representative of sustainable development, for which there is a positive presumption enshrined in the NPPF and CS. The key matters requiring consideration are set out below.

### **Housing mix and the supply of affordable housing**

6.7 Policy K8 of the NDP states:

*All proposals for new housing development will have to demonstrate how they contribute to maintaining a mix of tenures, types and sizes of dwelling in the Parish. In order to even out the size range of dwellings available in the Parish and meet identified needs, proposals must be for smaller dwellings of two or three bedrooms, unless it can be demonstrated this is not appropriate.*

6.8 Policy K9 of the NDP states:

*The need for affordable housing will be met by:*

*1. Rural exception sites; or*

*2. On windfall developments providing ten homes or more which have a combined floor space of more than 1,000sq metres, a minimum of 40% of properties are made available to meet local affordable housing needs. All affordable homes will be subject to Section 106 Agreements ensuring that priority for allocation, on the first and subsequent lettings, is first given to those with a local connection in accordance with the Herefordshire Council local connection criteria <https://www.herefordshire.gov.uk/housing/advice/definition-of-affordable-housing>*

*A 'cascade' arrangement will be in place to ensure that where nobody with a local connection is forthcoming then properties will be offered at a second stage to those from the neighbouring Herefordshire parishes of Middleton on the Hill and Leysters, Luston Group, Leominster and Hatfield & District Group.*

*Covenants will be required which ensure that all properties will be re-sold or let to occupiers who demonstrate a local housing need, and will be subject to the same cascade arrangements described above.*

6.9 The extant planning permission with reserved matters approval has a housing mix as follows:-

<b>Plot No.</b>	<b>House Type</b>	<b>Floor Area (m2)</b>
1 to 3	3 bed bungalow	120
5 to 8	2 bed house	84
10, 11, 12 & 13	3 bed house	94
4, 9, 16, 17, 19 & 20	3 bed house	109
14, 15 18 & 21	4 bed house	141

6.10 As referred to earlier in the report, the extant planning permission for the site does not include any on-site affordable housing provision. Should the extant permission be implemented a commuted sum of £270,053.33 would be received by the council to be used to deliver affordable housing elsewhere. In this case there are no other sites in Kimbolton that are likely to deliver affordable housing, nor are any proposals likely to come forward as exceptions sites. The reality is that the sum would be used in the wider Leominster Housing Market Area; most likely in Leominster itself where schemes are more likely to come forward, with little or no benefit to local people wishing to remain in the village. Whilst no submissions have been made in respect of this application, it was clear from the appealed reserved matters application that there is an appetite for affordable accommodation in the locality.

6.11 Whilst the current scheme is not policy compliant in as much that the four affordable units now proposed only equate to 16% of the overall scheme, as opposed to the 40% required by policy H1 of the Core Strategy and K9 of the NDP, I am of the view that there is a significant benefit to securing an on-site provision which weighs heavily in favour of the application. In reaching this conclusion I am mindful of the fact that the village is unlikely to be delivered of any affordable housing through the payment of a commuted sum and that the extant permission is a reasonable fall back position should this application be refused.

6.12 The scheme provides a good range of house types being comprised as follows:

- 8 two bed (32% of dwellings on site)
- 13 three bed (52% of dwellings on site)
- 4 four bed (16% of dwellings on site)

This compares to the needs identified for the rural area of the Leominster Housing Market Area as set out in the Herefordshire Local Housing Market Assessment (LHMA) which identifies needs by house type as follows:

- 25.8% two bed
- 59.1% three bed
- 9.2% four bed

6.13 Policy H3 of the Core Strategy and K8 of the NDP both require a range of house types and sizes to meet the needs of all households. The LHMA provides the evidence base for this and, on the basis of the above, I am content that the scheme provides an appropriate mix as the policies require. The scheme therefore accords with both policy H3 and K8.

### **Scale, design and appearance of dwellings**

6.14 Policy K7 of the NDP provides specific advice about the design approach to be taken for new development in the village. It is a criteria-based policy which advises that development proposals should:

1. *Incorporate locally distinctive features and materials*
2. *Utilise physical sustainability measures associated with buildings that include, in particular, orientation of buildings, cycle and recycling storage and broadband infrastructure.*
3. *Include adequate parking and ensure that movement to, within, around and through the development is acceptable.*
4. *Retain important features such as tree cover, ponds, orchards and hedgerows, adding to the natural assets of the Parish where opportunities are available.*
5. *Hard and soft landscape proposals should not result in a suburbanised appearance.*
6. *Seek on-site measures that support energy conservation, such as tree planting and other forms of green infrastructure to provide shade and shelter and include sustainable drainage systems, the maximum use of permeable surfaces and minimising the use of external lighting to that which is necessary.*

6.15 Policy RA2 is also relevant and says that housing proposals will be permitted where a series of criteria are met. The third of these reads as follows:

*“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;”*

6.16 Kimbolton is a modestly sized village based around a historic core. It contains approximately 75 properties, the parish hall, public house, village shop and primary school.

6.17 Chestnut Avenue and Stockton Rock constitute the most recent residential development in any significant number that has taken place in the village. Chestnut Avenue is the most visually prominent of the two. It takes a very linear form and is set back from the A4112 on higher ground and is clearly visible as one approaches the village from the south west from the A49. Stockton Rise is more discretely located and its presence is not evident from the A4112.

6.18 Notwithstanding these more recent developments, the village has more typically developed in a sporadic and organic fashion over time and the overriding pattern of development is more linear with wayside development along the A4112. Properties have been constructed using a wide palette of materials including brick, stone and render as can be seen from the photographs on the following page:



- 6.19 The proposals have taken a lead from the surrounding area in terms of design and appearance. Elevations are well detailed. The plans indicate a mix of brick and render finishes with tiled roofs, although precise details are to be agreed. The variation of materials, combined with the gaps between buildings and the low density layout creates a visual break and adds interest to the development. The overall appearance of the proposal is considered to be acceptable and in accordance with the requirements of Policy K7 of the NDP and Policies LD1 and SD1 of the Core Strategy.
- 6.20 The dwellings comprise single and two-storey dwellings at a scale consistent with the surrounding context. The scale, in terms of dwelling numbers, is also considered to be acceptable, albeit that they have increased from 21 to 25. Notwithstanding, the density of development remains low at approximately 14 dwellings per hectare.
- 6.21 Unsurprisingly, dwellings are well spaced and are set within large curtilages. An area immediately adjacent to The Chestnuts is set aside as a community orchard and an attenuation pond is located in an area closest to the A4112. This is the lowest lying area in the site and most logical location for it.
- 6.22 For the purposes of this assessment, I am content that the scale of development in terms of the proportions of the dwellings themselves and the quantum of development is acceptable in accordance with K4 of the NDP and LD1 and SD1 of the Core Strategy.

## **Drainage**

- 6.23 Policies SD3 and SD4 of the Core Strategy deal with issues relating to sustainable water management, waste water treatment and river quality. The application is substantively the same as the permission granted by the outline and reserved matters applications referred to previously. At that time the Council's Land Drainage Engineer originally commented in detail on the outline application and accordingly a condition was imposed to require the submission of a detailed scheme for foul and surface drainage works, including surface water attenuation.
- 6.24 The proposals in respect of drainage are the same as before. The scheme will see foul sewage discharged via a pumping station with surface water attenuated in a proposed pond and discharged at an appropriate rate.
- 6.25 Comments have been submitted again by the Land Drainage Engineer. No objection is raised in principle to the scheme but the comments do suggest that additional information should be sought prior to determination. However, mindful of the fact that permission has previously been approved for a slightly lesser scheme, it is also suggested that planning permission could be granted subject to the imposition of conditions requiring details to be submitted. Given the history to the site, and that a similar approach was taken previously, this does not appear to be unreasonable.

## **Impact on Heritage Assets**

- 6.26 The Stockton Cross Inn is a Grade II listed building and lies approximately 50 metres from the north eastern boundary of the site. However, it is visually separate, the public house and the application site separated by a belt of mature native-species trees and an intervening property (Steps Cottage). Consequently there is no inter-visibility between the two. Furthermore, the site and public house do not have any acknowledged historic context to one another that would suggest that the proposed development would cause harm to the significance of the heritage asset.
- 6.27 It is noted that the council's Historic Buildings Officer does not object to the application. Considering the scheme in the context of paragraph 196 of the NPPF I am of the view that there will be no harm caused to the significance of Stockton Cross Inn. The public benefits of providing a mix of house types; including bungalows, are significant, and therefore I weight attribute weight to this over any marginal impact to the setting of the designated heritage asset.

## **Impacts on Residential Amenity**

- 6.28 In order to ensure that the residential amenity of Steps Cottage is ensured, and to ensure that all three bungalows continue to provide single storey accommodation to maintain the housing mix that is acknowledged to represent a significant benefit of this scheme, it is proposed to include a condition to remove permitted development rights from all three bungalows to insert windows; including rooflights, into their roofs, thus ensuring that accommodation is not provided in the roof area. On this basis the proposals will comply with SD1 of the Core Strategy and K4 of the NDP.

## **Other Issues**

- 6.29 The applicant and their agent have liaised closely with the parish council and local residents. It is noted that the application has only attracted a single objection as opposed to the thirty five received to the original outline application. Whilst this should not necessarily be a barometer of acceptability, it does clearly show the benefit of community consultation.



## **Planning Balance & Conclusion**

- 6.30 As outlined at the beginning of the officer's appraisal, the determination of the application, *"...must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.31 In this case the proposal is not compliant with the development plan as it does not deliver the requisite amount of affordable housing as required by Policy H1 of the Core Strategy; the four dwellings proposed amounting to 16% as opposed to a 40% policy requirement. However, this should be balanced against the fact that the extant permission for 21 dwellings does not make an on-site provision at all, rather it makes a financial contribution of £270,053.33 in lieu of on-site delivery. Officers are also mindful of the advice contained in the recently revised NPPF, which at paragraph 62 confirms the expectation that affordable housing should be delivered on site unless an appropriate financial contribution in lieu can be robustly justified.
- 6.32 Officers are also firmly of the opinion that it is unlikely that schemes will come forward within Kimbolton on which the contribution might be spent. The reality is that it would be spent in the wider Leominster Housing Market Area; most likely Leominster itself, with very little appreciable benefit to the residents of Kimbolton. Therefore greater weight is attached to the fact that this scheme will provide some affordable housing on site as opposed to the fall back position of the extant permission, which would deliver none. For this reason the requirements of Policy H1 are given less weight in the planning balance.
- 6.33 The scheme represents a sustainable form of development and is acceptable in all other respects, and is otherwise compliant with the development plan. The application is therefore recommended for approval subject to the completion of a Section 106 Agreement in accordance with the Draft heads of Terms appended to this report.

## **RECOMMENDATION**

**The officers named in the Scheme of Delegation to Officers be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 with regard to the obligations in the draft heads of terms and any additional matters and terms as considered appropriate. Upon completion of the aforementioned planning obligation that the officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions and any further conditions considered necessary by officer named in the scheme of delegation:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**
- 4. G03 Retention of existing trees/hedgerows**
- 5. G04 Protection of trees/hedgerows that are to be retained**
- 6. G10 Landscaping scheme**
- 7. G11 Landscaping scheme - implementation**

8. **Prior to commencement of the development, an appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to conduct an ecological inspection at an appropriate time of year and ensure there is no impact upon protected species by clearance of the area. The results and actions from the inspection and survey shall be relayed to the local planning authority upon completion.**

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

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

9. **The recommendations set out in Section 5 of the ecologist's report from Churton Ecology dated March 2015 and the pre-commencement site checks should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

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

**Reason: To 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).**

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

10. **No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:**

- a. **Wheel cleaning apparatus which shall be operated and maintained during construction of the development hereby approved.**
- b. **Parking for site operatives and visitors which shall be retained and kept available during construction of the development.**
- c. **A plan to show the location of site offices and rest areas for staff**
- d. **A noise management plan including a scheme for the monitoring of construction noise.**
- e. **Details of working hours and hours for deliveries**
- f. **A scheme for the control of dust arising from building and site works**
- g. **A scheme for the management of all waste arising from the site**
- h. **A travel plan for employees**

**Reason: In order to protect the residential amenity of adjacent properties, to ensure that an appropriate mix of housing is maintained across the site, and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

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

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no windows; including rooflights, shall be constructed in any of the elevations of the bungalows shown on Plots 1 to 3 of the approved plan 5776/P/10.

Reason: In order to protect the residential amenity of adjacent properties, to ensure that an appropriate mix of housing is maintained across the site, and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

12. H06 Vehicular access construction
13. H11 Parking - estate development (more than one house)
14. H17 Junction improvement/off site works
15. H18 On site roads - submission of details
16. H29 Secure covered cycle parking provision
17. I51 Details of slab levels

**INFORMATIVES:**

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

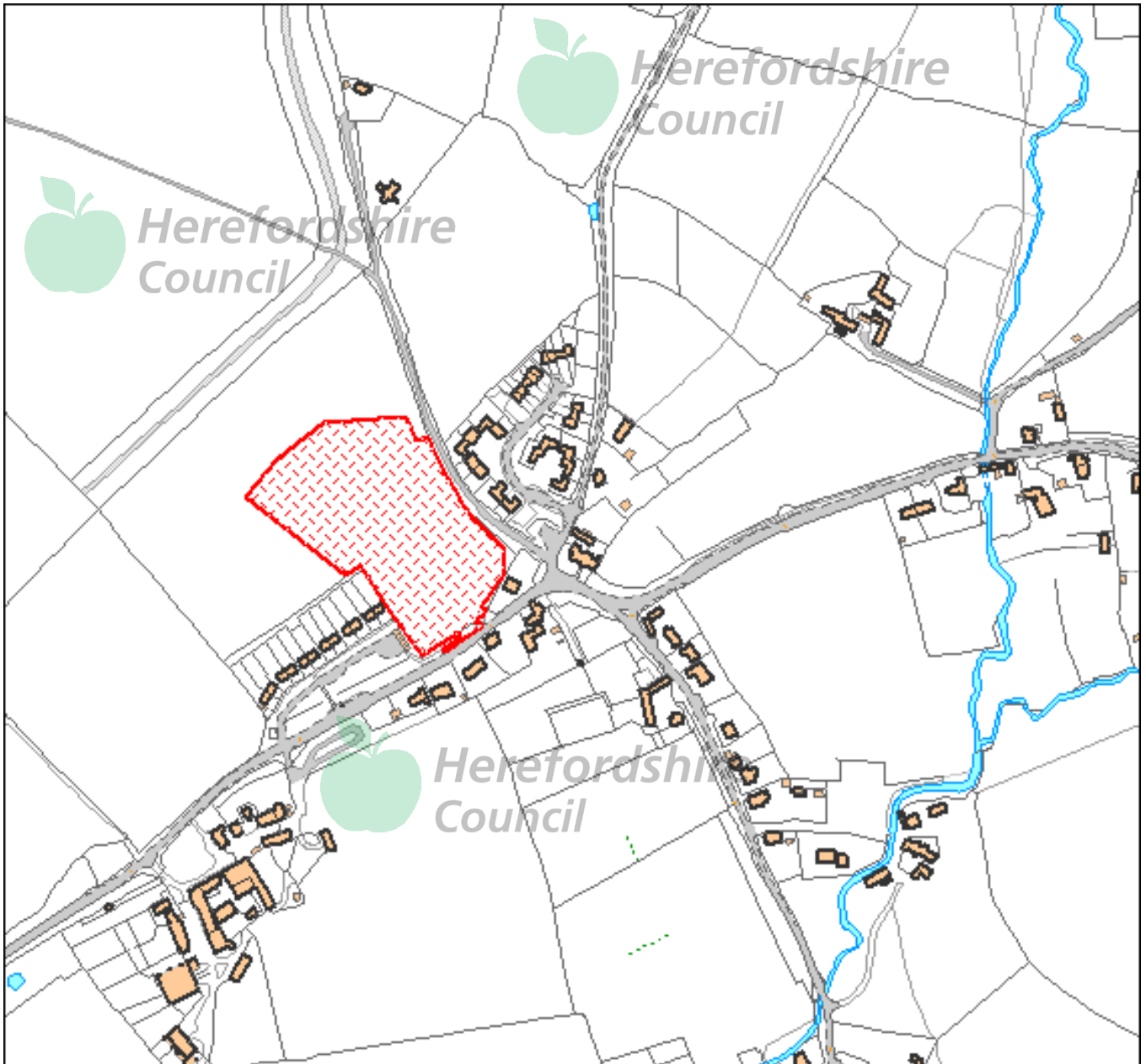
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 181384

**SITE ADDRESS :** FIELD ADJOINING A4112 AND CHESTNUT AVENUE, KIMBOLTON, LEOMINSTER

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# DRAFT HEADS OF TERMS

## Proposed Planning Obligation Agreement

### Section 106 Town and Country Planning Act 1990

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008.

Planning application: P181384/F

Proposed residential development of 25 dwellings along with new access and associated works on field adjoining A4112 and Chestnut Avenue, Kimbolton.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£55,476.00** (index linked). The contributions will provide for enhanced educational infrastructure at St James Primary School, Kimbolton, Post 16 and Special Education Needs provision. The sum shall be paid on or before occupation of the 10<sup>th</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£77,470.00** (index linked). The contributions will provide for sustainable transport infrastructure to serve the development. The sum shall be paid on or before occupation of the 10<sup>th</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.

The sustainable transport infrastructure will include:

- Improving footpaths in the village including the footpath to the village hall
- Installation of gateway features to reduce road traffic speeds
- Improved 30mph road signage
- Cycle way link along A49

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£6,605.00** (index linked). The contributions will be used towards improving the Public Right of Way network in and around the village and the public open space in the village in accordance with the Kimbolton Neighbourhood Development Plan. The sum shall be paid on or before occupation of the 10<sup>th</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£2,000.00** (index linked). The contributions will provide for 1 x waste bin and 1 x recycling bin. The sum shall be paid on or before first occupation of any dwellinghouse, and may be pooled with other contributions if appropriate.
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£13,212.21** (index linked). The contributions will provide for the development of infrastructure for the provision of health services at Hereford Hospital. The sum shall be paid on or before occupation of the 10th open market dwellinghouse, and may be pooled with other contributions if appropriate.
6. The developer covenants with Herefordshire Council that 4 units of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H1 of the Herefordshire Local Plan Core Strategy 2011 - 2031 and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations 2008.
7. The developer covenants with Herefordshire Council that the affordable units will be Low Cost Market Housing which means housing sold to people in need of Affordable Housing at a discounted price.
8. The developer covenants with Herefordshire Council that all the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the open market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
9. The Affordable Housing Units must be allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons in affordable housing need one of who has:-
  - 9.1 a local connection with the parish of Kimbolton;
  - 9.2 in the event there being no person with a local connection to the parish of Kimbolton to the adjoining parishes;
  - 9.3 in the event there being no person with a local connection to the above parish any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies and have found no suitable candidate under sub-paragraph 9.1 & 9.2 above

10. For the purposes of sub-paragraph 9.1 and 9.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:

- 10.1 is or in the past was normally resident there; or
- 10.2 is employed there; or
- 10.3 has a family association there; or
- 10.4 a proven need to give support to or receive support from family members; or
- 10.5 because of special circumstances

11. In the event that the Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4 and 5 above for the purposes specified in the agreement within 5 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.

12. The sums referred to in paragraphs 1, 2, 3, 4 and 5 above shall be linked to an appropriate index of indices selected by the Council with the intention that such sums will be adjusted according to any percentage in prices occurring between the date of the Section 106 Agreements and the date the sums are paid to the Council.

13. If the developer wishes to negotiate staged and/or phased trigger points upon which one or more of the covenants referred to above shall be payable/delivered, then the developer shall pay a contribution towards Herefordshire Council's cost of monitoring and enforcing the Section 106 Agreement. Depending on the complexity of the deferred payment/delivery schedule the contribution will be no more than 2% of the total sum detailed in this Heads of Terms. The contribution shall be paid on or before the commencement of the development.

14. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.





<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>22 AUGUST 2018</b>
<b>TITLE OF REPORT:</b>	<b>180157 - PROPOSED NEW 2 BEDROOM DWELLING AT GREEN BANK, SUTTON ST NICHOLAS, HEREFORD, HR1 3AX</b>  <b>For: Mr &amp; Mrs Gow per Mr Alex Whibley, Watershed, Wye Street, Hereford, Herefordshire, HR2 7RB</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180157&amp;search=180157">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180157&amp;search=180157</a>
<b>Reason Application submitted to Committee – Member Redirection</b>	

Date Received: 15 January 2018

Ward: Sutton Walls

Grid Ref: 353015,245799

Expiry Date: 31 August 2018

Local Member: Councillor K S Guthrie

## 1. Site Description and Proposal

- 1.1 The site lies on the northern side of the C1126, towards the western extremities of the village of Sutton St Nicholas. It is within the Sutton St Nicholas Conservation Area and adjacent to a Grade II listed building, known as 'The Creswells'. Presently the site comprises the side garden of Green Bank, a detached Victorian property set on higher land than the road. A mature hedgerow demarks the roadside boundary. There is an access track to the west of the site serving agricultural land immediately to the north of the site. The site falls within the SSSI Impact Zone.
- 1.2 Permission is for the erection of dwelling on a plot formed from the subdivision of the existing garden. A new vehicular access is proposed onto the 'C' classified road, to be sited centrally in the roadside boundary. The dwelling would be sited at the rear of the plot, some 25m back from the road. The principal elevation would face south, towards the road, with roof ridge orientated on a northwest-southeast axis. Parking and turning would be provided to the front of the site with a lawn and landscaped area between it and the proposed dwelling. Existing ground levels are proposed to be reduced, with 0.6 metre retaining sleeper walls to the north, east and west of the dwelling. The existing mixed native species hedgerow to the north and west boundary is proposed to be retained, whilst the newly created boundary with Green Bank would be planted with similar. A section of the recently planted yew hedging to the roadside would be removed to provide for the vehicular access.
- 1.3 Amended plans have been submitted during the consideration of the proposal, which now proposes a one and a half storey dwelling, with projecting gable to the principal (south) elevation. To roof ridge the dwelling would be 6.2 metres in height and 3 metres to eaves. The dwelling would be 13.27 metres in width and would have a depth of 8.7 metres, with 7 metre wide gable ends to the east and west side elevations. An artificial slate roof, with red brick

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

elevations and timber cladding to the projecting gable to the principal elevation are proposed. Fenestration would be powder coated aluminium and solid course lintels are proposed to above the windows.

- 1.4 The proposed property would provide two bedrooms, each with ensuite bathrooms and a gallery landing at first floor. This accommodation would be contained within the roof void, including the projecting gable and with rooflights to front and rear elevations and windows in the gable ends to provide natural light. At ground floor there would be a sitting room, open plan kitchen, dining area and lounge, with separate study, W.C and lobby. A detached cycle store is proposed in the rear garden.
- 1.5 The application was accompanied by an (amended) Design, Access and Heritage Statement. This sets out the rationale for the proposed scheme and a review of the Conservation Area and existing development. A photomontage of the proposed dwelling in its context is included. It also explains that the applicants wish to downsize into the proposed dwelling and remain in the village.

## 2. Policies

- 2.1 The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:- [https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)
- SS1 - Presumption in Favour of Sustainable Development
  - SS2 – Delivering new homes
  - SS4 – Movement and transportation
  - SS6 – Environmental quality and local distinctiveness
  - SS7 – Addressing climate change
  - RA1 - Rural Housing Distribution
  - RA2 - Housing in settlements outside Hereford and the Market Towns
  - H1 – Affordable housing – thresholds and targets
  - H3 – Ensuring an appropriate range and mix of housing
  - MT1 - Traffic Management, Highway Safety and Promoting Active Travel
  - LD1 - Landscape and Townscape
  - LD2 - Biodiversity and Geodiversity
  - 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
  - ID1 – Infrastructure delivery
- 2.2 The Sutton St Nicholas Neighbourhood Development Plan (made on 8.3.2017) policies can be viewed on the Council's website by using the following link:- [https://www.herefordshire.gov.uk/directory\\_record/3107/sutton\\_st\\_nicholas\\_neighbourhood\\_development\\_plan](https://www.herefordshire.gov.uk/directory_record/3107/sutton_st_nicholas_neighbourhood_development_plan)
- POLICY 1: SETTLEMENT BOUNDARY
  - POLICY 2: DELIVERING NEW HOUSING
  - POLICY 3: CRITERIA FOR NEW HOUSING DEVELOPMENT
  - POLICY 6: LANDSCAPE
  - POLICY 7: BUILDING DESIGN
  - POLICY 9: GREEN INFRASTRUCTURE
- 2.3 National Planning Policy Framework (NPPF)
- Chapter 1 – Introduction
  - Chapter 2 – Achieving Sustainable Development
  - Chapter 4 – Decision-making
  - Chapter 5 – Delivering a sufficient supply of homes

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

Chapter 6 – Building a strong, competitive economy  
Chapter 9 – Promoting sustainable transport  
Chapter 11 – Making efficient use of land  
Chapter 12 – Achieving well-designed places  
Chapter 15 – Conserving and enhancing the natural environment  
Chapter 16 - Conserving and enhancing the historic environment  
Annex 2 – Glossary

2.4 National Planning Policy Guidance

### 3. Planning History

3.1 None.

### 4. Consultation Summary

Statutory Consultations

4.1 Natural England

#### SUMMARY OF NATURAL ENGLAND'S ADVICE

#### NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of River Wye Special Area of Conservation
- damage or destroy the interest features for which River Wye / Lugg Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Foul sewage to be disposed in line with Policy SD4 of the adopted Herefordshire Core Strategy. Where a package treatment plant is used for foul sewage, this should discharge to a soakaway or a suitable alternative if a soakaway is not possible due to soil/geology.
- Surface water should be disposed of in line with Policy SD3 of the adopted Herefordshire Core Strategy and the CIRIA SuDS Manual (2015) C753.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. Subject to the above appropriate mitigation being secured, we advise that the proposal can therefore be screened out from further stages in the Habitats Regulations Assessment process, as set out under Regulation 63 of the Habitats Regulations 2017.

Natural England's advice on other natural environment issues is set out below.

#### Further advice on mitigation

To avoid impacting the water quality of the designated sites waste and surface water must be disposed in accordance with the policies SD3 and 4 of the adopted Herefordshire Core Strategy.

#### Foul sewage

We would advise that package treatment plants should discharge to an appropriate soakaway which will help to remove some of the phosphate (see NE report below). Package Treatment Plants and Septic Tanks will discharge phosphate and we are therefore concerned about the risk to the protected site in receiving this. We therefore propose that the package treatment plant/septic tanks and soakaway should be sited 50m or more from any hydrological source. Natural England research indicates that sufficient distance from watercourses is required to

allow soil to remove phosphate before reaching the receiving waterbody. (Development of a Risk Assessment Tool to Evaluate the Significance of Septic Tanks Around Freshwater SSSIs) Where this approach is not possible, secondary treatment to remove phosphate should be proposed. Bespoke discharge methods such as borehole disposal should only be proposed where hydrogeological reports support such methods and no other alternative is available. Any disposal infrastructure should comply with the current Building Regulations 2010.

#### Surface water

Guidance on sustainable drainage systems, including the design criteria, can be found in the CIRIA SuDS Manual (2015) C753. The expectation is that the level of provision will be as described for the highest level of environmental protection outlined within the guidance. For discharge to any waterbody within the River Wye SAC catchment the 'high' waterbody sensitivity should be selected. Most housing developments should include at least 3 treatment trains which are designed to improve water quality. The number of treatment trains will be higher for industrial developments.

An appropriate surface water drainage system should be secured by condition or legal agreement.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

#### Other advice

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our Discretionary Advice Service.

We would not expect to provide further advice on the discharge of planning conditions or obligations attached to any planning permission.

#### 4.2 Welsh Water SEWERAGE

As the applicant intends utilising a private treatment works we would advise that the applicant contacts The Environment Agency / Herefordshire Council Land Drainage Department who may have an input in the regulation of this method of drainage disposal.

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

#### Internal Council Consultations

#### 4.3 Transportation Manager

##### Traffic Generation

It is not considered that this level of development will have a significant impact upon the public highway.

##### Site Location and Access

Green Bank is situated on Marden Road (C1126) to the west of the village centre. A new access will be created on the public highway as part of this proposal.

#### Parking, Turning and Manoeuvring

Vehicle tracking plans have been provided as part of this development and are satisfactory as a light vehicle is able to access and egress in a forward gear. However, the development sets out that three car parking spaces shall be provided, it should be shown on a plan that a vehicle can access and egress in a forward gear with two additional car in the proposed driveway.

#### Visibility

Although visibility splays have been provided by the applicant in drawing 2601 - P(0) 24 revision A, the full extent of the visibility splays to the left of the access are not visible and no distance is stated for the splay to the right of the access.

A revised plan, 2601 P(0) 26 has provided details of the visibility splays.

#### Drainage

The developer should ensure that no surface water runs off on to the public highway because of this development.

#### Conclusion

The transportation department has no objections to this application, based on the following conditions:

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

It should be shown on a plan that a vehicle can access and egress in a forward gear with two additional cars parked in the driveway. This is due to the application stating the creation of three parking spaces.

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

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy MT1 of Herefordshire Local Development Plan - Core Strategy.

#### CAE - Vehicular access construction

Before any other works hereby approved are commenced, the construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.

Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Development Plan - Core Strategy

#### CAB - Visibility splays

Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.0 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 50 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Development Plan - Core Strategy.

Informative

I05 – No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

I45 – Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)

This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty Living Places (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel. 01432 349517), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel. 01432 845900.

#### 4.4 Conservation Manager (Historic Buildings) – original plans

Recommendation:

In principle, some development on this constrained site should be feasible; however, an innovative solution will be required to achieve this without having a negative impact.

The proposed scheme fails to satisfy the requirements of national and local policies, specifically relating to development within the setting of heritage assets and conservation areas; on this basis it cannot be supported in its current form.

Policy:

National Planning Policy Framework

Chapter 7: - Policies 60; 61; 62; 63; 64.

Chapter 12: - Policies 128; 131; 134; 135 & 137.

Herefordshire Core Strategy

Policies LD4 and SS6.

Comments:

Whilst comprehensive pre-application advice was provided, it does not appear to have informed an appropriate design.

Key concerns previously detailed related to building scale/bulk, ensuring adjoining heritage assets retained primacy, lack of understanding and acknowledgment of Conservation Area context, and failure to present a quality of development that could be considered to make a positive, and enhancing, contribution to its surroundings.

The applicants aspiration, to 'downsize to a smaller home', should be compatible with the constraints presented by both the size of garden plot available for development, and the proximity of the Grade II listed building.

Developments outside the Conservation Area should not be the main point of focus to justify any new design; it should be the positive features that contribute to the conservation areas significance.

#### 4.5 Conservation Manager (Historic Buildings) – amended plans

Refusal of this application is recommended as it is considered the submitted scheme would cause harm to aspects of setting which contribute to the adjacent listed building's significance, and to the character of the wider Conservation Area; specifically, the scale, form and architectural character of the proposed dwelling.

On this basis, the development would fail to satisfy statutory obligations, as set out in Sections 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990; policy requirements set out in Chapters 12 & 16 of the National Planning Policy Framework; and heritage policies within the Herefordshire Core Strategy.

As the development would not result in the complete loss of significance to the heritage assets, or Conservation Area, the level of harm would be classed as less than substantial; however, paragraph 193 of the NPPF advises great weight should be given to an asset's conservation (including its setting) irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Policy:

Planning (Listed Buildings & Conservation Areas) Act 1990:

Section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 requires Local Planning Authorities to consider the impact of development proposals on the setting of listed buildings, and, as was reinforced by the Barnwell Manor Court of Appeal case, "considerable importance and weight" should be given to the desirability of preserving that setting.

In the 2014 - Forge Field Society v Sevenoaks DC - High Court case, the judge, in relation to sections 66 & 72 of the Act, concluded that,

"As the Court of Appeal has made absolutely clear in its recent decision in Barnwell, the duties in sections 66 and 72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. If there was any doubt about this before the decision in Barnwell it has now been firmly dispelled. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight."

Furthermore,

"...the Court of Appeal emphasized in Barnwell, that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one..."

With these judgements in mind, it is reasonable to conclude that under the terms of Sections 66 and 72 of the Act, there is a strong statutory presumption against planning permission being granted on the basis of the individual and cumulative harm the proposed development would cause to the adjacent heritage assets and wider Conservation Area.

## National Planning Policy Framework:

### Chapter 12:

Paragraph 127 advises decisions should ensure that developments are,

- visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;

Paragraph 130 advises 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.

### Chapter 16:

Paragraph 189 requires applicants to describe the significance of heritage assets affected by development proposals, including the contribution made by their setting.

Paragraph 192 advises LPAs should take account of the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 advises great weight should be given to an asset's conservation irrespective of the level of harm the development causes.

Paragraph 194 advises any harm to, or loss of, the significance of a designated heritage asset from development within its setting should require clear and convincing justification.

Paragraph 196 advises that where a development will lead to less than substantial harm to the significance of a designated heritage asset that harm, which should be given great weight, should be weighed against any public benefit the development may have.

Paragraph 197 advises the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining that application; with a balanced judgement being required with regard to the level of harm or loss and the significance of the asset.

Paragraph 200 advises LPAs should look for opportunities for new development within Conservation Areas and the setting of heritage assets to enhance or better reveal their significance, and that proposals that can demonstrate this should be treated favourably.

### Herefordshire Core Strategy:

Policy LD1 requires development proposals to demonstrate that the character of the townscape has positively influenced the design, scale, nature, and site selection of the designated area.

Policy LD4 states development proposals that affect heritage assets and the wider historic environment should protect, conserve and enhance them in a manner appropriate to their significance through appropriate management, uses and sympathetic design; and that where opportunity exists contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas.

### Background:



The proposed site is situated within the Sutton St. Nicholas Conservation Area, on a plot which currently forms the curtilage of the non-designated heritage asset, Green Bank. It is located within 5 metres of the Grade II listed Creswells, a 17th century timber-framed cottage.

Comments:

It has not been satisfactorily demonstrated that the development would enhance or better reveal the significance of adjacent heritage assets, nor that it would contribute positively to local character and distinctiveness.

Concerns highlighted at pre-application stage related to the scale and form of the proposed scheme, the contribution the building would make to the character of the Conservation Area, and its impact on the setting of the adjacent heritage assets.

One of the positive characteristics of the Conservation Area is the space that exists between and around heritage assets; with most pre-1948 buildings benefitting from relative isolation within their plots; Green Bank being a typical example of that, a simple, Victorian, red brick, building with restrained proportions and detailing.

The proposed development is of a scale and form that would dominate the plot, negatively alter the wider setting, compromise the primacy of Creswells and Green Bank, and dilute their prominence within the streetscape.

Dividing the plot to accommodate a new dwelling would inevitably reduce amenity, interrupt sight-lines between heritage assets, and the open countryside, and affect the setting of adjacent listed buildings. In order to help mitigate these issues, the scale, form, positioning, and orientation of any new development are critical.

Due to the compromised size of the plot, and the proximity of the neighbouring heritage assets, a 1-1.5 storey building was suggested as the most appropriate scale; with the potential for a contemporary design, that referenced positive architectural characteristics of the Conservation Area, and which might better respond to the identified constraints.

If traditional designs are to contribute positively to local character and distinctiveness, they would ideally conform to certain rules of scale and proportion, and avoid pastiche or overly suburban characteristics. However, the traditional approach may unacceptably constrain the footprint and scale of dwelling that appears to be required.

4.6 Conservation Manager (Ecology)  
Approve with conditions

Thank you for consulting me on this application. As this is a well maintained garden it would be disproportionate to require full ecological surveys. However, as the LPA is tasked with seeking ecological enhancement I would recommend that an ecological enhancement plan is submitted which can be secured as a condition as follows:

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).

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).

As we are not requiring a ecological surveys, I would advise that the applicant is made aware that construction may impinge upon biodiversity at the site predominantly, I would venture, nesting birds. Consequently, I think it advisable that the following informatives should be add

4.7 Conservation Manager (Ecology) – additional comments

Thank you for consulting me again on this application. The application falls within the SSSI risk zone in relation to foul water disposal. As per Natural England's comments

*"Where a package treatment plant is used for foul sewage, this should discharge to a soakaway..."*, the application complies with this requirement in amended proposed site plan 2601P(0) 23. Where the package treatment plant and drainage field soakaway are clearly marked as per the applicant's drainage engineer's requirements.

## 5. Representations

5.1 Sutton St Nicholas Parish Council

Having considered the matter the Parish Council resolved to support the application.

5.2 Sutton St Nicholas Parish Council –amended plans

The Parish Council noted the comments of the Conservation Officer regarding key concerns. having considered the matter the Parish Council resolved to support the application.

5.3 31 letters of support (28 of a standard template) and one mixed representation have been received in respect of the original and amended plans. In summary the following points have been raised:

Support:

- Fits in very well with the surrounding area
- Similar in style to Tilton House (built approx. 15 years ago)
- Fully accords with Sutton St Nicholas NDP
- Need for smaller houses – as set out in the NDP
- Excellent architect designed one-off example
- Hope no further delay in approving

Mixed:

- Support application but object to contemporary design in traditional rural village setting
- Contemporary design flies in the face of wishes to maintain rural links and nature of the Parish and Conservation Area
- Provides for much needed smaller accommodation and appears to reflect and compliment rural and traditional nature of the village

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=180157&search=180157](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180157&search=180157)

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

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

## 6. Officer's Appraisal

### *Policy context and Principle of Development*

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:  
*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.2 In this instance the adopted Development Plan is the Herefordshire Local Plan – Core Strategy (CS) and the Sutton St Nicholas Neighbourhood Development Plan (SStNNDP). The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.3 Sutton St Nicholas lies within the Hereford Housing Market Area (HMA) and is listed as being one of the *'settlements which will be the main focus of proportionate housing development'* (figure 4.14). This seeks a 18% minimum growth target over the plan period across the HMA. The site lies within the SStNNDP defined settlement boundary, where new residential development is permitted in principle, as per policy 1 of the SStNNDP and CS Policy RA2. SStNNDP policy 2 acknowledges that windfall sites will contribute to the required growth and makes an allowance of 15 dwellings for such requirements.
- 6.4 CS policy RA2 states:-

*"The minimum growth target in each rural Housing Market Area will be used to inform the level of housing development to be delivered in the various settlements set out in Figures 4.14 and 4.15. Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets.*

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

*1. Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified in fig 4.15 proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement; and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned;*

*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 settlement, reflecting local demand.*

*Specific proposals for the delivery of local need housing will be particularly supported where they meet an identified need and their long-term retention as local needs housing is secured as such."*

- 6.5 In locational terms the site is considered to be acceptable for residential development, being within the settlement boundary and comprising a windfall site, as provided for in SStNNDP policy 2. The SStNNDP acknowledges that there are limited opportunities for redevelopment of brownfield sites and the scheme proposes a two bed unit, with scope for a bedroom at ground floor (in the study) served by the bathroom on the same floor, which in simple bedroom number terms would positively contribute to the range of housing in the village. It should be borne in

mind however that the proposed dwelling would be a substantial two bedroomed unit, with an internal floor area of approximately 128 square metres (excluding first floor stores and walk in wardrobes), and with three bathrooms. The appropriateness of the scale and design to the surrounding environment, which is in the village Conservation Area is assessed in paragraphs 6.8 to 6.13. In layout terms, there is no prevailing characteristic, such that the set back siting proposed would reflect its context.

- 6.6 In addition to CS policy RA2, policies LD1 and SD1 are relevant. These state that developments should demonstrate that the character of the landscape and townscape has positively influenced design, scale, nature and site selection and new buildings should be designed to maintain local distinctiveness whilst making a positive contribution to the architectural diversity and character of the area. Policies 3, 6 and 7 of the SStNNDP state that layout, design and landscaping should respect the landscape setting ensuring that the prevailing landscape character type, including key features and attributes, has positively influenced design, layout and scale, with the setting of adjoining heritage assets and dwelling amenity protected. There should be regard to the established built environment and historic characteristics. The SStNNDP notes that historically buildings have been built of local stone, with later brick builds and most recently brick and render.
- 6.7 The key considerations are impact on heritage assets, amenity of existing occupiers, highways, ecology/drainage (SSSI impact zone) and these are appraised below.

#### *Heritage assets*

- 6.8 The site lies within the village Conservation Area and a listed building lies to the west. Both of these are designated heritage assets (NPPF - Glossary) and it is a statutory duty under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, for the decision maker to 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 case of listed buildings – s66) and that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area (in the case of Conservation Area – s.72). When undertaking a planning balance the weight afforded to preserving the building, its setting or features of special architectural or historic interest and preserving or enhancing the character and appearance of the Conservation Area, is greater than that given to the other considerations, because they do not have a similar statutory duty requiring special attention to be given to them. Only powerful material considerations can rebut this presumption in favour of preserving the listed building's setting or the Conservation Area.
- 6.9 In policy terms LD4 of the CS applies. This relates to both Conservation Areas and listed buildings. The proposal would affect the setting of a listed building, these being the surroundings in which it is experienced (NPPF - Glossary). The CS policy requires developments to protect, conserve and where possible enhance the heritage asset. Policy 3 of the SStNNDP states that new housing developments should include layout, design and landscaping which respects the setting of adjoining heritage assets. Neither policy sets out the assessment if harm is identified. In such circumstances an application falls to be considered against that set out in the NPPF (chapter 16). This affirms that considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It continues that this requirement is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to significance. At paragraph 194 it is stated that any harm should require clear and convincing justification.
- 6.10 The Conservation Manager has appraised the proposal and considers that it would result in harm to the Conservation Area and to the setting of the listed building, due to the scale, form and architectural character of the proposed dwelling. The full appraisal of this harm is as set out

in paragraph 4.5 of this Report and it concludes that the harm would amount to less than substantial.

- 6.11 In light of the identified harm the NPPF states, at paragraph 196, that where less than substantial harm is found it has to be weighed against the public benefit. When attributing weight in this exercise the statutory duty to have special regard to desirability of preserving the heritage assets, as set out in paragraph 6.8 of this Report, must be complied with.
- 6.12 To conclude on this issue it is considered that the amended scheme would not protect or conserve the setting of the heritage asset nor the character and appearance of the Conservation Area and therefore results in harm. This is quantified as less than substantial and as a result the scheme would only be acceptable if the public benefits outweigh this. The weight to be afforded to the protection of the heritage assets is greater than other considerations. The public benefits likely to be derived from the proposal can be considered under the economic and social objectives, which together with the environmental objective comprise the overarching objectives to achieving sustainable development. Paragraph 8 of the NPPF explains that these are interdependent and need to be pursued in mutually supportive ways. In economic terms there would be financial benefits during the construction phase (through the purchasing of materials and labour), payment of the New Homes Bonus and disposable income spent from future occupiers both in the village and wider area. In social objective terms the scheme would provide an additional dwelling and associated residents and visitors to help sustain village facilities and engage in community life. For a single dwelling these benefits would be modest and it is considered that they are of insufficient magnitude to outweigh the identified harm to heritage assets (both the setting of the listed building and to the Conservation Area), which is an environmental objective. Affording the statutory duties, under sections 66 and 72 of the Act, and apportioning greater weight to this consideration results in a conclusion that the public benefit is outweighed by the harm.
- 6.13 Following from the analysis of the proposed dwelling's impact on the Conservation Area, it is also considered that the scheme conflicts with CS policies RA2(3) and SD1 and SStNNNDP policies 3(4) and 7, because it would not be appropriate to its context, not make a positive contribution to the surrounding environment, would not protect and enhance the distinctive character and appearance of the village nor have regard to the established built and historic characteristics of the townscape context.

#### *Amenity of existing occupiers*

- 6.13 Development must ensure that it provides a good standard of living conditions for both existing and proposed occupiers, as set out in policy SD1 of the CS, policy 3 of the SStNNNDP and paragraph 127(f) of the NPPF. By virtue of its siting, scale, orientation and design it is considered that the scheme would achieve this.

#### *Transportation*

- 6.15 CS policy MT1 requires developments to provide safe access. Policy 3(5) of the SStNNNDP requires housing development to provide suitable vehicular access to the highway and safe pedestrian and cyclist access into the village to encourage active travel. The NPPF, at paragraph 108, also requires safe access to be provided and encourages appropriate opportunities for sustainable transport modes to be taken up, given the type of development and its location. It recognises at paragraph 103 that options for these vary from urban to rural situations.
- 6.16 The Transportation Manager has advised that the proposed access is acceptable and the modest traffic generation could be accommodated within the highway network. The site lies within the 30mph speed limit and suitable visibility splays are achievable. Connectivity to the village amenities is relatively poor by foot, due to the lack of footways from the site to the

crossroads with the C1125, which is some 352 metres to the southeast. From that point there are footways to the public house, church and primary school and access to a bus stop to facilitate onward travel. Cycling is a reasonable option and a secure and covered cycle store is proposed. There is, therefore, some conflict with policies promoting sustainable transport options, but given that the scheme is for a single, two bedroomed dwelling it is considered that it would be disproportionate to require the provision of footways to the crossroads, indeed even if it were achievable on highway land.

- 6.17 The proposal does not clearly demonstrate that sufficient parking and turning can be achieved within the site for 3 cars, as specified. Nevertheless, the Transportation Manager does not object on this ground, but rather recommends a condition to provide a revised plan which is suggestive that it is achievable. Secure and covered cycle storage is indicated on the site plan. Provision is achievable for the storage of waste and recycling receptacles within the garden and a collection point adjacent to the access is indicated on the amended Proposed Site Plan.

#### *Ecology/drainage- SSSI Impact zone*

- 6.18 The site falls within the Discharges "any discharge of water or liquid waste, including to mains sewer" SAC & SSSI Impact Risk Zone. Foul drainage is proposed to a Private Treatment Plant with soakways within the application site and this accords with the sequentially preferred options provided for in CS policy SD4, where a mains connection is not feasible. Welsh Water has not commented to the contrary. Natural England and the Conservation Manager (Ecology) have confirmed that this method of foul waste disposal is acceptable and allows a conclusion that there would be no likely unmitigated adverse impacts on the SSSI impact zone to be made.
- 6.19 Records indicate existing surface water issues along the road to the south of the site. The proposal includes permeable parking/turning area and a drain between the vehicular access and the highway. Subject to an implementation condition this would proportionately address this matter.
- 6.20 Due to the existing use of the site, as part of the garden to Green Bank, ecology surveys were not required. Nevertheless, as required by CS policy LD2 and the NPPF opportunities for biodiversity enhancement and net gains should be sought. The scheme proposes new soft landscaping and this along with other habitat enhancement (e.g. bat and bird boxes) could reasonably be conditioned.
- 6.21 There are a number of mature trees along the western boundary and the submitted Proposed Site Plan demarks a Tree Protection Zone. This is considered acceptable and compliance could be reasonably conditioned. If work were required to these trees consent would be required as they are within a Conservation Area.

#### *Other matters*

- 6.22 Financial contributions are not required, in accordance with the NPPG, for this development, which does not exceed 10 dwellings.

#### *Planning balance*

- 6.23 At present the Council cannot demonstrate a five year housing land supply (published figure of 4.54 years), and as such the policies which are most important for determining the application are to be considered as being out of date (paragraph 11d) footnote 7 of the NPPF). In such circumstances paragraph 11 continues that in decision-taking this means '*granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. 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.* 'Assets' includes designated heritage assets and the policies are as referred to in the NPPF and not the Development Plan (footnote 6).

- 6.24 Paragraph 14 of the NPPF states that where the presumption set out in paragraph 11d applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:
- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
  - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
  - c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and
  - d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.
- 6.25 This proposal is for housing development. the SStNNDP became part of the Development Plan on 8.3.2017 – less than 2 years ago, it contains policies and allocations to meet identified housing requirement, the local planning authority has 4.54 years supply of deliverable sites – more than 3 years and with regards criterion d) this will be assessed against the Housing Delivery Test to be published by the Government in November 2018 (footnote 9).
- 6.26 As set out in the section on Heritage Assets (paragraphs 6.8 to 6.13) and with particular regards to the conflict with the NPPF policies, it is considered that the identified harm to designated heritage assets provides a clear reason for refusing the development proposed.
- 6.27 Notwithstanding that NPPF paragraph 11d) i provides policy reason to refuse permission, the assessment under paragraph 11d) ii is set out below.
- 6.28 The economic and social benefits of providing a dwelling within the settlement are noted. These include the initial boost to the economy during the construction phase, through the purchasing of materials and labour, payment of the New Homes Bonus, disposable income spend from future occupiers and an additional dwelling and residents to help sustain village facilities and engage in community life. Conversely, it is considered that a significant negative environmental impact would result due to the harmful impact on designated heritage assets and the amenities of the area and also marginally due to the relatively poor connectivity for pedestrians to local services. With regards the harmful impact on designated heritage assets the weight to be afforded, by virtue of the statutory duty, is greater than the other considerations, such that it is considered that it outweighs the noted benefits.
- 6.29 By reason of the identified harm to designated heritage assets the proposal conflicts with policy requirements and this consideration outweighs the benefits. It is recommended that planning permission is refused.

## **RECOMMENDATION**

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

- 1. By virtue of the scale, form and architectural character of the proposed dwelling it would result in harm to the character and appearance of the Sutton St Nicholas**

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

**Conservation Area, the setting of the adjacent listed building and would not positively contribute to the character of the area and respect its context. This is contrary to policies LD4, RA2(3), LD1 and SD1 of the Herefordshire Local Plan – Core Strategy, policies 3(4) and 6 of the Sutton St Nicholas Neighbourhood Development Plan and the requirements of the National Planning Policy Framework.**

**The above harm, when taking into account the statutory duty under sections 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 in respect of designated heritage assets, and the policies of the National Planning Policy Framework provides clear reason for refusing planning permission (paragraph 11d) i) and notwithstanding that the identified adverse impacts significantly and demonstrably outweigh the benefits (paragraph 11d) ii).**

Informative

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations by identifying matters of concern with the proposal and discussing those with the applicant. Unfortunately, it has not been possible to resolve those matters and negotiate a scheme that is considered to be policy compliant. The Local Planning Authority is willing to provide further pre-application advice in respect of any future application for a revised development.

Decision: .....

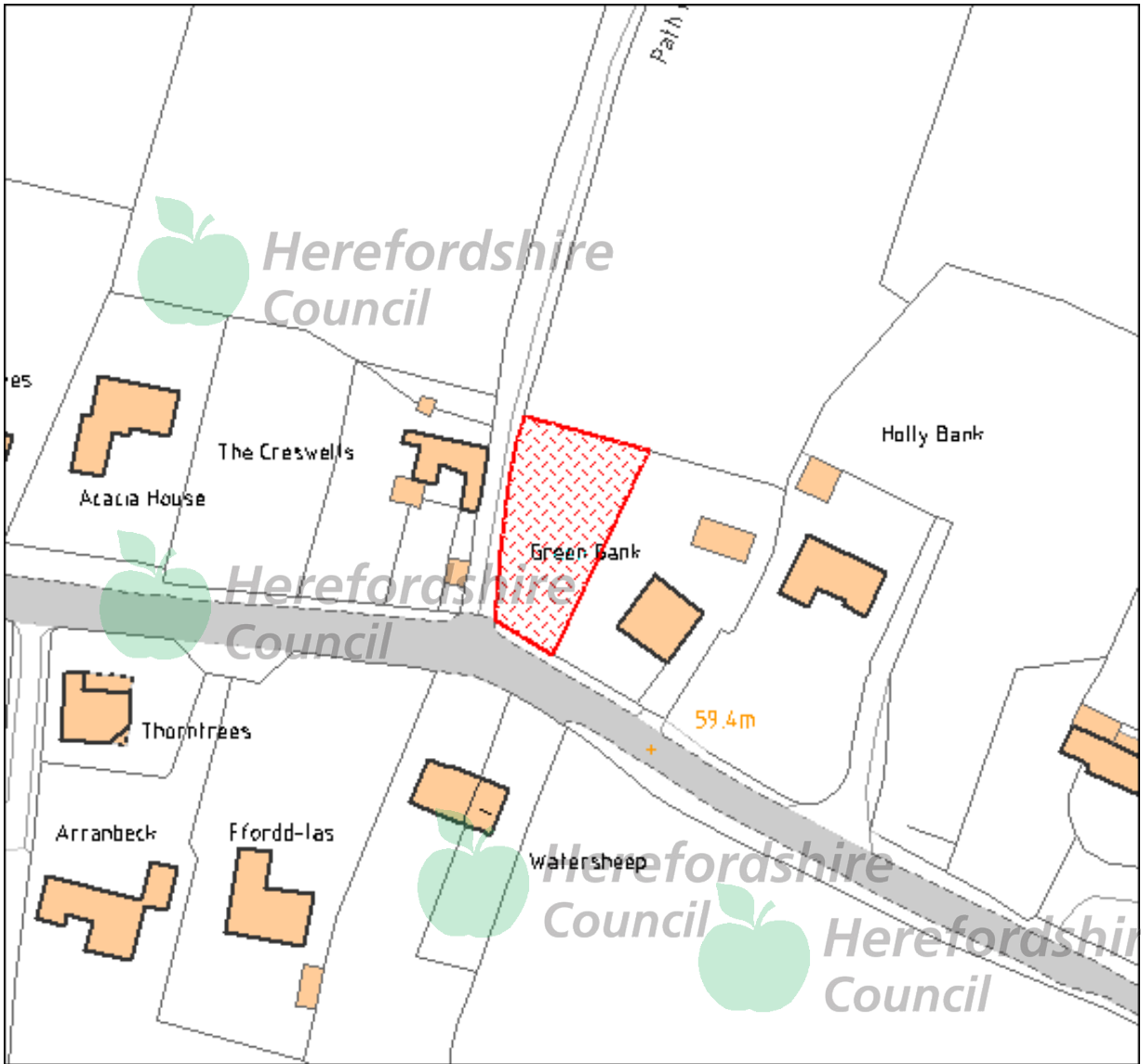
Notes: .....

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**Background Papers**

Internal departmental consultation replies.





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

**APPLICATION NO:** 180157

**SITE ADDRESS :** GREEN BANK, SUTTON ST NICHOLAS, HEREFORD, HEREFORDSHIRE, HR1 3AX

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

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>22 AUGUST 2018</b>
<b>TITLE OF REPORT:</b>	<b>181825 - PROPOSED 4 BEDROOMS LOW LEVEL DWELLING AT WOODYATTS FIELD, WOODYATTS LANE, MADLEY, HEREFORDSHIRE, HR2 9NN</b>  <b>For: Mr &amp; Mrs Amos per Mr Garry Thomas, Ring House Farm, Fownhope, Hereford, Herefordshire HR1 4PJ</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181825&amp;search=181825">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181825&amp;search=181825</a>
<b>Reason Application submitted to Committee – redirection</b>	

**Date Received: 16 May 2018**  
**Expiry Date: 29 August 2018**

**Ward: Stoney Street**

**Grid Ref: 342250,238504**

Local Member: Councillor SD Williams

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

- 1.1 The site lies on the eastern side of Woodyatts Lane, which is a private road accessed from the B4352, to the southeast of Madley. The southerly section of the private road, including the section alongside the site, is a public right of way (MY13). It is within the SSSI Impact Zone. The essentially rectangular plot currently forms part of the garden serving Woodyatts Field and has an average depth of 37 metres and width of 16 metres. It is relatively flat with hedgerows to the boundaries and a wooden gate to the road.
- 1.2 Permission is sought for a detached, one and half storey dwelling with an 'L' shaped footprint and detached double car port. The property would be set back some 7.5 metres from the road. The principal elevation would face west, towards the road, and would include a brick gable end to the right hand side and open sided porch. To roof ridge the dwelling would be 7.3 metres and to eaves some 3.9 metres and 2.8 metres. The ground floor area would be some 142 square metres excluding the front and rear porch areas, with a total floor area of some 272 square metres. The property would provide an open plan kitchen/dining area, living room, utility, lobby, hall, W.C with shower and bedroom at ground floor with a further three bedrooms (one with ensuite shower room) and bathroom at first floor. The first floor accommodation would be partially within the roof void, with roof lights and windows to the gable ends and south elevation to provide natural light. Externally materials would be predominantly brick, with a standing seam roof, but also incorporated some timber cladding to the north and east elevations and polycarbonate sheeting to the open fronted lean-to. The detached, open sided car port with timber posts would be some 6 metres by 6 metres. It would have a dual pitched, standing seam roof, with a ridge height of 3.4 metres and eaves of 2.5 metres.

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

- 1.3 Foul drainage would be to a Private Treatment Plan with soakaways, as clarified by the applicant's agent and indicated on the amended Proposed Site Plan. A sustainable drainage system (SuDS) is proposed for surface water.
- 1.4 The application is accompanied by a Design and Access Statement, Ecology Report and Transport Assessment including visibility splay calculations. The Design and Access Statement asserts that the proposal is for a local need, to enable to the applicants' daughter and family to live close to them for personal reasons. It states that a low level dwelling is proposed within a modestly built up area and it would be constructed to a high quality and sustainable design standard to enable high energy performance rating.

## 2. Policies

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

[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

SS1 - Presumption in Favour of Sustainable Development  
 SS2 – Delivering new homes  
 SS4 – Movement and transportation  
 SS6 – Environmental quality and local distinctiveness  
 SS7 – Addressing climate change  
 RA1 - Rural Housing Distribution  
 RA2 - Housing in settlements outside Hereford and the Market Towns  
 RA3 – Herefordshire's countryside  
 H1 – Affordable housing – thresholds and targets  
 H3 – Ensuring an appropriate range and mix of housing  
 MT1 - Traffic Management, Highway Safety and Promoting Active Travel  
 LD1 - Landscape and Townscape  
 LD2 - Biodiversity and Geodiversity  
 SD1 - Sustainable Design and Energy Efficiency  
 SD3 - Sustainable Water Management and Water Resources  
 SD4 – Waste water treatment and river water quality  
 ID1 – Infrastructure delivery

- 2.2 The Madley Neighbourhood Development Plan area was designated on 14.4.2015. The Plan is at drafting stage and as such whilst a material consideration cannot be afforded any weight at this time.

- 2.3 NPPF  
 Section 1 – Introduction  
 Section 2 – Achieving Sustainable Development  
 Section 4 – Decision-making  
 Section 5 – Delivering a sufficient supply of homes  
 Section 6 – Building a strong, competitive economy  
 Section 9 – Promoting sustainable transport  
 Section 11 – Making efficient use of land  
 Section 12 – Achieving well-designed places  
 Section 15 – Conserving and enhancing the natural environment  
 Annex 2 – Glossary

- 2.4 National Planning Policy Guidance

### 3. Planning History

3.1 None

### 4. Consultation Summary

Statutory Consultations

4.1 Welsh Water

#### SEWERAGE

As the applicant intends utilising a septic tank facility we would advise that the applicant contacts the Environment Agency who may have an input in the regulation of this method of drainage disposal. However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation

4.2 Natural England

#### SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of River Wye Special Area of Conservation
- damage or destroy the interest features for which River Wye / Lugg Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Foul sewage to be disposed in line with Policy SD4 of the adopted Herefordshire Core Strategy. Where a package treatment plant is used for foul sewage, this should discharge to a soakaway or a suitable alternative if a soakaway is not possible due to soil/geology.
- Surface water should be disposed of in line with Policy SD3 of the adopted Herefordshire Core Strategy and the CIRIA SuDS Manual (2015) C753.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. Subject to the above appropriate mitigation being secured, we advise that the proposal can therefore be screened out from further stages in the Habitats Regulations Assessment process, as set out under Regulation 63 of the Habitats Regulations 2017.

Natural England's advice on other natural environment issues is set out below.

Further advice on mitigation

To avoid impacting the water quality of the designated sites waste and surface water must be disposed in accordance with the policies SD3 and 4 of the adopted Herefordshire Core Strategy.

## Foul sewage

We would advise that package treatment plants should discharge to an appropriate soakaway which will help to remove some of the phosphate (see NE report below). Package Treatment Plants and Septic Tanks will discharge phosphate and we are therefore concerned about the risk to the protected site in receiving this. We therefore propose that the package treatment plant/septic tanks and soakaway should be sited 50m or more from any hydrological source. Natural England research indicates that sufficient distance from watercourses is required to allow soil to remove phosphate before reaching the receiving waterbody. (Development of a Risk Assessment Tool to Evaluate the Significance of Septic Tanks Around Freshwater SSSIs) Where this approach is not possible, secondary treatment to remove phosphate should be proposed. Bespoke discharge methods such as borehole disposal should only be proposed where hydrogeological reports support such methods and no other alternative is available. Any disposal infrastructure should comply with the current Building Regulations 2010.

## Surface water

Guidance on sustainable drainage systems, including the design criteria, can be found in the CIRIA SuDS Manual (2015) C753. The expectation is that the level of provision will be as described for the highest level of environmental protection outlined within the guidance. For discharge to any waterbody within the River Wye SAC catchment the 'high' waterbody sensitivity should be selected. Most housing developments should include at least 3 treatment trains which are designed to improve water quality. The number of treatment trains will be higher for industrial developments.

An appropriate surface water drainage system should be secured by condition or legal agreement.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

## Other advice

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

## Internal Council Consultations

### 4.3 Conservation Manager (Ecology)

#### Objection (original submission)

The site lies within the River R Wye SSSI/SAC Impact Risk Zone "any discharges of water or liquid including to mains sewer". I note the applicant has indicated the use of Package Treatment Plant but under Habitat Regulations and in line with NPPF, NERC Act and Core Strategy SD4/LD2 this authority has a duty of care to ensure all relevant 'Likely Significant Effects' are fully mitigated. The identified LSE is the phosphate loading (not removed through standard PTP installations) in the final outfall, to mitigate this confirmation from the applicant that the PTP will discharge to a soakaway drainage field is requested. Direct discharge in to any local watercourse, stream or culvert would not be acceptable.

Subject to this soakaway discharge being confirmed and subject to implementation as part of the approved plans then I can not see any unmitigated LSE on the River Wye SSSI/SAC from this proposed development.

I note the supplied ecological report that includes detailed ecological working methods, retained tree and hedgerow protection measures along with recommendations and specifications for biodiversity enhancements. These recommendations should be subject to a relevant implementation condition.

#### Nature Conservation – Ecology Protection, Mitigation and Enhancement

The ecological protection, mitigation, compensation and working methods scheme including the detailed Biodiversity enhancement features, as recommended in the report by James Johnston Ecology dated April 2018 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority. The Biodiversity enhancements shall be maintained hereafter as approved unless otherwise agreed in writing by the Local Planning Authority.

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.

4.4 Conservation Manager (Ecology) – amended plans  
Comments are awaited

4.5 Conservation Manager (Trees)

No objection.

I have no requirement for further information or any objections to the proposals.

4.6 Transportation Manager

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

CAB 2.4 X 20M

CAE, CAH, CAL, CAS, CAZ, CB2

I11, I45, I09, I47, I35

## 5. Representations

5.1 Madley Parish Council

It was agreed to fully support the above application. There is a lot of local support for this development and it was agreed that it will add to the environs.

5.2 Six letters of support have been received. In summary these state:

- Lovely to encourage young families into the area, can make use of great facilities in the village
- Little impact on the surrounding properties and people due to local level dwelling
- No reason to object

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

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=181825&search=181825](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181825&search=181825)

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

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

## 6. Officer's Appraisal

### *Policy context and Principle of Development*

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:  
*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration. It is also noted that the site falls within the Madley Neighbourhood Area, but as the Plan is still at drafting stage (pre-Regulation 14 stage) no weight can be afforded to it at this time.
- 6.3 In terms of new housing provision across the County policy RA1 of the CS identifies that Herefordshire Rural areas will need to find a minimum of 5,300 new dwellings between 2011 and 2031 to contribute towards the county's housing needs. The dwellings will be broadly distributed across the seven Housing Market Areas (HMA's). Madley lies within the Hereford HMA and is listed as being one of the 'settlements which will be the main focus of proportionate housing development' (figure 4.14). This seeks a 18% minimum growth target over the plan period across the HMA. Policy RA2 of the CS states:-

*"The minimum growth target in each rural Housing Market Area will be used to inform the level of housing development to be delivered in the various settlements set out in Figures 4.14 and 4.15. Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets."*

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

- 1. Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified in fig 4.15 proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement; and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned;*
- 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 settlement, reflecting local demand.*

*Specific proposals for the delivery of local need housing will be particularly supported where they meet an identified need and their long-term retention as local needs housing is secured as such."*

- 6.4 Both the policy and preamble specify the need for the site to be located within or adjacent to the main built up area. Where appropriate, settlement boundaries (or a reasonable alternative) for those settlements listed in Policy RA2 will be defined in either NDPs or the Rural Areas Sites Allocation DPD. Presently neither the NDP nor DPD are at a stage where weight can be afforded to them. Consequently, as set out in the CS, any applications for residential developments in Figure 4.14 and 4.15 are to be assessed against their relationship to the main



built up form of the settlement. Outside of these settlements new housing will be restricted to avoid unsustainable patterns of development.

- 6.5 The application site clearly lies outside of the main built up part of Madley, which lies to the west. By road the distance separation is some 300 metres to the eastern extremities of Madley village and via the PROW the distance would be 286 metres. There is intervening open agricultural land and the site itself is bounded on three sides by agricultural land. As a result of this context it is visually divorced from the main built up area. To the north of the site on the same side of the road and beyond intervening agricultural land there is a detached bungalow and immediately to the south the detached dwelling known as Woodyatts Field. There are two detached dwellings on the western side of the road, some 71 metres apart and a further two detached properties at the southern end of no-through road, which are 89 metres from Woodyatts Field. These existing six properties are loose knit in layout and do not comprise a 'main built up area'.
- 6.6 As a result of the site not falling within a figure 4.14 or 4.15 settlement, it is within the countryside and CS policy RA3 applies. This policy states that, "In rural locations outside of settlements, as to be defined in either neighbourhood development plans or the Rural Areas Sites Allocations DPD, residential development will be limited to proposals which satisfy one or more of the following criteria:
1. meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or
  2. accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with Policy RA4; or
  3. involves the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage, of the existing dwelling; or
  4. would result in the sustainable re-use of a redundant or disused building(s) where it complies with Policy RA5 and leads to an enhancement of its immediate setting; or
  5. is rural exception housing in accordance with Policy H2; or
  6. is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 of the National Planning Policy Framework and achieves sustainable standards of design and construction; or
  7. is a site providing for the needs of gypsies or other travellers in accordance with Policy H4.
- 6.7 None of these exceptions apply to the proposal as submitted. Consequently it is contrary to the Development Plan in principle.
- 6.8 With regards matters of detail the Transportation Manager's no objection confirms that safe access, parking and turning can be provided in accordance with CS policy MT1. The NPPF, at paragraph 108, also requires safe access to be provided and encourages appropriate opportunities for sustainable transport modes to be taken up, given the type of development and its location. It recognises at paragraph 103 that options for these vary from urban to rural situations. In accordance with CS policy SS7, policy MT1 also encourages active travel behaviour. There are no footpaths to village facilities along the road and the B4352. Due to the nature of traffic and speeds along the 'B' classified road this would be a hostile environment to pedestrians, although confident cyclists may utilise this route. There is a PROW, but this is unmade ground and unlit, such that in inclement weather and at night time it would not be a

favoured route of access on foot. This poor connectivity weighs against the proposal. Secure and covered cycle storage can be conditioned.

- 6.9 In terms of ecological impacts, the site falls within a SAC/SSSI Impact Risk Zone "Any discharge of water or liquid waste including to mains sewer", which requires assessment through a Habitat Regulations Assessment screening. The foul drainage has been confirmed to be to a PTP discharging to soakaways. This addresses the Ecologist's initial comments.
- 6.10 An Ecological Report, tree and hedgerow protection measures and recommendations for biodiversity enhancement have been submitted. This is considered to accord with policy requirements, subject to the recommended implementation condition.
- 6.11 Financial contributions are not required, in accordance with the NPPG, for this development, which does not exceed 10 dwellings.
- 6.12 To conclude, the assessment of the proposal under the Development Plan it is considered that in terms of siting it is in the countryside, does not accord with any of the listed limited residential developments allowed as set out in CS policy RA3, and as a result is unacceptable. The statutory requirement, as set out in paragraph 6.1 of this Report, is that a determination should be in accordance with the Development Plan unless material considerations indicate otherwise. In this case the NPPF is a significant material planning consideration and in the current position of a lack of a 5 year housing land supply further assessment is required.
- 6.13 At present the Council cannot demonstrate a five year housing land supply (published figure of 4.54 years April 2017), and as such the policies which are most important for determining the application are to be considered as being out of date (paragraph 11d) footnote 7 of the NPPF). In such circumstances paragraph 11 continues that in decision-taking this means 'granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. 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.' 'Assets' includes designated heritage assets and the policies are as referred to in the NPPF and not the Development Plan (footnote 6).
- 6.14 With regards paragraph 11d) i there are no policies in the NPPF that protect areas or assets of particular importance and thus there is no clear reason for refusing the development proposed. As a result it is necessary to turn to ii – the familiar tilted planning balance test from the NPPF Whilst the NPPF supports growth, it is fundamental that this is 'sustainable'. Sustainability is assessed under three headings, now titled economic, social and environmental objectives.
- 6.15 It is acknowledged that the construction of a dwelling would contribute to the housing supply and the local economy through the employment of trades and purchase of materials and the New Homes Bonus. In social terms an additional dwelling would increase the residents in the area, which may help to sustain the village's services (shop, pub, school, church etc.). Nevertheless, for a single dwelling these would only be moderate and could equally be achieved if a dwelling were built within or adjacent to the village's main built up area.
- 6.16 In environmental terms, due to the site's location it is visually separate to the built form of the village and the provision of another dwelling would consolidate the very loose knit development along the lane. Paragraphs 77 to 79 of the NPPF provide the Government's position on rural housing objectives. It states that policies and decisions should be responsive to local circumstances and reflect local needs. Although the application asserts there is such a need here, it is not substantiated. There is no evidence that a dwelling in the village could not meet

this asserted need. Furthermore, and critically the proposal is for an open market property with no suggestion that it would be controlled by way of a legal agreement to either ever be or remain for a local need in perpetuity. These personal circumstances cannot be afforded weight.

6.17 Paragraph 78 of the NPPF states that sustainable housing development in rural areas should be located where it will enhance or maintain the vitality of rural communities. Paragraph 79 continues that policies and decision should avoid isolated homes in the countryside, unless it would comply with one of five listed circumstances. These are as follows:

- a) *there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) *the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) *the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) *the development would involve the subdivision of an existing residential dwelling; or*
- e) *the design is of exceptional quality, in that it:*
  - *is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
  - *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

6.18 None of these are applicable to this application.

6.19 In the case of Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] the High Court judge found that “isolated” should be given its ordinary objective meaning of, “far away from other places, buildings or people, remote”. Also, that it was subsequently held in the Court of Appeal, in Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] that, “...in its particular context in paragraph 55\* of the NPPF, the word ‘isolated’ in the phrase ‘isolated homes in the countryside’ simply connotes a dwelling that is physically separate or remote from a settlement...” (\* - now paragraph 79 of the July 2018 NPPF). Subsequent to this case law it does not necessarily follow that a site that is not ‘isolated’ in the terms of paragraph 79 (previously 55) will be reasonably accessible to services when considered in the context of other requirements of the NPPF. So while this application site may be reasonably proximate to six other dwellings, its degree of accessibility to essential services by alternative modes are very limited. As such it is considered that the site is not a suitable location for a new dwelling having particular regard to accessibility for future residents to essential services in line with paragraph 108 of the NPPF and the objective to support the transition to a low carbon future, which reliance on motorised travel modes would not facilitate.

6.20 The proposed dwelling, despite being described as ‘low level’ and a ‘dormer bungalow’, would in fact be 7.3 metres in height to the ridge and 3.9 metres to the highest eaves height and devoid of any dormer windows. Nevertheless, there are single storey and two storey properties along the road and given the site levels and existing vegetation, which is to be retained, the proposed development would not be visually intrusive. It would comprise good quality architecture and be sympathetic to local character in accordance with CS policies LD1 and SD1 and the requirements of the NPPF (chapter 12).

6.21 Overall it is considered that the locational unsustainability of the site would result in adverse impacts that significantly and demonstrably outweigh the limited benefits derived from a single dwelling. As a result the proposal fails the planning balance and it is recommended for refusal.

## **RECOMMENDATION**

**That planning permission be refused for the following reason:**

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

1. **The proposal represents unsustainable new residential development within a countryside location divorced from any identified settlement and as such the proposal is contrary to Herefordshire Local Plan - Core Strategy Policies SS1, SS7, RA1, RA2 and RA3. The benefits would be significantly and demonstrably outweighed by the adverse impacts resulting from the locational unsustainability of the site, which conflicts with Herefordshire Local Plan - Core Strategy Policies SS4 and MT1 and the relevant aims and objectives of the National Planning Policy Framework.**

**Informative:**

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

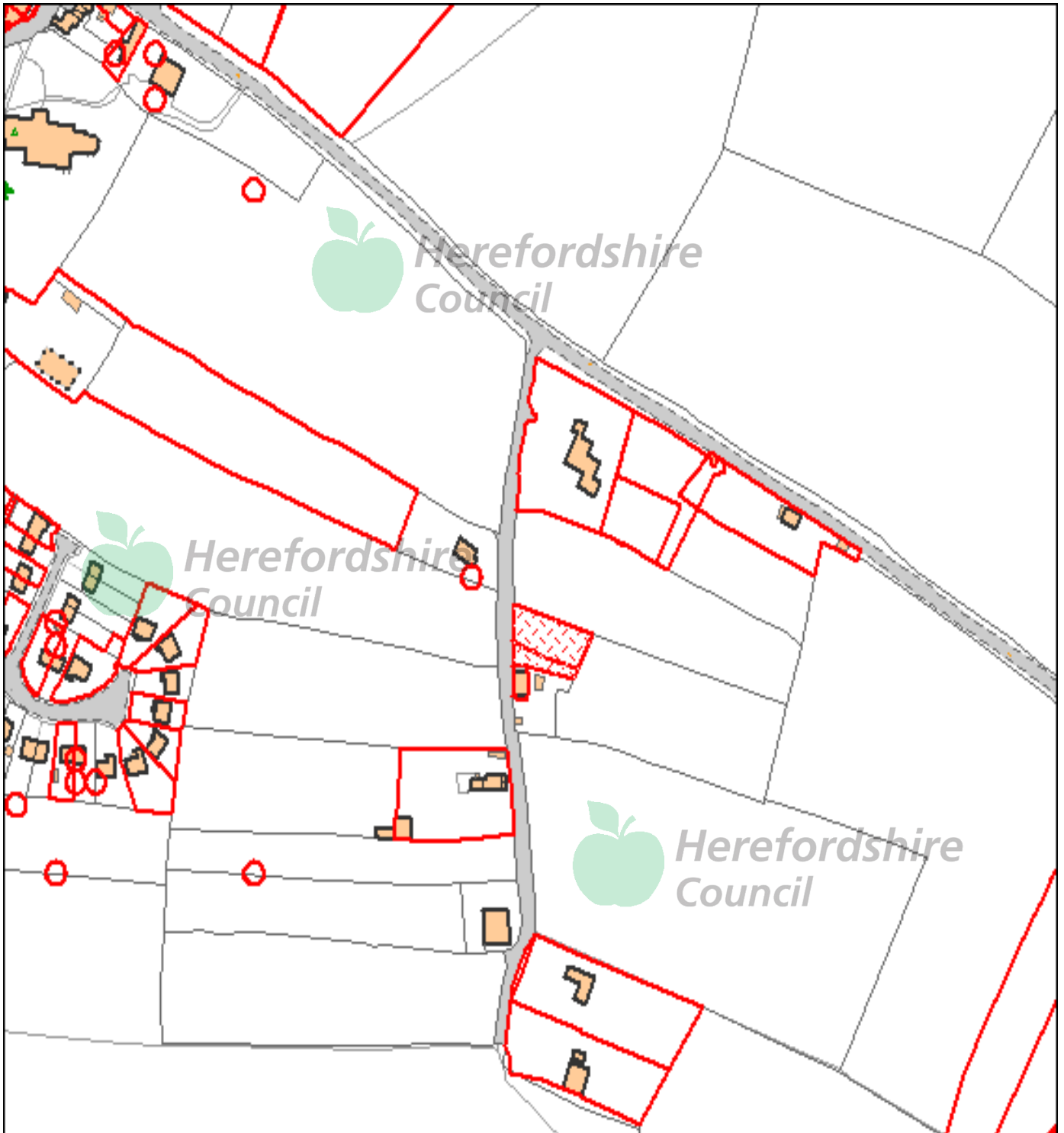
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 181825

**SITE ADDRESS :** WOODYATTS FIELD, WOODYATTS LANE, MADLEY, HEREFORDSHIRE, HR2 9NN

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



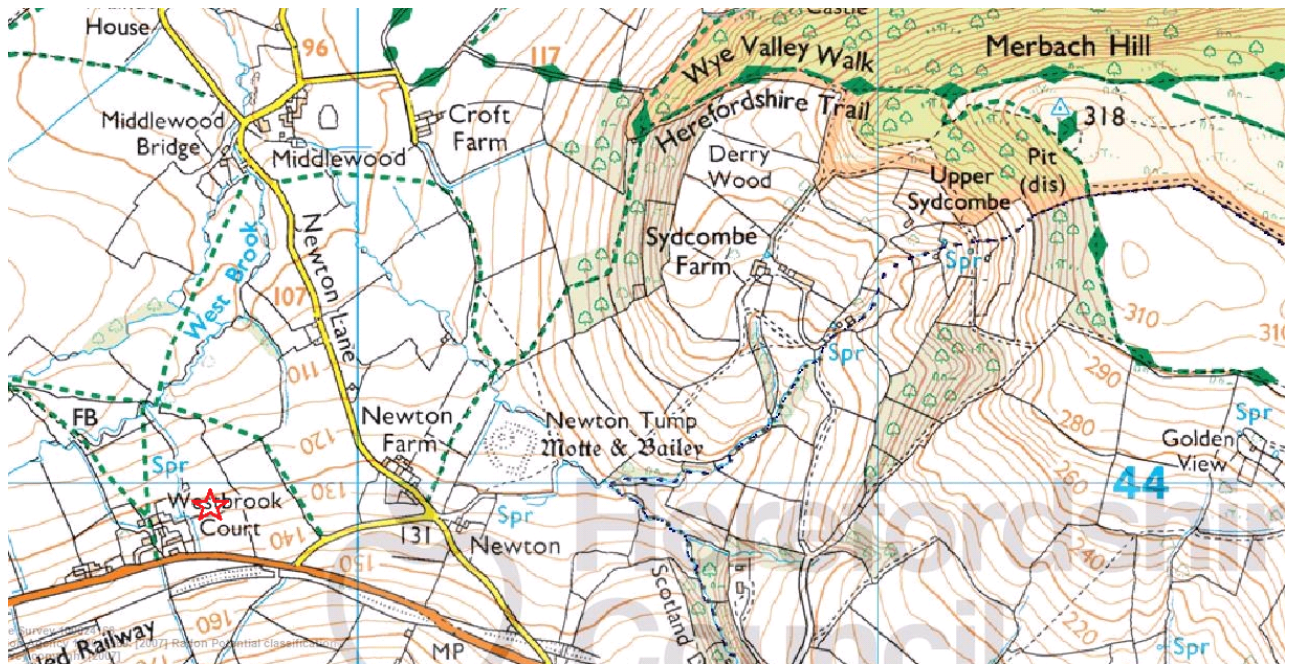
<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>22 August 2018</b>
<b>TITLE OF REPORT:</b>	<b>180193 - PROPOSED ERECTION OF 5 SINGLE BED HOLIDAY CHALETS AND ASSOCIATED PARKING AT LAND AT WESTBROOK COURT, WESTBROOK, HEREFORD.</b>  <b>For: Mr &amp; Mrs Morgan per Mr Sam Organ, Lower Galfog, Llanigon, Hay On Wye, HR3 5QB</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180193&amp;search=180193">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180193&amp;search=180193</a>

**Reason Application submitted to Committee – Re-direction**
**Date Received: 16 January 2018**
**Ward: Golden Valley  
North**
**Grid Ref: 328710,243919**
**Expiry Date: 26 March 2018**

Local Member: Councillor PD Price

**1. Site Description and Proposal**

- 1.1 The site lies to the north of the B4348 within the parish of Clifford and comprises an undeveloped field. It is accessed via a private driveway to Westbrook Court, a large detached property as well as through field accesses to the east. To the south of the host dwelling and adjacent to the road is a Grade II listed barn all within the same ownership. Lying to the north west of the host dwelling is an outbuilding that was permitted in 2012 consisting of five holiday chalets. This building replaced an existing stable block.
- 1.2 The site rises from north to south up to the road and benefits from thick boundary hedging to the east and west boundaries. A new hedge has been planted along the north of the site subdividing the field. Given the recent nature of the planting, this is presently very thin.
- 1.3 There are public rights of way to the east of the field, joining another to the north. Merbach Hill is located to the east of the site over which the Herefordshire Trail and Wye Valley Walk both pass. These paths can be identified on the map below with the approximate site identified by the red star.



1.4 The application seeks planning permission for the erection of five individual holiday chalets with associated parking. The chalets will accommodate a double bedroom with bathroom and living area. The units are orientated in a linear pattern travelling along an east-west axis with a pedestrian walkway along the rear.

1.5 The proposal is accompanied by a Design and Access Statement.

## 2. Policies

2.1 Herefordshire Local Plan – Core Strategy:

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS3 - Releasing Land For Residential Development
- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- RA6 - Rural Economy
- E4 - Tourism
- 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

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

[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

2.2 National Planning Policy Framework (NPPF)

- Section 2 - Achieving sustainable development
- Section 4 - Decision making

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Further information on the subject of this report is available from Miss Emily Reed on 01432 383894



- Section 6 - Building a strong, competitive economy
- Section 8 - Promoting Healthy Communities
- Section 9 - Promoting sustainable transport
- Section 12 - Achieving well-designed places
- Section 15 - Conserving and enhancing the natural environment
- Section 16 - Conserving and enhancing the historic environment

### 2.3 Neighbourhood Development Plan (NDP)

Clifford NDP is at drafting stage and as such whilst a material consideration cannot be afforded any weight at the present time.

## 3. Planning History

3.1 123367/F – Creation of 5, one bedroom holiday lets as Bed & Breakfast. Approved 11/2/13

3.2 120883/F - Creation of 5, one bedroom holiday lets as Bed & Breakfast. Refused: 28/8/12

## 4. Consultation Summary

### Statutory Consultations

#### 4.1 Welsh Water – No objection

As the applicant intends utilising a private treatment works we would advise that the applicant contacts The Environment Agency / Herefordshire Council Land Drainage Department who may have an input in the regulation of this method of drainage disposal.

### Internal Council Consultations

#### 4.2 Conservation Manager (Ecology) –

The site falls within the Discharges "any discharge of water or liquid waste, including to mans sewer" SAC & SSSI Impact Risk Zone (River Wye SAC & SSSI and Moccas Park SSSI & NNR)) and so sufficient and detailed information is required to be submitted with any future outline or full applications to allow the authority to assess the proposal through its Duty of Care under NERC Act and Habitat Regulations. Natural England will also need to be a statutory consultee and will require sufficient information, like ourselves, to determine that the development(s) will have NO 'likely significant effects' on the relevant SAC & SSSI.

The applicant is proposing a new package treatment plant with final discharge in to a local watercourse. This direct discharge is not an acceptable solution due to the direct discharge of phosphates (Phosphorous) in to the local aquatic ecology (including native Crayfish) and hence down stream and cumulatively detrimentally impacting the River Wye SAC/SSSI which is notified for phosphate/nutrient sensitive species. The applicant is requested to supply plans and supporting information clearly detailing that final outfall from the proposed PTP will be through a soakaway drainage field of suitable size on land under the applicant's control. (Habitat Regulations, NPPF, NERC Act, Core Strategy SD4 and LD1-3).

Subject to this I am satisfied that other ecology considerations can be managed through pre-commencement conditions

There are some trees and hedgerows that could be impacted through the development process and the site itself may have some ecology interests, including foraging and commuting by protected species such as Dormice, Otters and Bats.

#### Nature Conservation Protection

*Before any work begins, equipment or materials moved on to site, an Ecological Working Method Statement (EWMS) shall be supplied to the planning authority for written approval.. The approved EWMS shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.*

*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*

Advisory: The EWMS should include details of all proposed works to or loss of trees and hedgerows and an associated root protection plan and arboricultural working methods. The EWMS should cover all potential use of the site and boundary features by protected species (such as otters, reptiles/amphibians and dormice) and general wildlife and detailed relevant mitigation and working methods detailed.

Lighting of the development has a potential impact on both local biodiversity (eg bat foraging and commuting) and the wider local 'dark skies'. A detailed lighting plan to ensure all lighting is kept to a minimum and is designed to mitigate potential impacts should be supplied. If necessary, the use of low level, low power 'warm colour temperature', directional lighting with time/PIR controls is suggested. This plan should be submitted with a detailed plan showing proposed green infrastructure/planting (including species, planting methodology and 5 year establishment and subsequent 5 year management plan. Beech is not considered a locally characteristic species) and full details of proposed biodiversity enhancements (eg for bat roosting, bird nesting, reptiles/amphibians, hedgehogs and pollinating insects).

#### Nature Conservation – Enhancement-Protection

*Prior to commencement of the development, a detailed Green Infrastructure and Habitat Enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.*

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

Informative:

In addition to full details of proposed planting the plan should include details and locations of 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 buildings as well as consideration for amphibian/reptile refugia, hedgehog houses within the landscaping/boundary features. The plan should include details of proposed lighting for the site, 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.

### 4.3 Conservation Manager (Landscape) – Object

The proposal is for the erection of 5 chalets at Westbrook Court. I have visited the site and discussed the proposal with the applicant. Whilst I acknowledge the applicant is seeking to create high quality accommodation which fully enjoys the scenic beauty of this valued landscape there is a balance to be met between business needs and impact upon the natural environment.

The site proposed in conjunction with the current layout represent an incursion into open countryside which is harmful to the landscape character, having walked the popular trail along Merbach Hill I consider there is also potential for harmful visual effects.

I am not fully satisfied with the rationale provided within the Design and Access site for the site selection and I would recommend the case officer seek further information as to why the alternative parcel of land which relates more closely to the existing built form cannot be utilised.

In terms of the design detail; a green roof has been proposed the detail of which would need to be supplied. The hard landscaping for both the parking area and the access to the chalets as well as any proposed planting should be shown upon a landscape plan, in order to establish compliance with policy LD1 of the Core Strategy.

Further comments were provided following a meeting and emails with the applicant:

From a landscape perspective the harm is potentially twofold:

In terms of landscape character the site lies within the local landscape type; Principal Timbered Farmlands, the key characteristics for which are;

- small scale landscapes with an organic enclosure pattern with hedgerows defining the field boundaries.
- An ancient wooded character portrayed by hedgerow trees; predominantly oak and woodland, leading to filtered views.

The landscape harm lies not from the removal of the components of these key characteristics but from the introduction of alien features into what is an essentially natural landscape.

The Landscape Character Assessment for this type states; these landscapes typically have a dispersed settlement pattern of frequent roadside dwellings and farmsteads set amongst winding lanes. This is the rationale for recommending the proposal be developed in such a way that it related to the farmhouse and outbuildings at Westbrook Court. By situating the proposal within the field to the east of the farmstead it protrudes into the wider open countryside and is physically and visually separate from the farmstead. The linear pattern to the layout of the proposal jars with the surrounding organic field pattern. This is further exacerbated by the introduction of the associated hard landscaping and potentially also by the external materials proposed for the chalets which include mirrored glass and aluminium doorways.

Insofar as visual effects are concerned the site lies within a landscape that whilst undesignated can be described as high quality, with little in the way of surrounding development it is sensitive to change. There are a number of footpaths within the locality which link to popular tourist trails and filtered views of the proposal giving rise to adverse effects are considered likely.

There is also the potential for the development to become a focal point in views from elevated ground such as Merbach Hill; common land which forms part of the route of both the Herefordshire Trail and the Wye Valley Walk.

Having identified both the potential for landscape harm and adverse effects upon visual amenity during a number of site visits and discussions with the applicant, I have concluded the proposal is not compliant with policy LD1 of the Core Strategy as it does not demonstrate that it has been positively influenced by the character of the local landscape and neither would it successfully integrate into its surroundings.

#### 4.4 Conservation Manager (Historic Buildings)

The two barns at Westbrook Court are Grade II listed and are timber framed barns dating from the C17. The experience of the immediate agrarian landscape is a key part of their setting which contributes to their significance. Whilst we note that there is a degree of enclosure to the farmstead, it is felt that the experience of the wider landscape setting does contribute to the significance and understanding of the buildings. As such we feel that the proposals would cause less than substantial harm and that policy 196 of the NPPF would apply requiring an LPA to weigh up any harm against the public benefits of the proposals.

#### 4.5 Transportation Manager – No objection

### 5. Representations

#### 5.1 Clifford Parish Council - Object

Local Parishioners strongly object to building on open green pasture land, should this be granted would set a precedent. Local need is for affordable housing within the Core Strategy.

The design is not in keeping with the grade II listed building already on site. There is a redundant barn which is suitable for conversion in the garden which should be considered first.

The increase to 10 holiday dwellings is in keeping with holiday camp size the access and volume of traffic onto highway, this stretch of highway is continually an issue with neighbours, parish council continually receive complaints from neighbours this would increase the volume issues. There holiday dwellings are large and will be visible from PROW and local views. Concern that the glass will cause issue for the local birds.

#### 5.2 To date 24 letters of support have been received to the proposal. The contents therein are summarised as follows:

- Existing business is well established
- Guests from the existing business eat at the local restaurants, shop in Hay and surrounds and use local activity providers like canoeing, biking and foraging which all brings money into the local economy. It also creates local employment
- Field is hidden from the main road and the design is sympathetic to the environment so will not be detrimental to the landscape
- The ability to house tourists in a way which represents a holiday in terms of luxury and quality is critical to the economy and to provide accommodation year round
- Additional cars that the small development will attract will not negatively impact on the B4348. The splays are good
- Proposal will enhance the reputation of the Golden Valley as a thriving tourist destination offering rural idyll and recreation
- The site does not lend itself obviously to farming or other use

One letter of comment has been received. The contents therein are summarised below:

- Building on green fields will destroy the natural landscape and beauty
- The barn could be converted or new buildings be located near their house but cost and nearby cattle buildings are reasons for not doing so
- Will be visible from the road
- There are young people who would love to build affordable houses in fields they own but can't due to it not being within the development plan. The holiday lets could be lived in 52 weeks a year

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

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=180193&search=180193](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180193&search=180193)

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

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

## 6. Officer's Appraisal

6.1 The proposal is for the erection of 5 individual holiday chalets which would form an extension of an existing bed & breakfast business ran by the applicants at Westbrook Court. The proposal has generated a relatively high level of public interest, much of which is supportive of the aims of the scheme. The following considerations are relevant to the determination of the application:

- Principle of development and site sustainability
- Impact on the landscape character and visual amenity
- Design of the scheme and impact on residential amenity
- Impact on nearby grade II listed barn
- Access and highway safety
- Ecological impacts
- Foul and surface water implications

### *Principle of Development and Site Sustainability*

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

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

6.3 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration.

6.4 With the proposal being for a tourist development, Policies RA6 and E4 of the Core Strategy are engaged in the first instance.

6.5 Policy RA6 states that a range of economic activities will be supported which help diversify the rural economy including proposals which promote sustainable tourism proposals of an appropriate scale in accordance with Policy E4. Proposals which involve the small scale extensions of existing businesses will also be supported under the same policy. Such schemes will be permitted where they:

- are of a scale which is 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, dust, lighting and smell;
- do not generate traffic movements that cannot safely be accommodated within the local road network
- do not undermine the achievement of water quality targets in accordance with Policies SD3 and SD4.

6.6 In relation to Policy E4, this lists a number of measures that will be supported in order to promote Herefordshire as a tourist destination. Within this list is the retention and enhancement of existing, and encouragement of new, accommodation which will help to diversify the tourist provision, extend the tourist season and increase the number of visitors staying overnight. The

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Further information on the subject of this report is available from Miss Emily Reed on 01432 383894

postscript to the Policy acknowledges that with many visitors to the County coming to enjoy the beautiful countryside, there is likely to be a demand associated with this. However, while some small scale tourist associated development may be appropriate in rural areas, any significant new development for accommodation and facilities should be focused in Hereford and the market towns to maximise sustainable transport opportunities and to protect environmental amenity.

- 6.7 Policies RA6 and E4 are both reinforced through chapter 6 of the NPPF which acknowledges the role sustainable tourism and leisure developments can play in providing a prosperous rural economy. Paragraph 84 of the NPPF recognises the balance that needs to be struck in such locations stating that:

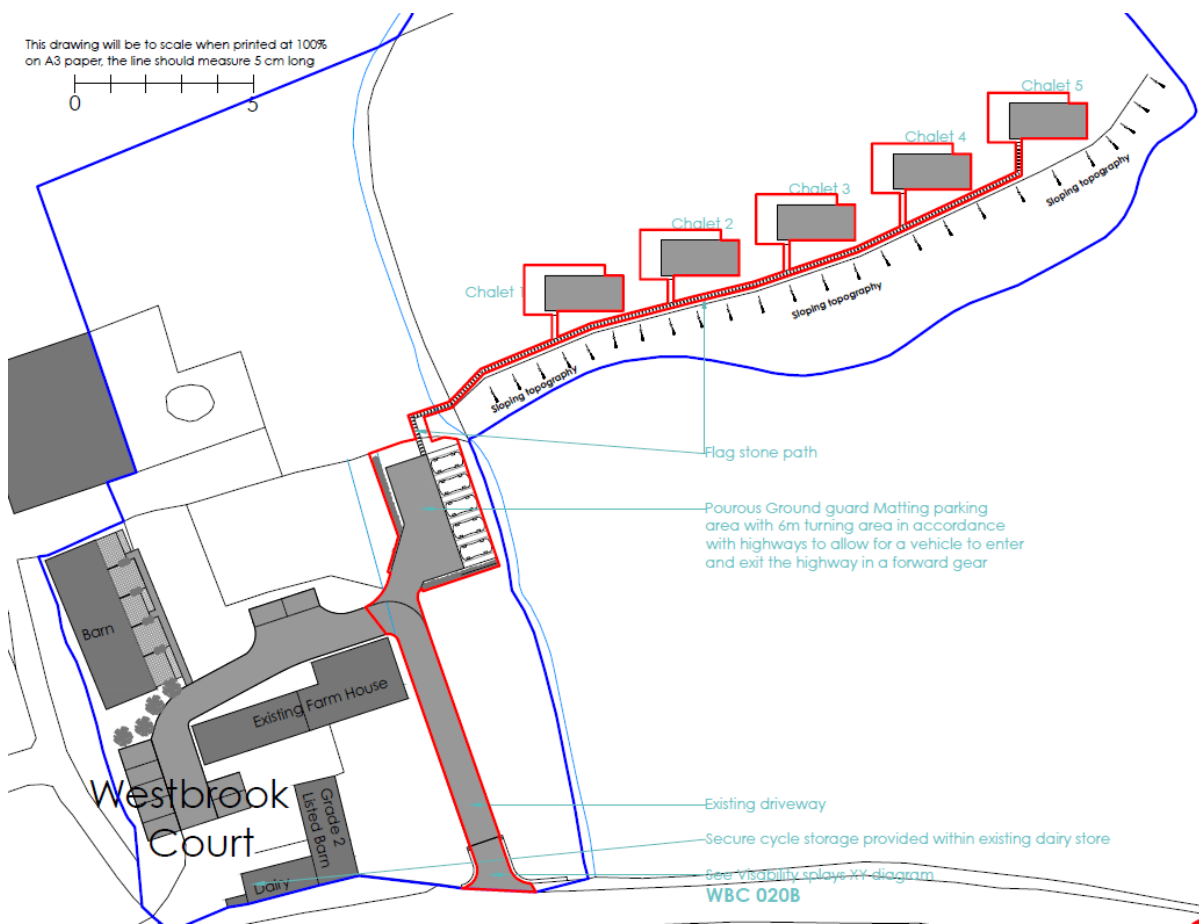
*Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.*

- 6.8 With the open countryside location of the site, away from settlements, Policy LD1 of the Core Strategy is also engaged. This states that 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.

- 6.9 The site lies within open countryside and approximately 2.5km to the south east of Priory Wood, the nearest settlement to the site that is identified for residential development under Policy RA2. With this in mind, the location would not be one supported for open market housing. However, the scheme proposes tourist accommodation, the benefits of which are acknowledged under policy E4 as well as the expansion of an existing business. While it is unlikely visitors to the site would be readily able to access amenities and facilities within the neighbouring settlements without dependence on vehicles, the pattern of movements of tourists are generally different to that of permanent residents. The close proximity to the public rights of way is also noted. As such, officers do not find the resultant scale of the proposal, added to the existing five units, to be unacceptable in principle.

*Impact on the landscape character and visual amenity*

- 6.10 The proposed site is for the five units along an east-west axis close to the field boundary to the south. This is demonstrated on the site plan below that accompanies the proposal:



6.11 While there is the farmhouse, listed barn and outbuilding permitted in 2012 all located to the west of the site, there is little built context otherwise - it is very much a natural landscape with the field being undeveloped and inaccessible directly from the road. The relationship between the field and the existing built form can be seen on the aerial photograph below.



Further information on the subject of this report is available from Miss Emily Reed on 01432 383894

- 6.12 The chalets will project into the field in a regimented pattern that is at odds with the nearby development. Most surrounding development is close to the road; in a wayside pattern; and consists of outbuildings or agricultural buildings.
- 6.13 The units proposed are of a modern design and form (touched on further below) comprising of rectangular 'pods' sited on stilts in order to provide a light touch approach whereby the turf can be replaced. While the contemporary approach has been taken in order to provide the customer experience the applicants are trying to achieve, as a result of both the siting and rectangular form of the chalets, the scheme would lead to alien features in the landscape. With regard to visual harm, wider views of the site can be clearly obtained from the top of Merbach Hill as well as from certain points on the public rights of way that travel around the site. In light of this, and as a result of the form, the proposal would become a focal point that is out of keeping with the pattern of surrounding development and the local landscape character. The inclusion of mirrored elevations also gives rise to concerns regarding potential light reflection that may be caused as a result.
- 6.14 Discussions have taken place with the applicant in relation to re-siting the chalets. The field to the north of the host dwelling was suggested as a potential alternative by Officers as this would provide a better relationship with the existing buildings, prevent spread and ensure the development is read in conjunction with the other existing built form. It is understood that the agricultural building to the north west of the farmhouse is outside of the Applicant's ownership and the alternative siting of the chalets within this area has not been progressed due to the impacts of being in close proximity to this. However, given that this alternative site has not been fully explored as well as the location of the existing holiday accommodation being next to the agricultural building, officers are unconvinced this would not be a more appropriate way forward. This approach is reflected within paragraph 84 of the NPPF.
- 6.15 With the foregoing paragraph in mind, and based on the plans that are for consideration as part of the proposal, the scheme would result in an unnatural, uncharacteristic spread of development into the open countryside that, due to public viewpoints from the footpaths to the east and west which taper to a joint one at the north and views gained from Merbach Hill, would be readily visible. Since the siting is at odds with the existing built form, both the landscape character and visual amenity are not protected through the proposal and therefore give rise to conflict with the aims of Core Strategy Policies LD1 and RA6.

*Design of the scheme and impact on residential amenity*

- 6.16 The design of the scheme is to be assessed against policy SD1 which states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing impact.
- 6.17 As stated above, the chalets will be sited along an east-west axis with a path leading along the rear of the buildings to the parking area located to the north east of the farmhouse. The chalets will be constructed from timber and metal clad elevations, mirrored glass and green roofs.
- 6.18 Notwithstanding the comments in relation to the wider landscape impact of the modern approach, it is acknowledged that the design of the units will arguably attract a wider spectrum of end users than the traditional B&B service. The units will provide the benefits of a B&B stay while being divorced from the main dwelling and the applicants assert that the contemporary design will offer an attractive option for guests.



6.19 Given that the applicants own and reside in the farmhouse and the existing holiday accommodation on the site, the proposed use will be largely self-managing. There are also no neighbouring dwellings within the vicinity and on this side of Westbrook Court. This, together with the level of accommodation that each chalet will provide, leads me to conclude that the site can operate without having unacceptable effects upon residential amenity in accordance with CS policy SD1.

*Impact on Grade II listed barn*

6.20 Given the proximity to the Grade II listed barn, adjacent to the roadside and to the south west of the proposal site, S66 of the Listed Building Acts Planning (Listed Buildings and Conservation Areas) Act 1990 is engaged requiring the decision-maker to have special regard for the desirability of preserving the setting of such assets.

6.21 Policy LD4 of the Core Strategy is also relevant in terms of local planning policies. This policy states that development proposals affecting heritage assets and the wider historic environment should protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design in particular emphasising the original form and function where possible.

6.22 NPPF section 16 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 184 – 202.

6.23 The NPPF sets out in paragraph 185 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 into account:

- 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.

6.24 Paragraphs 193 – 196 set out what and how LPAs should consider in determining planning applications which feature historic assets. Paragraph 195 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

6.25 Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

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Further information on the subject of this report is available from Miss Emily Reed on 01432 383894

- 6.26 Given the comments received from the Council's Historic Buildings Officer, the proposal is found to lead to less than substantial harm to the designated asset but is a significant material consideration that directs that refusal should ensue unless the public benefits of the proposal outweigh the harm. This test will be covered below having regard for all the factors of the planning application.

*Access and highway safety*

- 6.27 The highways implications of any proposal are to be assessed against Policy MT1 of the Core Strategy. This policy states that development proposals should demonstrate that the strategic and local highway network can absorb the traffic impacts of the proposal without adversely affecting the safe and efficient flow of the traffic, be designed and laid out to achieve safe entrance and exit with appropriate operational and manoeuvring space and have regard to the parking standards contained within the Council's Highways Design Guide.
- 6.28 Paragraph 109 of the NPPF is also relevant in relation to highways safety stating that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.29 The existing access into Westbrook Court will be utilised with a parking area located to the north west of the farmhouse. It would then be for occupiers of the chalets to walk from the parking area to the chalets along the proposed pedestrian path.
- 6.30 The existing access has a fairly large splay onto the north of the B4348 and while the driveway is only the width of one car, the proposed parking area would be beneficial should a car meet leaving the site and one entering. In light of the existing use on the site with five holiday units, the provision of an additional parking area and no objections received from the Transportation Manager, while the comments raised by the Parish Council are noted, having regard for Policy MT1 and paragraph 109 refusal of the application on this ground would not be justified.
- 6.31 The parking area referred to above will accommodate 6 car parking spaces as well as a turning area enabling any vehicle to turn within the site and leave in a forward gear. Amendments have been sought in relation to this layout and to re-orientate the parked cars away from the farmhouse so that some gap is retained and the amenity of the farmhouse is protected. With this level of parking and layout meeting the requirements stated within the highways design guide, the proposal is found to be acceptable as assessed against Policy MT1.

*Ecological impacts*

- 6.32 Policies LD2 and LD3 of the Core Strategy are applicable in relation to ecology and the impact on trees. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity asset of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure.
- 6.33 The design and access statement that has been submitted comments upon the biodiversity and ecological benefits of the proposal including the provision of green roofs, the lack of hedgerows and trees that would need to be removed as well as the provision of bat roosts and the light touch construction.
- 6.34 Subject to the conditions that have been recommended by the Council's Ecologist, the aims of policies LD2 and LD3 can be met.

### *Foul and surface water implications*

- 6.35 Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order: package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.36 The design and access statement that accompanies the proposal states that a private treatment plant will be utilised for foul sewage disposing into a watercourse. In light of the comments received from the Council's Ecologist, this is an unacceptable method of foul drainage given the proximity to the River Wye SSSI/SAC. The agent has confirmed that they would accept conditions requiring a soakaway drainage field to be utilised.
- 6.37 In relation to the drainage of surface water, while the application form states that a sustainable drainage system/soakaway will be utilised, the design and access statement comments that due to the still construction and 'innovative gargoyle outlet' the surface water will enter the ground as though the building is not there.
- 6.38 Given the size of the site within the ownership of the applicant, it is anticipated that an acceptable drainage method can be established. As such, it is considered that the requirements of Policies SD3 and SD4 would be satisfied subject to suitably worded conditions.

### *Conclusion and planning balance*

- 6.39 Paragraph 8 of the NPPF advises that there are three dimensions to sustainable development; economic; social and environmental. Paragraph 11 of the NPPF sets out how this is to be applied in practice, advising that proposals that accord with the development plan should be approved without delay. Policy SS1 of the Core Strategy reflects this guidance.
- 6.40 Economically, the contribution to tourist provision is accepted and supported throughout the Core Strategy, as is the expansion of an existing business. The proposal represents a scheme that would provide additional overnight accommodation of a contemporary nature that would add to the diversity of holiday units on offer across the County. The provision would increase the number of visitors to the locality, benefit local businesses and facilities further afield as well as provide additional hours for local cleaners and fulltime employment for the two applicants.
- 6.41 Socially, the benefits of this type of proposal will be limited as it is unlikely that visitors will become integrated into the local community, partly as a result of the distance from the nearest settlements but also due to the nature of the accommodation proposed being for tourist provision.
- 6.42 Environmentally, the site is divorced from the built up part of the settlements, but given that the proposal represents an expansion of an existing business, this is not found to be a reason to refuse the application. However, as a result of the form and siting of the proposal, the scheme is found to represent an incursion into the open countryside in a way that has not been influenced by the surrounding development. As such there is a resultant landscape harm in terms of the character and visual amenity.
- 6.43 Whilst officers have had regard to the comments of the Council's Historic Building Officer, regard must also be had to the public benefits accruing from the development proposal and as

such whether the scheme passes the test under paragraph 196 of the NPPF. Given the expansion of an existing business, provision of additional and diverse tourist accommodation and the associated impacts of increasing tourism income, the public benefits are considered to outweigh the less than substantial harm to significance. As such, officers conclude that the test within paragraph 196 is passed.

- 6.44 Notwithstanding the foregoing paragraph, given that the three roles of sustainability are mutually dependent and should not be undertaken in isolation, it is concluded that the proposal would not represent sustainable development and as such, on the basis of the evidence submitted, I conclude that the proposal would conflict with the development plan as a whole as it is contrary to Core Strategy policies SS1, SS6, RA6, and LD1 and the guidance provided by the NPPF.

## **RECOMMENDATION**

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

- 1. As a result of the siting and form of the chalets, the proposal protrudes into the wider open countryside and is physically and visually separate from the farmstead. This is contrary to the landscape character and has resultant adverse visual amenity impacts. As such, the proposal is contrary to policies SS1, SS6, RA6 and LD1 of the Core Strategy as it does not demonstrate that it has been positively influenced by the character of the local landscape and neither would it successfully integrate into its surroundings.**

**Informative:**

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

Decision: .....

Notes: .....

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## **Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 180193

**SITE ADDRESS :** LAND AT WESTBROOK COURT, WESTBROOK, HEREFORD

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