

Agenda

Planning and regulatory committee

Date: **Wednesday 16 October 2019**

Time: **10.00 am**

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

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

For any further information please contact:

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Agenda for the meeting of the Planning and regulatory committee

Membership

Chairperson Councillor John Hardwick
Vice-Chairperson Councillor Alan Seldon

Councillor Graham Andrews
Councillor Paul Andrews
Councillor Polly Andrews
Councillor Toni Fagan
Councillor Elizabeth Foxton
Councillor Bernard Hunt
Councillor Terry James
Councillor Tony Johnson
Councillor Mark Millmore
Councillor Jeremy Milln
Councillor Paul Rone
Councillor John Stone
Councillor Yolande Watson

Agenda

		Pages
GUIDE TO THE COMMITTEE		
1.	APOLOGIES FOR ABSENCE To receive apologies for absence.	
2.	NAMED SUBSTITUTES (IF ANY) To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
3.	DECLARATIONS OF INTEREST To receive declarations of interests in respect of Schedule 1, Schedule 2 or Other Interests from members of the committee in respect of items on the agenda.	
4.	MINUTES To approve and sign the minutes of the meeting held on 18 September 2019.	11 - 22
5.	CHAIRPERSON'S ANNOUNCEMENTS To receive any announcements from the Chairperson.	
6.	191288 - LAND AT OAKLAND'S Paddock, LANGSTONE LANE, LLANGARRON Proposed erection of four dwellings and associated works.	23 - 42
7.	191330 - LAND TO THE NORTH WEST OF IVY COTTAGE, GARWAY COMMON, GARWAY Erection of a single storey residential dwelling (c3) with garage, private driveway and creation of new access into the highway.	43 - 60
8.	190032 - LAND TO THE WEST OF B4361, LUSTON, HEREFORDSHIRE Proposed development of 8 houses and garages.	61 - 86
9.	182607 - LAND NORTH OF THE CORNER HOUSE, TEMPLE LANE, LITTLE HEREFORD CROSSING Proposed creation of 4 new dwellings.	87 - 108
10.	184593 - WOODMILL COTTAGE, OCHRE HILL, WELLINGTON HEATH, LEDBURY, HR8 1LZ Change of use of existing annex into holiday let accommodation.	109 - 128
11.	DATE OF NEXT MEETING Date of next site inspection – 12 November 2019 Date of next meeting – 13 November 2019	

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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 John Hardwick (Chairperson)	Herefordshire Independents
Councillor Alan Seldon (Vice-Chairperson)	It's Our County
Councillor Graham Andrews	Herefordshire Independents
Councillor Paul Andrews	Herefordshire Independents
Councillor Polly Andrews	Liberal Democrat
Councillor Toni Fagan	The Green Party
Councillor Elizabeth Foxton	It's our County
Councillor Bernard Hunt	True Independents
Councillor Terry James	Liberal Democrat
Councillor Tony Johnson	Conservative
Councillor Mark Millmore	Conservative
Councillor Jeremy Milln	The Green Party
Councillor Paul Rone	Conservative
Councillor John Stone	Conservative
Councillor Yolande Watson	Herefordshire Independents

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.

How an application is considered by the Committee

The Chairperson will announce the agenda item/application to be considered, invite public speakers to move from the public gallery and take their seats in the council chamber, and explain any particular procedural matters relevant to the application.

The case officer will then give a presentation on the report.

The public speakers will then be invited to speak in turn (Parish Council, objector, supporter). Having spoken they will be asked to return to the public gallery. (see further information on public speaking below.)

The local ward member will be invited to start the debate (see further information on the role of the local ward member below.)

The Committee will then debate the matter.

Officers are invited to comment if they wish and respond to any outstanding questions.

The local ward member is then invited to close the debate.

The Committee then votes on whatever recommendations are proposed.

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.

Role of the local ward member

The ward member will have an automatic right to start and close the member debate on the application concerned, subject to the provisions on the declaration of interests as reflected in the Planning Code of Conduct (Part 5 section 6).

In the case of the ward member not being a member of the Committee they would be invited to address the Committee for that item.

In the case of the ward member being a member of the Committee they move to the place allocated for the local ward member to sit, do not vote on that item, and act as the ward member as set out above.

To this extent all members have the opportunity of expressing their own views, and those of their constituents as they see fit, outside the regulatory controls of the Committee concerned.

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 18 September 2019 at 10.00 am

Present: Councillor John Hardwick (chairperson)

Councillors: Paul Andrews, Polly Andrews, Toni Fagan, Elizabeth Foxton, Bernard Hunt, Helen l'Anson, Terry James, Mark Millmore, Jeremy Milln, Paul Rone, John Stone, David Summers, Yolande Watson and William Wilding

In attendance: Councillors Barry Durkin and Tony Johnson

21. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Graham Andrews, Tony Johnson and Alan Seldon.

22. NAMED SUBSTITUTES (IF ANY)

Councillor William Wilding attended the meeting as a substitute member for Councillor Graham Andrews; Councillor Helen l'Anson attended the meeting as a substitute member for Councillor Tony Johnson; and Councillor David Summers attended the meeting as a substitute member for Councillor Alan Seldon.

23. DECLARATIONS OF INTEREST

There were no declarations of interest.

24. MINUTES

RESOLVED: That the minutes of the meeting held on 24 July 2019 be approved as a correct record and signed by the chairperson.

25. CHAIRPERSON'S ANNOUNCEMENTS

None.

26. 184574 - LONG BARN HOUSE, LANE FROM JUNCTION WITH SPARROW LANE TO QUARRY ROAD, LINTON, ROSS ON WYE, HR9 7RT

(Erection of 2 detached dwellings)

(Councillor William Wilding as local ward member)

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking Mr J Watkins, a local resident, spoke in objection to the application and Mrs J Joseph, planning agent, spoke in support.

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

He made the following principal points:

- The application included a number of sustainable features but due to its location it still caused environmental harm.
- The national planning policy framework encouraged developments to incorporate as many sustainable features as possible. The current application did not include solar panels. Applications and house design should include solar panels.
- The lane on which the proposed development was located was narrow and was sunken in places with few passing places for cars. It was not ideal for walking.
- The application proposed excavations to a bank to create an entrance to the property. This would damage the existing bank; if the member had been consulted on the application at an early stage he would have proposed the relocation of the entrance.
- It was noted that the application would have an impact on local wildlife.

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

- It was noted that there were no objections from statutory consultees.
- There was concern that there were no solar panels incorporated in the design but other sustainable measures such as the heat pump were viewed favourably. The application incorporated a high level of sustainability which was a good example of housing seeking to limit carbon impacts. It was queried whether solar panels were viable with a green roof.
- It was queried why no site visit was undertaken. It was felt that a site visit should have been undertaken. *The Chairperson of the committee confirmed that the local ward member had not requested a site visit.*
- The impact of the application on flora and fauna was queried.
- The importance of new housing in local villages to sustain local communities, their services and facilities was emphasised.

The Lead Development Manager commented that given the proposed green roof solar panels would probably need to be located elsewhere on the application site and an ecology survey had been submitted with the application. The county ecologist had raised no concerns with the application.

The local ward member was given the opportunity to close the debate. He explained he would have requested a site visit if aware of the process but as a new member of the council was unaware. Due to the absence of solar panels in the application it was not felt that the national planning policy framework had been interpreted properly or given proper weight in the application. It was asserted that sustainability measures needed to be incorporated in all new applications.

Councillor Polly Andrews proposed and Councillor David Summers seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 13 votes in favour 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 to officers.:

1. **A01 Time limit for commencement (full permission)**
2. **C07 Development in accordance with approved plans and materials**
3. **C13 Samples of external materials**
4. **CBK Restriction of hours during construction**
5. **CAB Visibility splays (2.4m x 25m to centre of carriageway)**
6. **CAE Vehicular access construction**
7. **CAD Access gates (5m)**
8. **CAI Parking – single/shared private drives**
9. **CAH Driveway gradient**
10. **CAT Construction management plan (including parking for site operatives)**
11. **CB2 Secure covered cycle parking provision**
12. **The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the report by Churton Ecology dated September 2018 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.**

To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD2 and, Dark Skies initiative (DEFRA-NPPF 2013/18).
13. **The ecological protection, mitigation, compensation and working methods scheme, as included within the Arboricultural Impact Assessment by Steve Ambler & Sons dated June 2019 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.**

To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006),

Herefordshire Core Strategy (2015) policies LD2 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

- 14. Prior to the commencement of any works a method statement for trees T8 & T9 or where no dig has been specified, must be submitted and approved by the local planning authority and the development shall be carried out in accordance with the approved method statement.**

Reason: To safeguard the character and amenity of the area and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

- 15. CBM Scheme of foul and surface water disposal**

- 16. C65 Removal of permitted development rights**

- 17. C95 Details of boundary treatments**

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.**

(Councillor William Wilding resumed his seat on the committee)

27. 190438 - HOE FARM, MATHON ROAD, COLWALL, HEREFORDSHIRE

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

In accordance with the criteria for public speaking Tony Johnson, as the applicant, spoke in support of the application and then left the meeting room following his submission to the committee.

In accordance with the Council's Constitution, Councillor Barry Durkin spoke as a proxy for the local ward member.

He made the following principal comments:

- In 2010 a factory received permission close to the application site and at 1.3 miles was considered to be within walking distance of Colwall. The current application had not been considered sustainable development as the officer had concluded that the village was not within walking distance but would need to be accessed by car. Consistency between the two applications was required and permission for the current application should be granted in accordance with the assessment undertaken in 2010. The suitability of the site was established by the 2010 application and permission granted.

- Within the previous five years there had been development around the application site including new houses, a factory and vineyard. The driveway to the application site was used as an access to these local developments together with a cricket pavilion and tennis courts which demonstrated that the locality was becoming a built up area.
- The applicant wanted to build a single residential dwelling to provide suitable accommodation for his health needs.
- The national planning policy framework required a presumption in favour of applications for sustainable development where there was a shortage in the supply of building land and the core strategy was out of date with regard to land supply.
- The application site fell within the area of the Colwall neighbourhood development area and was therefore deemed appropriate for development.
- The Malvern Hills AONB had advised that the colour and design of the development would need to meet their specification.
- The application proposed a modest development but one which would benefit the county and there was no potential for harm posed.

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

- The importance of incorporating wellbeing issues into planning matters and the potential that the applicant would need to leave due the area to his health needs if the application was not approved.
- There was concern regarding development proposals located in the countryside. It was accepted by some members of the committee that the application site was set in open countryside and was therefore in an inappropriate location. It was the contention of some members that the area was a hamlet due to the level of local development.
- It was acknowledged that the application site was set on a country lane but it was surrounded by commercial developments. The permission granted in 2010 was queried and if it concerned industrial usage.
- There was disappointment that there was no supporting evidence provided as to how the application would meet the criteria under policy RA3 of the core strategy.
- A full application would have been preferable for the committee to consider detailed planning considerations relating to the proposed development.
- The walk from Colwall to the application site was difficult and it was felt the owners of the property would use a car to access the village.
- There was concern that the application, if approved, would encourage development in the AONB.

In response to questions officers commented:

- The 2010 application for the furniture factory involved the conversion of existing buildings which policies support. It was important to distinguish between the 2010

application and the current proposal which was for the construction of a residential dwelling.

The Lead Development Manager commented that the lack of a 5 year housing supply did not represent a mandate for development to be undertaken in any area. Significant weight could be attributed to policy and the core strategy; a large proportion of appeals had been dismissed recently and policy and the core strategy had been cited. The core strategy supported business in the countryside but was clear on housing in this setting. This application was located outside of the development boundary of Colwall and was deemed to be in the countryside.

The proxy ward member was given the opportunity to close the debate. He explained that the application site should not be considered open countryside but was contained in a hamlet which was a built up area. The applicant was seeking to construct the dwelling for family reasons. The addition of a dwelling would benefit the village of Colwall. The developing neighbourhood development plan was at regulation 14 but the need for development in the village should be acknowledged. The distance of 1.3 miles to the village that had been considered to be suitable for walking in the 2010 application should be honoured in the current application. Any future application would take account of the requirements of the AONB. The presumption in favour of application if land supply was not being met was relevant and should be applied to the current application; the house would be used in future and was in an appropriate area that did not constitute open countryside.

Councillor Bernard Hunt proposed and Councillor Yolande Watson seconded a motion that the application be refused in accordance with the printed recommendation. The motion was carried 8 votes in favour, 4 against and 3 abstentions.

(The meeting adjourned at 11.28 a.m. and reconvened at 11.40 a.m.)

(Councillor Toni Fagan left the meeting at 11.28 a.m.)

28. 191813 - SUTTON PRIMARY SCHOOL, BAYLEY WAY, SUTTON ST NICHOLAS, HEREFORD, HR1 3SZ

(Provision of a single mobile classroom)

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking Mr S Morehead spoke in support of the application.

In accordance with the Council's constitution, the local ward member, Councillor Kema Guthrie, submitted a statement which was read to the committee.

The statement contained the following principal points:

- There were significant parking problems at Sutton primary school caused by a large amount of school traffic;
- The school car park became full quickly in the morning which caused an adjacent road to become congested with parked cars.
- There was significant concern with the volume of traffic accessing the school which also had an environmental impact. The school should investigate sustainable travel options to protect the environment and minimise disruption to local residents.

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

- It was queried why a planning application was required given the provisions of the Caravan Act 1968.
- It was noted that the provision of the mobile classroom would not increase the numbers of pupils at the school but was intended to improve the facilities. There was sympathy for the traffic problems around the school but it was not felt that this was relevant to the application and was an issue present at a number of local schools.
- The use of mobile classrooms at schools had been long established and appeared to be necessary at the primary school due to the failure of capital bids to provide a more permanent improvement to facilities.
- It was queried what would occur at the end of 5 years of the permission.
- It was suggested that a condition requiring the school to undertake a school travel plan, to encourage sustainable transport, be attached as a condition to any permission granted.

In response to the questions the Senior Planning Officer and Lead Development Manager commented:

- The mobile classroom exceeded the definition of a caravan in the Caravans Act 1968. Caravans did not require planning permission but the proposed mobile classroom was considered development due to its dimension.
- After 5 years a further application would be required if the mobile classroom was still required.

The Lead Development Manager commented that the concerns raised regarding traffic affected all schools in the county. The school had been designed and built to incorporate the possibility of a future extension but the capital funding had not been forthcoming. The application was in accordance with policy.

Councillor David Summers proposed and Councillor Bernard Hunt seconded a motion that the application be approved in accordance with the printed recommendation and an additional condition for the school to undertake a travel plan. The motion was carried unanimously; 14 votes in favour.

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.

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2. The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. 292-01 & 292-02) and the schedule of materials indicated thereon.**

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 3. The mobile classroom hereby permitted shall be removed from the site within five years of the date of this permission with the land being remediated and restored to its former condition in accordance with a scheme of work including timescales submitted to the Local Planning Authority and approved in writing by the local planning authority.**

Reason: To protect the character and appearance of the locality given the temporary nature of the building in accordance with Policy SD1 of the Herefordshire Local Plan – Core Strategy 2011 – 2031, policy 6 & 7 of the Sutton St Nicholas Neighbourhood Development Plan and the National Planning Policy Framework.

- 4. At no time shall any facility or apparatus producing any form of foul water be installed in or on the approved mobile classroom, further all surface water shall be managed through a soakaway system within the development boundary; unless otherwise agreed in writing by the Local Planning Authority.**

Reason: In order to ensure there are no likely significant effects on the integrity of the River Wye Special Area of Conservation, thus complying with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), and Herefordshire Local Plan - Core Strategy (2011 – 2031) policies LD2, SD3 and SD4.

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2. The applicant is advised to enter into pre-application advice discussions with the Local Planning Authority prior to the expiration of this permission to enable discussions and to foster a collaborative approach to finding an acceptable, permanent solution to the need for additional classroom space at the school.**

29. 192193 - ANNADALE, CASWELL TERRACE, LEOMINSTER, HEREFORDSHIRE, HR6 8BB

(Removal of 2 no. timber sheds and construction of rear two storey extension)

The planning officer gave a presentation on the application.

Councillor Terry James proposed and Councillor John Stone seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried unanimously; 14 votes in favour.

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

- 1. Time limit for commencement (full permission)**
- 2. C06 Development in accordance with approved plans**
- 3. CBK Construction of hours during construction**

INFORMATIVES:

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

30. 191123 - CLERK TO THE JUSTICES, SHIREHALL, ST PETERS SQUARE, HEREFORD, HEREFORDSHIRE, HR1 2HP

(Replacement of defective lath and plaster ceilings with wood wool slabs)

(Councillor Jeremy Milln as local ward member)

The planning officer gave a presentation on the application.

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

He made the following principal points:

- The Shirehall was the premier civic space in Hereford which was owned and maintained by Herefordshire Council.
- The circumstances surrounding the work that had been undertaken constituted an offence under the listed building act for which there were no extenuating circumstances.
- Following the collapse of the plaster in February 2019 the ceiling was removed without appropriate records kept. Works were carried out before an application was submitted.
- The heritage impact assessment statement submitted with the application was not felt to be adequate.
- The conservation officer considered the alterations of less than significant harm to the building however any work conducted without permission was still an offence.
- It had been requested that a small amount of the plasterwork be retained however the work undertaken prior to March 2019 had caused damage to the plaster which was not reversible. It was not possible to reinstate the lath and plaster ceilings.

- It was acknowledged that it was a difficult decision which the committee was required to take. The pragmatic approach would be to accept the issues that had occurred and approve the application; the Council had provided a report and explanation of why actions were undertaken following the collapse.

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

- The problems associated with the works to the building and the retrospective application had been ongoing for a long period of time.
- There was discomfort at the public perception of the application and the representations which referred to the actions taken as unlawful. It was queried whether an alternative process to determine the application could be undertaken.
- It was commented that planning enforcement would be stringent in sanctioning an individual if they had committed a similar breach.
- It was acknowledged that the council had encountered significant criticism for the actions it had undertaken and had learned lessons.

In response to questions the Lead Development Manager commented:

- The committee was not determining the application, it was agreeing its referral to the Secretary of State for determination with a minded to approve recommendation.

The local ward member was given the opportunity to close the debate. He commented that in future the highest standards for conservation must be upheld in Herefordshire and the national planning policy framework and core strategy must be used to protect heritage. It was also noted that Historic England had not advised but had deferred to the advice of the specialist conservation adviser.

Councillor David Summers proposed and Councillor Polly Andrews seconded a motion that the application is referred to the secretary of state in accordance with the printed recommendation. The motion was carried unanimously; 13 votes in favour.

RESOLVED: That subject to consideration of any additional comments that may be received that raise material planning considerations, that the Planning Committee resolve to approve the works proposed and that the application is referred to the Secretary of State for Digital, Culture, Media and Sport for determination subject to the conditions below and any other further conditions considered necessary

1. **CE7 - Standard Historic Building Conditions**
2. **C07 - Development in accordance with approved plans (WQAB-001 and the updated Statement of Heritage Impact received on 26 June 2019)**

31. **DATE OF NEXT MEETING**

The Committee noted the date of the next meeting on 16 October 2019.

Appendix - Schedule of Updates

The meeting ended at 12.45 pm

Chairperson

PLANNING COMMITTEE

Date: 18 September 2019

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

190438 - OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR THE ERECTION OF A SINGLE DWELLING. AT HOE FARM, MATHON ROAD, COLWALL, HEREFORDSHIRE,

For: Mr & Mrs Johnson per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG

ADDITIONAL REPRESENTATIONS

The applicant's agent has contacted the case officer to request some clarification of the Landscape Officer's comments with regard to the designation of Hoe Court as an unregistered park and garden. The section in question reads as follows:

- *There are also potentially limited views of the proposal from the Northern boundary of nearby Hoe Court Garden Un-Registered Park and Garden. Parks and Gardens are designated by English Heritage under the Historic Buildings and Ancient Monuments Act 1953 for their special historic interest.*

The applicant's agent has raised concern that the comments conflate registered and unregistered parks and gardens as unregistered parks and gardens are not designated under the Act.

OFFICER COMMENTS

The applicant's agent is correct that unregistered parks and gardens are not designated under the Act. They are local designations made by local authorities and not English Heritage.

Impact upon heritage assets is dealt with by paragraphs 6.17 to 6.25. Hoe Court is identified as the principle asset within the locality of the application site. Paragraph 6.25 concludes that the proposed development will have no demonstrable impact upon its setting. This includes its designation as an unregistered park and garden.

CHANGE TO RECOMMENDATION

No change to the recommendation

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	16 OCTOBER 2019
TITLE OF REPORT:	191288 - PROPOSED ERECTION OF FOUR DWELLINGS AND ASSOCIATED WORKS AT LAND AT OAKLAND'S Paddock, LANGSTONE LANE, LLANGARRON For: Mr & Mrs Farr per Mr Matt Tompkins, 10 Grenfell Road, Hereford, Herefordshire, HR1 2QR
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191288&search=191288
Reason Application submitted to Committee - Redirection	

Date Received: 9 April 2019

Ward: Llangarron

Grid Ref: 353068,221364

Expiry Date: 4 June 2019

Local Member: Councillor Elissa Swinglehurst

1. Site Description and Proposal

- 1.1 The application site, known as Oakland's Paddock, comprises a rectangular 0.78 hectare plot forming part of a larger field that extends to the west. The site occupies an elevated position to the west of Langstone Lane (U71211) and the roadside (eastern boundary) boundary is currently defined by a mature hedgerow sitting atop an embankment. Opposite this boundary is an existing dwelling (Little Trecilla) and there are permissions for a total of four new dwellings to the north and south of this property. The northern boundary is set in from the established boundary with Oaklands whilst to the south beyond a tree lined boundary is Trecilla House and The Coach House which are not listed but may be regarded as undesignated heritage assets. Further south and adjacent to the cross roads at the centre of Llangarron is the Grade I listed Church of St Deinst within which are numerous Grade II listed memorials.
- 1.2 Planning permission is sought for four detached dwellings (2no. 3 bed and 2 no. 4 bed units) that would each have a detached double garage. The 4 bed units (Plots 1 and 4) would have a ridge and eaves height of 7.4 metres and 4.7 metres respectively and would have a footprint of 16 metres by 6 metres. The 3 bed units (Plots 2 and 3) would have a ridge and eaves height of 6.7 metres and 3.7 metres respectively and a footprint of 13 metres by 6 metres.
- 1.3 The dwellings would be set back from the roadside boundary by between approximately 28 metres and 32 metres.
- 1.4 The layout proposed follows a linear form with Plots 1 and 4 presented at right angles to Langstone Lane and Plots 2 and 3 parallel. The external treatment of all the dwellings can be described as a contemporary barn with simple rectilinear footprints. Materials comprise natural slate, Siberian larch cladding and white render (aluminium doors and windows, galvanised aluminium guttering and downpipes are specified on the materials key together with solar PV panels on the garages).

Further information on the subject of this report is available from Mr Simon Withers on 01432 260612

- 1.5 A new access is proposed more or less in the middle of the Langstone Lane boundary and would entail the removal of approximately 31 metres of the roadside hedgerow. The private access road would be 3.5 metres wide and bounded by a tapered embankment that would be sown with a wildflower grass mix and defined on each side by new native species hedgerow and tree planting. This additional planting would extend to define the entire length of the new western boundary and the boundaries of the garden curtilages for the 4 plots.
- 1.6 The application is accompanied by a Design and Access/Planning Statement, a Transport Technical Note; a Preliminary Ecological Appraisal; a Flood and Drainage Strategy and a Sustainability Statement.

2. Policies

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

Herefordshire Local Plan Core Strategy (CS)

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA2	-	Herefordshire's Villages
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality

- 2.2 A Neighbourhood Area was designated on 6 December 2012 and a Regulation 14 draft plan was submitted on 6 February 2017. However this version of the Plan has not progressed and a resubmission and further consultation is awaited.

At this stage only limited weight can be afforded to the Plan but policies relating to housing delivery cannot be afforded any weight.

- 2.3 National Planning Policy Framework (NPPF)
- 2.4 National Planning Policy Guidance (NPPG)

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

3. Planning History

- 3.1 None relevant

4. Consultation Summary

Statutory Consultations

4.1 Historic England – No Objection

Thank you for your letter of 18 April 2019 regarding the above application for planning permission. We refer you to the following published advice which you may find helpful in determining the application.

The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3

We also suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

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.

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.

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.

Notwithstanding the above, your authority should be aware of a recent Ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of Cooperatie Mobilisation (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17).

The Cooperatie Mobilisation case relates to strategic approaches to dealing with nitrogen. It considers the approach to take when new plans/projects may adversely affect the ecological situation where a European site is already in 'unfavourable' conservation status, and it considers the acceptability of mitigating measures whose benefits are not certain at the time of that assessment.

Competent authorities undertaking HRA should be mindful of this case and should seek their own legal advice on the implications of these recent ruling for their decisions.

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

Internationally and nationally designated sites

The application site is within the catchment of the River Wye which is part of the River Wye Special Area of Conservation (SAC) which is a European designated site, and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'.

The SAC is notified at a national level as the River Wye Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have^ The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

European site - River Wye SAC - No objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

River Wye SSSI - No objection

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.

Internal Council Consultations

4.2 Transportation Manager – No Objection

The visibility splay will need to be maintained therefore the Wild flower grass mix will needs to be maintained also.

Whilst there will be an increase in vehicle movements the increase would not be classed as severe under the NPPF.

Please condition as follows.

- CAB Visibility Splays 38 x 2.4m
- CAD Access gates
- CAE Vehicular access construction
- CAH Driveway gradient
- CAI Parking – single/shared private drives
- CAJ Parking - Estates
- CAT Construction Management Plan
- CB2 Secure covered cycle parking provision

Informatives

- I11 Mud on highway
- I09 Private apparatus within the highway (Compliance with the New Roads and Streetworks Act 1991, the Traffic Management Act 2004 and the Highways Act 1980)
- I45 Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)
- I35 Highways Design Guide and Specification
- I47 Drainage other than via highway system
- I05 No drainage to discharge to highway

4.3 Neighbourhood Planning Manager

There has been no further update on the Llangarron NDP. My understanding is that a request has been made to publish the AECOM report on the parish council website but Herefordshire Council has not had specific sight of this.

There is limited weight afforded to the previous Reg14 NDP as the parish council are seeking to revise that plan and resubmit at Reg14 again. The AECOM report is a third party report produced for the parish council as evidence base for redrafting their NDP. It has not been read or endorsed by Herefordshire Council and the Parish Council are still querying some of its content so I would suggest that it's not a material consideration at this stage.

4.4 Conservation Manager (Heritage) – Qualified Comment

Recommendations:

We would not have an objection to the principle of development on the site; however we would be concerned about the difference in height of the site and setting of the non-designated former vicarage to the South.

Background to recommendations.

The site is adjacent to the former vicarage, a Victorian repurposing of an earlier building. This building is set within its own grounds and is on the edge of the settlement of Llangarron. There is a difference in height between the land of the former vicarage and the site which would affect the views from and to the property. There is no statutory protection of the setting of heritage assets which are not designated, however there is limited protection within the revised NPPF.

We would ask if the site section could include the difference in level to the South towards Trecilla House, and whether the site layout would allow for a revised layout by having the access road at the highest point, towards the north of the site. Re-orientating all properties to run East-West could also be considered, staggering them to allow response to differences in height and avoiding too uniform an appearance.

Some distance away is the Church of St Dienst, an unusual dedication for a church. The church is listed; however it is not felt that the proposed development would impact upon the appreciation of the importance or understanding of the building.

4.5 Conservation Manager (Landscapes) – No Objection

Thank you for sending through the sectional drawing with clarification of heights, I do not consider the proposals will impact on the visual amenity of Trecilla House and whilst I note the built form will be just over 4m higher than that on the lower side of Langstone Lane I am not convinced that the visual impact is of a significant nature I am therefore content the proposal complies with policy.

4.6 Conservation Manager (Ecology) – No Objection

The site falls within the River Wye SAC catchment and so identified by the Ipa this application triggers the requirement for a Habitat Regulations Assessment. Subject to Natural England formally 'approving' the appropriate assessment submitted to them by this LPA a condition to secure the mitigation is required on any planning consent granted.

Habitat Regulations (River Wye SAC) – Foul and Surface Water Management

All foul water shall discharge through connection to new plot specific private foul water treatment systems with final outfall to suitable soakaway drainage field on land within each plot; and all surface water shall discharge to appropriate soakaway systems; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2018), National Planning Policy Framework (2019), NERC Act (2006), and Herefordshire Core Strategy (2015) policies LD2, SD3 and SD4.

The supplied ecology report is noted and appears appropriate and relevant based on all the available information. The recommendations and proposed biodiversity net gain enhancements should be secured through condition on any planning consent issued.

Nature Conservation – Ecology Protection, Mitigation and Biodiversity Net Gain

The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity net gain enhancements, as recommended in the ecology report by AVA Ecology dated February 2019 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation or any biodiversity net gain enhancement features.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2018 (as amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006.

4.7 Land Drainage – No Objection

Surface Water Drainage

We suggested the use of concrete soakaways would provide better integrity to the soakaways beneath trafficked areas; however the Applicant is opting for the use of granular soakaways for both the private soakaways and the soakaways beneath the access road. We do request that the safety factor for the private soakaways is amended to 2 (as opposed to 1.5).

A maintenance schedule has been provided. The shared drainage features will be under the responsibility of a management company (and this will be written into the deeds of the properties). The private drainage assets will be under the responsibility of the respective homeowner(s). The Drainage Layout plan should reflect the ownership of the respective drainage components.

Foul Water Drainage

The percolation testing evidence has now been provided (including log sheets, photography and calculations). This has demonstrated that the drainage fields have been sized appropriately. We previously stated: *A slip trench should be excavated in the vicinity of the drainage field serving plot 3 to establish the soil type lower than 2m below ground level. There is a risk that there is an impermeable layer below the proposed level of the access road. As the access road is in a cutting of approx. 2m, there is a risk that effluent will emerge onto the access road.*

The Applicant has stated that a slip trench is not necessary as it is shown that the land will drain appropriately. We appreciate this now that we have had sight of the percolation testing results.

Overall Comment

A detailed foul drainage strategy has now been provided.

We do not object to the proposed development.

The Applicant has provided a draft maintenance schedule which demonstrates the adoption and maintenance arrangements for the surface water drainage system. We appreciate that detailed adoption and maintenance arrangements will be provided (in particular for the communal access road) as part of suitably worded conditions.

5. Representations

5.1 Llangarron Parish Council

Llangarron Parish Council considered the above re-consultation at a meeting on 9th September and resolved to object on the grounds of:

1. Continuing concerns about road safety along the lane.
2. Visual impact of the street scape not being in keeping with the surrounding area.
3. The height of the buildings.

5.2 Representations

A total of 39 letters of objection were received in response to the original consultation exercise. A number of these included follow up comments from those that had already commented. A total of 12 letters of support have been received

The objections can be summarised as follows:

- No requirement for further housing in the village. Llangarron has already provided 61 of its 65 house requirement with a further 5 dwellings in the pipeline
- Unacceptable and unjustified loss of good quality agricultural land - would be better utilised for arable production of livestock grazing
- Soakaways inadequate and will exacerbate existing surface water flooding issues on Langstone Lane
- Highway safety concerns regarding increase in speeding traffic on narrow lanes with no passing places
- No footpaths and increased danger to pedestrians, school children, cyclists and horse riders
- 2 crashes with substantial damage to cars and 2 incidents where children traumatised by near misses from speeding cars
- Cumulative impact of further traffic will result in severe highway safety issues on this section of Langstone Lane
- Ecology Survey makes no reference to bats in nearby Church

- Use of timber cladding/Siberian larch is completely alien to local vernacular
- Design and the settings of the buildings proposed for this site are completely inappropriate with gardens to the rear of the properties, no mix of house types and a large and totally inappropriate 'estate road' serving the proposed development, completely out of character with the area and which would appear to have been designed in order to serve a substantial number of buildings
- Greater need for smaller affordable 2 bed homes
- If approved, applicant should be required to contribute to road widening/providing passing places
- There are no amenities in Llangarron (no shop, pub and limited bus service)
- Increased risk of pollution/damage to the environment (especially the Garron Brook)
- Setting and character of the village will be significantly harmed by overdevelopment of the site, elevated position of dwellings and loss of important frontage hedgerow
- Determination of application should be delayed pending further consultation on the NDP
- Traffic survey does not account for the additional traffic generated from the 3 dwellings using the access from Trecilla Court
- Access opposite an existing driveway would create a traffic hazard
- Detrimental impact upon setting of listed and unlisted heritage assets
- Cumulative impact when considered with the other dwellings allowed on Langstone Lane does not represent small scale organic growth
- Elevated position of dwellings and loss of hedgerow will impact upon privacy of Little Trecilla
- Additional traffic will exacerbate problems due to lack of parking at Church, Garren Centre and village hall
- Site is visible from surrounding roads
- Loss of hedgerow detrimental to character of village
- New houses should be built on brownfield sites
- Consideration should be given to providing a pedestrian link through site to the other application site currently under consideration
- Drainage tests should be provided prior to granting permission to ensure infiltration is viable solution for treated effluent
- New dwellings will be more visible than depicted
- Application should be accompanied by a Landscape Statement and Assessment

The supporting comments can be summarised as follows:

- Proposal represents good infill
- Village has lost facilities such as shop, pub and school through limited development
- Site is well related to the remaining services at village hall, Garren Centre and Church
- Support for this sensitivity of design and limited impact of single access which minimises loss of hedgerow
- Development will not exacerbate existing flooding issues
- Plot sizes generous, set well back and well screened from road
- Will attract new families and bring vitality to the area
- Road network is no different to many single track lanes in rural areas
- The field is difficult to access by modern farm machinery and would be more suited to redevelopment
- Site is not visible from many houses or from roads around the village
- Proposal provides a balance between sensitivity to the landscape and incorporating modern design
- I have walked the lanes as a pregnant and new mother and barely encountered any vehicles
- Well designed, small scale development is what builds sustainable rural communities

A further 3 letters of objection have been received following re-consultation (reduced width of access road). The further comments are summarised as follows:

- Splay remains opposite by garden gate
- There is no change to my concerns about highway safety
- Development will cause significant disruption during construction and when finished with constant traffic movements, light and loss of privacy
- Areas of concerns previously highlighted still stand

A further letter of support has been received summarised as follows:

- Unquestionable need for good housing within both our county and our Llangarron Parish
- Providing applications are located well and not intrusive it is our duty to support them
- Additional traffic movements often cited by objectors will be tiny from such a small development
- No evidence that I can find to support objections that this will cause flooding
- Small and excellent development which will enhance this village and bring in new people who will in turn contribute to the community. The location is excellent as it is within walking distance of the Village Hall, The Garron Centre and the Church.
- Village communities need more of this type of development of up to four houses and not small estates that take away from the character of villages
- The design and landscaping shows concern and respect for the environment

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=191288&search=191288

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). It is also noted that the site falls within the Llangarron Neighbourhood Area. Llangarron Parish Council had submitted a draft Neighbourhood Development Plan (LNDP) to Herefordshire Council on 6 February 2017. The consultation in relation to this document ran from 6 February to 20 March 2017. However, at this stage the Parish Council is revising the plan and it is likely to undergo another Regulation 14 consultation process. At this stage, with regards to paragraph 48 of the NPPF, only limited weight can be attributed to the LNDP.

6.3 The National Planning Policy Framework is also a significant material consideration.

6.4 Policy SS1 of the Herefordshire Local Plan Core Strategy (CS) sets out that proposals will be considered in the context of the 'presumption in favour of sustainable development' which is at the heart of national guidance contained within the NPPF. The policy states:

'When considering development proposals Herefordshire Council will take a positive approach that reflects the presumption in favour of sustainable development contained within national policy. It will always work proactively to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the social, economic and environmental conditions in Herefordshire.

Planning applications that accord with the policies in this Core Strategy (and, where relevant, with policies in other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or the relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking account whether:

- a) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in national policy taken as a whole; or*
- b) specific elements of national policy indicate that development should be restricted.'*

- 6.5 At this moment in time, the Council is unable to demonstrate a five year housing land supply. It is therefore acknowledged policies relating to the supply of housing are out of date, as identified within Paragraph 11d of the Framework. Paragraph 11d effectively echoes the approach set out in CS Policy SS1.
- 6.6 In the context of the above, the overall assessment is whether the proposal represents sustainable development, taking account of its three dimensions (social, economic and environmental). In order to assess this reference should be paid to the NPPF as a whole.
- 6.7 In locational terms, the NPPF seeks to restrict development in isolated locations (Paragraph 79) but acknowledges that in rural locations it may be the case that development in one village supports the services in another nearby.
- 6.8 The CS recognises that proportionate growth is required in rural areas for social and economic purposes. It is with this in mind that the proposal is assessed under CS policies alongside the NPPF, notwithstanding the 'out of date' nature of the housing policies.
- 6.9 Policies SS2 (Delivering new homes) and SS3 (Releasing land for residential development) of the CS clearly set out the need to ensure sufficient housing land delivery across the County. In order to meet the targets of the CS the Council will need to continue to support housing growth by granting planning permissions where developments meet with the policies of the CS, and, where relevant, with policies in other Development Plan Documents and Neighbourhood Development Plans. Policy SS2 states that a supply of deliverable and developable land will be identified to secure the delivery of a minimum of 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. 6,500 of these will be in Hereford, where it is recognised that there is a wide range of services and consequently it is the main focus for development.
- 6.10 Outside of Hereford City, and the market towns, CS Policy RA1 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). Llangarron is within the Ross-on-Wye HMA, which is earmarked for an indicative 14% housing growth and is listed in Figure 4.14 as a settlement which will be the main focus of proportionate housing development. This percentage increase translates to 1150 new dwellings over the plan period. In terms of the Llangarron Neighbourhood Area it must be acknowledged that it has performed well in relation to its proportionate target of 64 dwellings during the Plan period. Indeed based upon the latest published figure from April 2019 there have been 27 new dwellings built and there are 44

commitments, an exceedance of 7 dwellings. However it must also be acknowledged that the target represents a minimum growth expectation and that presently, proposals must be considered in light of the inclusion of Llangarron as a settlement where proportionate growth is appropriate and the tilted balance in favour of sustainable development as directed by the NPPF.

- 6.11 The above sets out the overarching strategic objectives. An assessment will now be undertaken in respect of the proposed site. It is understood that the emerging Neighbourhood Development Plan has identified a settlement boundary but at this stage it has not been established what its extent will be. It is understood that this site is amongst those that are under consideration but at this stage it is simply not possible to have regard to what may emerge from the ongoing local consultation process. In the context of the Council's published inability to demonstrate the required delivery of housing, there is a presumption in favour of sustainable development and great weight must be afforded to CS Policy RA2. It states:

'To maintain and strengthen locally sustainable communities across the rural parts of Herefordshire, sustainable housing growth will be supported in or adjacent to those settlements identified in Figures 4.14 and 4.15. This will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the community concerned.'

'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.'

- 6.12 Policy RA2 goes onto outline that 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 Figure 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 development 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 a particular settlement, reflecting local demand.

- 6.13 Policy RA2 also outlines Neighbourhood Development Plans will allocate new housing or otherwise demonstrate delivery to provide levels of housing. As stated above, the Llangarron NDP can only be afforded limited weight at the present time. With this in mind, it is necessary to consider the proposal in the context of Policy RA2 and the provisions set out in points 1 to 4 above.

- 6.14 Officers are acutely aware of the progression of the LNDP process and recognise that many objection letters refer to its relevance. In this context, there is no desire to undermine this process, however, whilst the LNDP in its original form has reached Regulation 14, the further work being carried out on the document, with regard to defining settlement boundaries has not been published, and as such the Neighbourhood Development Manager has opined that whilst

limited weight can be given to the original Regulation 14 version, the AECOM report which has been prepared by consultants working for the Parish Council is not a material consideration as it has not been shared with Herefordshire Council. In this context and in common with the CS, the ongoing inability of the Council to demonstrate the required 5 year housing land supply, renders the settlement strategy related policies out of date and as such, Members are advised that it is the requirements of CS policy RA2 that carry the most significant weight.

- 6.15 Both the policy and pre-amble accompanying RA2 specify the need for the site to be located within or adjacent to the main built up area. The application site is located at the northern edge of the village, positioned between Trecilla Court and its associated buildings and a property known as Oaklands and opposite Little Trecilla. In addition to the relationship to existing properties, there are a number of recently approved dwellings under construction on the east side of Langstone Lane and in close proximity. In locational terms, it is considered that the application site is well related to the existing built form and the linear layout responds to the form of the village and is within ready walking distance of the village hall, Church and the Garren Centre which are the only community facilities currently available. Having regard to these characteristics and the lack of any local policy that can be afforded more weight, it is maintained that the broad principle of residential development can be supported and that the acceptability or otherwise of the proposal must be considered on the basis of the tilted balance described by the NPPF.

Landscape and townscape

- 6.16 CS policy LD1 requires new development to achieve the following:
- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
 - Conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management.
- 6.17 CS policy SD1, amongst other criteria, requires development proposals to incorporate the following requirements:
- Ensure that proposals make efficient use of land – taking into account the local context and site characteristics;
 - New buildings should be designed to maintain local distinctiveness.
- 6.18 Officers have reviewed the content of emerging LNDP Policies SUS1, ENV1 and ENV2 and consider them to be broadly consistent with the objectives of the CS policies referred to above and as such limited weight is attached to these policies.
- 6.19 The application site extends to some 0.78 hectares and forms part of a field owned by the applicant. It has a significant road frontage to Langstone Lane that extends to some 117 metres which is defined by a mature hedgerow that is recognised to make a positive contribution to the rural character at the edge of the village. Opposite the application site the character is far more residential in character with existing and newly permitted dwellings under construction. Beyond the application site to the north is an established vegetated boundary with Oaklands, the garden of which relates visually with the village hall. The western boundary is currently undefined since it forms part of a larger field. The application proposes the planting of a new native species hedgerow (and 12 native species trees) along this boundary. The southern boundary is defined by an established row of mature trees beyond which lies the private driveway serving Trecilla Court, The Coach House and The Granary. The site, is undoubtedly elevated but it is still considered to be relatively inconspicuous in its current form in both the wider landscape

and immediate vicinity of the site with the roadside hedge preventing views of the site from Langstone Lane and allowing only limited glimpses possible from public vantage points to the west of the site (PROW LG3 adjacent to Herberts Hill).

- 6.20 The proposal would entail the formation of a new access to the site which would require the removal of approximately 31 metres of the well established hedgerow along the Langstone Lane frontage and the groundworks required to form the driveway/embankment and level plots will undoubtedly have a significant localised impact when viewed from Langstone Lane in the immediate vicinity of the site. For example, by reference to the Site Section, the floor level of Plot 3 will be approximately 3.5 metres above the road level of Langstone Lane and its roof height some 4.3 metres higher than Little Trecilla. However it is considered that in the wider landscape, the impacts will not be significant since the combination of the retained hedgerow and the set back nature of the plots (some 28 -30 metres back from the roadside) would largely mitigate the visual impact when viewed from further afield. Furthermore in views from the public footpath to the north and west, the proposed development would be seen in conjunction with existing residential development either side and beyond the application site. It is recognised that there will be changes in the outlook from Little Trecilla, Trecilla Court and The Coach House resulting from the development but with due respect to those opposing views expressed by the Parish Council and objectors, it is considered that the visual impact will not be at a significant level and the low density, essentially linear characteristics of the settlement are preserved. In combination with the commitment to substantial native tree and hedgerow planting along the new boundary; adjacent to the driveway (which includes wildflower/meadow planting on the embankments) and between the plots and having regard to the comments from the Conservation Manager (Landscapes), it is considered that the proposal demonstrates that the landscape and townscape context has positively influenced the layout in a manner consistent with the aims of CS policies LD1 and SD1 (and to the extent reasonable at this stage in proceedings, LNDP policies SUS1, ENV1 and ENV2)

Design and amenity

- 6.21 The detailed design of the dwellings is assessed by reference to CS policy SD1 (and to a limited extent by LNDP policies ENV1 and ENV2). In essence these policies state 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.
- 6.22 The proposed dwellings have the same simple rectilinear format and have been designed with a contemporary agricultural building aesthetic. The distinct reservations of many objectors as to the suitability of this design approach are noted and whilst there are potentially alternative solutions, the approach adopted is considered to respond to the agricultural context that prevails at the edge of the village and since the village does comprise a wide range of architectural styles, it is not considered necessary to incorporate these in order to successfully integrate the development, particularly given the somewhat discrete nature of the site. Given that views of the development are considered to be localised and recognising that the elevated nature of the site will make the roofs more visible in the wider landscape, the choice of natural slate will provide a material that does complement the locality whilst the more individual use of timber cladding will provide both a relevance to the agricultural context and contrast with more established historic properties.
- 6.23 Officers have considered the potential for a more traditional cottage style development, set closer to Langstone Lane, which in some ways would respond to the settlement pattern on the other side of the road. However, this would likely require the provision of individual access points (or at least more than one as proposed); potentially more loss of hedgerow, and a likely greater impact upon the amenity of existing residents. In contrast, having regard to the looser grain of development on this side of the road, the layout is considered to provide a transition between the more set back siting of Trecilla Court and Oaklands which is set slightly further forward.

Further information on the subject of this report is available from Mr Simon Withers on 01432 260612

- 6.24 As such, it is considered that the design approach which is both criticised and complimented in the consultation responses summarised above is not considered to result in a form of development that would by reason of design adversely affect the character and setting of Llangarron.
- 6.25 With regard to residential amenity impacts, the existing dwellings potentially affected by the proposal are Little Trecilla, Trecilla Court, The Coach House and Oaklands. Taking these in turn, Little Trecilla is considered to be the most affected property. However the nearest proposed dwelling (Plot 2) would be approximately 36 metres distant from the front elevation of this property, which even having regard for its elevated position would not result in any harmful loss of privacy, even without reference to the retained roadside hedgerow. It is recognised that the comings and goings of vehicles would have an effect on the current outlook and level of activity in Langstone Lane and that the headlights of cars leaving the site at night would in combination have some effect upon the living conditions of its occupiers. However this is not considered to be sufficiently impactful to warrant refusal. Trecilla Court and The Coach House would be some 58 metres and 38 metres distant respectively from Plot 1 and screened by existing boundary planting such that there would be no discernible impact upon living conditions, despite the change in levels. With regard to Oaklands, this would be more elevated and again with Plot 4 being set in from the common boundary by some 25 metres the presence of the new dwellings will not impose unacceptably on residential amenity.
- 6.26 Accordingly whilst recognising that the impact of the development will be felt by those living in the immediate locality it is not considered that there would be harm to living conditions warranting the refusal of permission. A Construction Management Plan and restriction on working hours would minimise impacts during construction.
- 6.27 CS policy SD1 also encourages the incorporation of on site renewable energy generation linking to policy SS7 which seeks to mitigate the impact on climate change. The application has been accompanied by a Sustainability Statement which refers to 4 specific commitments:
- *Sustainable Materials – construction materials will be locally sourced, including natural timber. Advantages include fewer “construction miles” and less energy expended in the conversion of raw materials into construction products as with the stock globalized materials common in many housing developments.*
 - *Energy Efficient Building Envelope: The building envelope is anticipated to achieve the following elemental U-Values, which are greater than those specified in the Building Regulations:*
 - *Roof 0.12 W/m2K*
 - *Walls 0.15 W/m2K*
 - *Floors 0.12 W/m2K.*
 - *Renewable Energy: Solar panels will be used on the roofs to provide hot water to each dwelling. Air Source Heat Pumps will be provided for each new dwelling, to provide power for heating the individual properties.*
 - *Landscaping: A considerable amount of trees will be planted around the site, to increase bio-diversity and improve the absorption of carbon dioxide.*
- 6.28 In the absence of any more specific local policy, it is considered that these commitments represent a positive response to the aim to move towards reducing carbon emissions as part of the overall commitment to address the effects of climate change.

Heritage Impacts

- 6.29 Llangarron does not have a Conservation Area but is characterised by a number of historic buildings focussed upon the centre of the village (around the crossroads) that have both designated and undesignated heritage status. In this regard Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty to have special regard for preserving the character and setting of listed buildings. A duty which is enshrined in CS policy LD4 (and to a limited extent LNDP policy ENV2) which requires development proposals to protect, conserve and where possible enhance heritage assets. Trecilla Court and The Coach House are closest to the proposed development and fall into the category of undesignated assets. As such these are not afforded statutory protection but the impact of the proposed development has been fully assessed in the context of CS policy LD4 and the heritage impact assessment prescribed at paragraph 193-197 of the NPPF.
- 6.30 It is not considered that the existing field upon which this development is located is an intrinsic part of the setting of either Trecilla Court or The Coach House. A view which is reached having regard to the lack of any publicly appreciated views of the site in the context of these properties, the relative distance, change in site levels and intervening mature tree planting. As such whilst appreciating the views of those who do not share this assessment, the proposal is considered to conserve the setting of these nearby undesignated assets. I have considered the views of the Conservation Manager (Heritage) and whilst similarly respecting his view that a different approach to the layout might reduce any perceived impacts upon setting, it is noted that he has not formally objected to the proposal in terms of the effect upon Trecilla Court and The Coach House.
- 6.31 At greater distance from the site is the Grade I listed Church of St Deinst, the many Grade II listed memorials within its curtilage and Box Bush Cottage. Having regard to their higher status, an assessment has been made as to the impact on their settings. By reason of the relative distance to these designated assets and the intervening built form (both existing and permitted), there is not considered to be any adverse impact on these important buildings
- 6.32 Accordingly, having considered that there would be no harm to the setting of either designated or undesignated heritage assets, it is considered that the statutory duty of the decision-maker would be fulfilled should permission be granted and that there would be no requirement to assess the public benefits of the proposed development in the context of its impact of heritage assets. In this regard CS policy LD4 (and emerging LNDP policy ENV2) is satisfied.

Access and parking

- 6.33 Policy MT1 of the CS and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.
- 6.34 The proposed development would be accessed via a new access with visibility improvements secured through the removal of some 31 metres of hedgerow. It is recognised that one of the main concerns raised in local responses to the application relate to the suitability of the local road network in terms of its narrowness; the speed of vehicles using Langstone Lane; its use by school children, pedestrians, cyclists and horse riders; and pinch points associated with on street parking at times when the Church/Garren Centre and village hall are in use. With regard to the cumulative highways impacts as a result of the proposed development, the Transportation Manager has considered the Technical Highways Note (and associated ATC data) and concluded that the addition of 4 new dwellings would not result in highways impacts that would be classed as severe. The double garage and other hardstanding proposed more than meets the requirements of the Council's Highways Design Guide.

Further information on the subject of this report is available from Mr Simon Withers on 01432 260612

- 6.35 In light of the above, and the lack of objection to the scheme from the Council's Transportation Manager, the proposal is found to be compliant with the aims of policy MT1.

Ecology

- 6.36 CS Policies LD2 and LD3 are applicable (as is LNDP policy ENV1 to a limited extent) in relation to ecology and the impact on existing hedgerow and identified biodiversity value. 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.
- 6.37 The application has been supported by a Preliminary Ecological Appraisal which has been viewed by the Council's Ecologist. The range of protective measures proposed and the mitigation measures proposed to minimise the risks associated with the proposed development are considered appropriate and subject to conditions recommended by the Council's Ecologist being attached to any approval, the scheme will accord with policies LD2 and LD3.

Drainage

- 6.38 CS Policy SD3 (and LNDP policy ENV3 albeit limited in weight at this stage) states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk and avoid an adverse impact on water quality. 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).
- 6.39 In this case, a Flood Risk and Drainage Statement has been provided. This proposes that surface water will be drained to plot specific soakaways installed in the gardens of each proposed dwelling. The associated porosity testing has been scrutinised by the Council's drainage consultant who has raised no objection subject to conditions in relation to future maintenance arrangements. The Statement demonstrates that the hierarchical approach required has been carried out and for reasons underpinned by the porosity testing and the space available within each plot individual Package Treatment Plants with secondary drainage fields can also be accommodated within each of the individual plots. Similarly the views of the Council's drainage consultant have been considered and, subject to a condition, there is no technical objection to this proposal on flooding or drainage grounds.
- 6.40 The development has been the subject of an Appropriate Assessment under the Habitat Regulations and Natural England has raised no objection subject to the condition recommended by the Council's Ecologist.
- 6.41 The strategy conforms with CS policies SD3 and SD4 and will have no unmitigated effects upon the River Wye Special Area of Conservation/Site of Special Scientific Interest in accordance with CS policy LD2.

Loss of Agricultural Land

- 6.42 A number of concerned residents have referred to the negative implications resulting from the loss of agricultural land. It is recognised within NPPF guidance and CS policy SS7 that the best agricultural land should be protected for both its intrinsic character and beauty and for its associated economic value. In this instance it has been established that the site lies within an area defined as either Very Good or Good to Moderate (Agricultural Land Classification) – the mapping does not provide sufficient clarity to be definitive in this respect. For the purposes of

this assessment it has been assumed that the land is classified as Very Good. The best agricultural land would be classified as Excellent by reference to the scale of quality which runs from Excellent, Very Good, Good to Moderate, Poor and Very Poor. It is recognised that the land does have value in terms of its rural character and economic contribution, but the proposal does relate to only part of the wider field which would be retained in agricultural use and would continue to be accessed from the west. It is difficult to make a direct comparison between the terminology used in the CS and NPPF which refer to the protection of the “best” and “most versatile” land and that used on the Agricultural Land Classification which suggests that the site is either Very Good or Good to Moderate but it is considered that the limited loss will not result in significant economic dis-benefits and that this would be outweighed in this context for the economic and social benefits associated with residential development set out below.

- 6.43 Similarly, the loss of this agricultural land in terms of its contribution to the character of the village, has been assessed in the Landscape and Townscape section above which concludes that the site can accommodate new development within significant harm.

Planning balance and conclusions

- 6.44 Both CS policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan. The NPPF encompasses the government’s view of what is meant by sustainable development in practice. The three themes, economic, environmental and social should be pursued jointly and simultaneously.

- 6.45 The application is for housing and in the light of the housing land supply deficit must be considered against the test prescribed at NPPF paragraph 11 and CS Policy SS1. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF when considered as a whole.

- 6.46 In assessing the three elements of sustainability:

Economic

- 6.47 Economic benefits would be derived from the construction of 4 dwellings and associated infrastructure through both the supplies and employment of the required trades. After completion the occupiers would contribute some disposable income to the local economy and Council Tax revenue and New Homes Bonus would accrue. The impact of 4 new dwellings as proposed would result in modest benefits and this is considered to outweigh any limited economic losses in terms of agricultural production

Social

- 6.48 The provision of housing, in the context of a shortfall, would contribute to the supply of housing and the social needs of the county. In addition occupiers could contribute to village life at the village hall, Church and Garren Centre, as well as potentially supporting other facilities in other villages in the locality (the primary school and public house at Llangrove for example). It is recognised this could help to provide the critical mass of population to sustain them and 4 new dwellings would make a modest contribution in this regard.

Environmental

- 6.49 The site is immediately adjacent to the main built up area of the settlement and as such is considered to be locationally sustainable. In landscape terms, the site is not in a protected landscape nor is it subject of any site specific heritage designations, although the setting of designated and undesignated heritage assets has been assessed. Whilst it is recognised that there is significant opposition to the impact of the proposed development upon the character of

Further information on the subject of this report is available from Mr Simon Withers on 01432 260612

the village, there is also support and it is considered, on balance, that the well screened nature of the site mitigates the visual impact and whilst officers do not consider there to be harm in this instance, were this to be identified, it would not be adverse nor is it considered that it would outweigh the NPPF presumption in favour of development. The Sustainability Statement also makes clear commitments in relation to addressing climate change.

- 6.50 Having undertaken an overall assessment of the proposal in light of its economic, social and environmental impacts as required by the NPPF, it is considered any economic and social benefits would be modest. The environmental impacts are limited for the reasons set out above and lead officers to conclude that the proposal is representative of sustainable development and approval is therefore recommended.

RECOMMENDATION

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:

- 1. C01 - Time limit for commencement (full permission)**
- 2. C06 - Development in accordance with the approved plans (drawing nos. P2.003 Rev C, 010 Rev C, 020 Rev B, 100 Rev B, 101 Rev A, 102 Rev A, 103 Rev A, 1396 C06, Rev B, the Sustainability Statement PF 301, the Flood Risk and Drainage Statement March 2019 (as qualified by the email sent 23 May 2019) and the Preliminary Ecological Appraisal dated 21 February 2019)**
- 3. C13 - Samples of external materials**
- 4. C65 - Removal of permitted development rights (Class E)**
- 5. CK3 - Landscape Scheme**
- 6. CK4 – Implementation**
- 7. CAB - Visibility Splays 38 x 2.4m**
- 8. CAD - Access gates**
- 9. CAE - Vehicular access construction**
- 10. CAH - Driveway gradient**
- 11. CAI - Parking – single/shared private drives**
- 12. CAJ - Parking - Estates**
- 13. CAT - Construction Management Plan**
- 14. CB2 - Secure covered cycle parking provision**
- 15. CBK - Restriction of hours during construction**
- 16. Prior to the occupation of any of the dwellings hereby approved an Adoption and Maintenance Schedule relating to the future maintenance of the approved foul and surface water drainage arrangement shown on Drawing No. 1396 C06, Rev B shall be submitted to and approved in writing by the local planning authority. The maintenance of the drainage system shall be carried out in accordance with the approved details thereafter
Reason: To prevent pollution of the water environment and to comply with Policy**

Further information on the subject of this report is available from Mr Simon Withers on 01432 260612

SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

17. CCK - Details of slab levels

18. All foul water shall discharge through connection to new plot specific private foul water treatment systems with final outfall to suitable soakaway drainage field on land within each plot; and all surface water shall discharge to appropriate soakaway systems; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2018), National Planning Policy Framework, NERC Act (2006), and Herefordshire Local Plan Core Strategy policies LD2, SD3 and SD4.

19. The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity net gain enhancements, as recommended in the ecology report by AVA Ecology dated February 2019 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation or any biodiversity net gain enhancement features.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2018 (as amended), Policy LD2 of the Herefordshire Local Plan Core Strategy, National Planning Policy Framework and NERC Act 2006.

20. CE6 - Efficient use of water

INFORMATIVES:

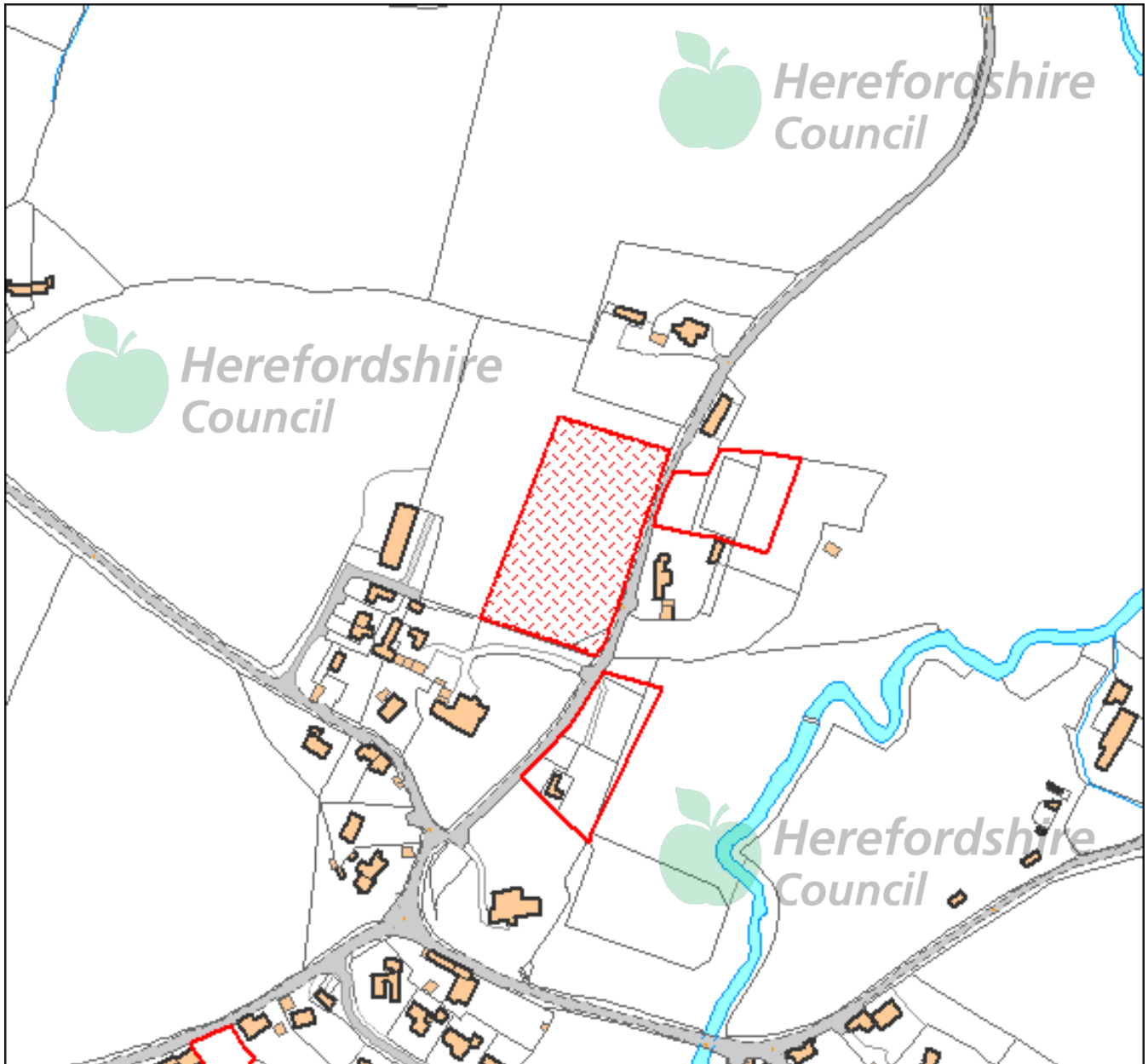
- 1. IP2 - Application Approved Following Revisions**
- 2. I11 - Mud on highway**
- 3. I09 - Private apparatus within the highway (Compliance with the New Roads and Streetworks Act 1991, the Traffic Management Act 2004 and the Highways Act 1980)**
- 4. I45 - Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)**
- 5. I35 - Highways Design Guide and Specification**
- 6. I47 - Drainage other than via highway system**
- 7. I05 - No drainage to discharge to highway**

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 191288

SITE ADDRESS : LAND AT OAKLAND'S PADDOCK, LANGSTONE LANE, LLANGARRON

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	16 OCTOBER 2019
TITLE OF REPORT:	<p>191330 - ERECTION OF A SINGLE STOREY RESIDENTIAL DWELLING (C3) WITH GARAGE, PRIVATE DRIVEWAY AND CREATION OF NEW ACCESS INTO THE HIGHWAY AT LAND TO THE NORTH WEST OF IVY COTTAGE, GARWAY COMMON, GARWAY.</p> <p>For: Mr Collinson per Mr Stuart Leaver, Singleton Court Business Park, Monmouth, NP25 5JA</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191330&search=191330
Reason Application submitted to Committee - Redirection	

Date Received: 12 April 2019
Expiry Date: 7 June 2019

Ward: Birch

Grid Ref: 346655,222779

Local Member: Councillor Toni Fagan

1. Site Description and Proposal

- 1.1 The site comprises a roughly rectangular plot which is part of the garden curtilage of Ivy Cottage which is located to the east. To the north and east is a construction site which is being developed for 8 dwellings pursuant to Application P173224/F (same applicant). To the south are two existing properties The Cottage and Lilac Cottage and to the west beyond the established field boundaries is agricultural land.
- 1.2 The village is characterised by its linear form, orientated east to west and stretched out along C1239, occupying an elevated position set within the surrounding common and agricultural land and providing an attractive rural setting. Garway Common is a designated Special Wildlife Site.
- 1.3 The site itself is served by an unclassified road (U71413) which links Garway to Garway Hill and St Weonards to the north.
- 1.4 Planning permission is sought for the construction of a single storey detached dwelling in the northern part of the plot together with a detached double garage in the southern section. These would be served by a new access between Ivy Cottage and the approved development for the 8 dwellings under construction.
- 1.5 The 3 bed dwelling has an H-shaped layout and would have a ridge and eaves height of 5.7 metres and 2.4 metres respectively. The materials proposed are a combination of render and local stone under a slate roof for the dwelling with timber cladding and slate proposed for the garage.

Further information on the subject of this report is available from Mr Simon Withers on 01432 260612

- 1.6 For the purposes of foul drainage, the application proposes connecting to an existing septic tank and soakaway field serving Ivy Cottage with surface water directed to a soakaway on the neighbouring development site.
- 1.7 The application is accompanied by a Planning, Design and Access Statement, Transport Statement (with associated ATC survey), an Ecological Impact Assessment (with associated Protection and Enhancement Plan) and a drainage strategy. More recently a Sustainability Statement has been submitted.

2. Policies

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

Herefordshire Local Plan Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA2	-	Herefordshire's Villages
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality

- 2.2 A Neighbourhood Area was designated on 22 November 2012 and a Regulation 14 draft plan was submitted on 18 January 2019.

The consultation ran from 23 January to 6 March 2019 and it is considered that the plan can be afforded limited weight in decision making at this stage

The following sections are considered to be particularly relevant to the application

GAR1	-	New Housing Development in Garway Village and Broad Oak
GAR2	-	Design in Garway Parish
GAR3	-	Flooding and Drainage
GAR4	-	Protecting Local Landscape Character
GAR5	-	Dark Skies
GAR10	-	Highways and Transport

- 2.3 National Planning Policy Framework (NPPF)

Achieving Sustainable Development
 Delivering Sufficient Supply of Housing
 Making Effective Use of Land
 Achieving Well Designed Places
 Meeting the Challenge of Climate Change, Flooding and Coastal Change

Conserving and Enhancing the Natural Environment

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

https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

3. Planning History

- 3.1 None relevant although reference is made to P173224/F a development of 8 dwellings associated garages, parking, roads, highways access and associated infrastructure approved on 11 April 2018 which adjoins the site.

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water

As the applicant intends utilising a private treatment works we would advise that the applicant contacts 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.

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

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.

Notwithstanding the above, your authority should be aware of a recent Ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of Coöperatie Mobilisation (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17).

The Coöperatie Mobilisation case relates to strategic approaches to dealing with nitrogen. It considers the approach to take when new plans/projects may adversely affect the ecological situation where a European site is already in 'unfavourable' conservation status, and it considers the acceptability of mitigating measures whose benefits are not certain at the time of that assessment.

Competent authorities undertaking HRA should be mindful of this case and should seek their own legal advice on the implications of these recent ruling for their decisions.

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

The SAC is notified at a national level as the River Wye Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have¹. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

European site - River Wye SAC - No objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

River Wye SSSI – No objection

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.

Internal Council Consultations

4.3 Transportation Manager – No Objection

Whilst the site will increase the number of vehicles using the U71413, the increase would not be classed as severe.

Vehicle crossing should be built to road construction standard to allow it to be used as a passing place.

4.4 Conservation Manager – Ecology

Original comments – Object

(Note: the objection was based upon an apparent conflict between the recommendations of the Ecological Report in relation to the potential presence of Great Crested Newts and the then intended discharge of treated effluent to a boundary ditch. Subject to addressing this and securing the necessary affirmative response from Natural England the following conditions were recommended:

- All foul water shall discharge through connection to a new private foul water treatment system with final outfall to suitable soakaway drainage field on land under the applicant's control; and all surface water shall discharge to appropriate SuDS or soakaway system; unless otherwise agreed in writing by the Local Planning Authority.
- **Condition - Ecological Protection**

The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the report by Pure Ecology dated February

Further information on the subject of this report is available from Mr Simon Withers on 01432 260612

2019 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.

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

- **Condition - Tree and existing hedgerow protection**

Before any work commences and, equipment or materials moved on to site, a detailed Arboriculture Method Statement and Plan (based on guidance in BS5837:2012) should be submitted and approved by the local authority and shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed. Any loss or impacts to any hedgerow or trees should be significantly compensated for by new planting of native species hedgerows/trees with a full specification and 5 year establishment-management plan supplied. All trees and woody shrubs proposed for planting should only be of locally characteristic, native species.

- **Condition Nature Conservation protection – Lighting**

No external lighting should illuminate any of the adjacent habitats; boundary or enhancement features and all lighting on the development should support the Dark Skies initiative (DEFRA/NPPF Guidance 2018/2013).

- **Condition Biodiversity Enhancement (Net Gain)**

Within 3 months of completion of the approved works evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed ecological enhancements as recommended in the report by Pure Ecology dated February 2019 should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any enhancement or boundary feature.

Reasons:

To ensure that all species and habitats are protected and enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006)

To comply with Herefordshire Core Strategy (2015) policies LD1-3, SD3, SD4 and, Dark Skies initiative (DEFRA-NPPF 2013/18)

Updated Comments

The applicant's updated plans demonstrate that all foul water can be managed through a new private treatment system with outfall to a soakaway drainage field on land under the applicant's control. There are no watercourses within 50m indicated on latest OS Water Network mapping.

All surface water can be managed through appropriate onsite soakaway features.

The agreed mitigation can be secured through a condition on any planning consent granted.

Recommended Planning Conditions to secure appropriate mitigation:

Habitat Regulations (River Wye SAC) – Foul and Surface Water Management

All foul water shall discharge through connection to new private foul water treatment system with final outfall to suitable soakaway drainage field on land under the applicant's control; and all surface water shall discharge to appropriate soakaway systems; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2018), National Planning Policy Framework (2019), NERC Act (2006), and Herefordshire Core Strategy (2015) policies LD2, SD3 and SD4

4.5 Land Drainage

This response builds on our previous comments dated 16th July 2019 following the submission of the following additional information:

- Percolation Testing Results;
- Drainage Layout Plan (Ref: 19-02-02 01 Rev D);
- Email from Agent (dated 23 July 2019 15:42).

Overview of the Proposal

The Applicant proposes the construction of a single storey residential dwelling with garage and appropriate access and parking. The site covers an area of approx. 0.23ha and is currently residential curtilage to Ivy Cottage. There are many ponds in the surrounding area.

Flood Risk

Fluvial Flood Risk: Review of the Environment Agency's Flood Map for Planning (Figure 1) indicates that the site is located within the low risk Flood Zone 1. As the proposed development is located within Flood Zone 1 and is less than 1ha, in accordance with Environment Agency standing advice, the planning application has not been supported by a Flood Risk Assessment (FRA).

Surface Water Flood Risk: Review of the EA's Risk of Flooding from Surface Water map indicates that the site is not at risk of surface water flooding.

Other Considerations and Sources of Flood Risk: Review of the EA's Groundwater map indicates that the site is not located within a designated Source Protection Zone or Principal Aquifer.

Surface Water Drainage

The proposals are to dispose of surface water runoff generated by the proposed dwelling and garage into a soakaway. We previously raised that the infiltration rate was established within the adjacent site and thus we requested that the testing is undertaken within the site boundary. The soakaway has been relocated to the north which is now within the previous boundary of the adjacent site to the north.

Foul Water Drainage

Percolation testing results have now been provided. The Vp value has been established to be 15.6. It has been calculated that for 2 no. 4 bedroom houses, a drainage field of 46.8m² is required. This should be converted to linear meterage based on the trench width (see table 4, page 14 of BS6297)

The configuration of the spreaders has been amended on the drainage layout plan to demonstrate that the spreaders will be connected. As it is proposed to connect onto an existing

Further information on the subject of this report is available from Mr Simon Withers on 01432 260612

septic tank, it is unclear whether the spreaders are as per the existing scenario or proposed. We assume that the spreaders are proposed to be altered as the previous submission did not show this configuration as called for in Building Regulations part H.

Overall Comment

In principle we do not object to the proposals, however we recommend that our comments within 'Foul water Drainage' are addressed.

Note: Following further exchanges, the applicant has confirmed the intention to upgrade the spreaders to meeting Building Regulations requirements

5. Representations

5.1 Garway Parish Council (original consultation)

Garway Parish Council Objects to the application for the following reasons:

1. The development is back land development and is contrary to Core Strategy policy SD1
2. There is great concern regarding highway safety along a narrow road. There will be an increase in the number of vehicles from the site using the road and it is the Parish Council view that this is contrary to Core Strategy Policy MT1
3. The Parish Council also have concerns over the proposed splays in proximity to the garage and again is contrary to policy MT1 and against LD1&LD2
4. An ancient orchard has already been removed in preparation for the proposed development along with the destruction of a hedgerow
5. Garway's draft Neighbourhood Development Plan has completed regulation 14 plan has been completed and the Parish Council feel that the policies within the NDP should be given consideration relating to the special wildlife site.
5. We believe that the proposed access is over Common Land, which is under ownership of Garway Parish Council and the applicant will need to seek permission to gain access over this section of Common Land.

We are led to believe that some parishioners living in close proximity to the proposed development don't agree with the ecology statement.

Garway Parish Council (amended drainage details)

Garway Parish Council reiterates its objection to this application and the previous comments made relating to the development issues and request that planning permission is REFUSED

5.2 14 letters of objection were received in response to the original consultation. The content of which can be summarised as follows:

- Herefordshire has been blotted by inappropriate modern housing
- Previous objections to 8 dwelling scheme ignored
- Quab Lane too narrow and increased traffic will place children, pedestrians, dog walkers, cyclists and horse riders at greater risk
- Garway needs affordable housing not 3+ bed executive dwellings
- The hedgerow has greater biodiversity value than recorded
- NDP policies are at an advanced stage and should be properly considered

- No safe provision for footpaths to bus stops
- Significant threat to Garway Common Special Wildlife Site – access visibility requirements will force traffic to drive over the Common to pass
- Design contrary to GAR2 of NDP – does not contribute to improving and enhancing built heritage and natural environment; is not acceptable in terms of siting; adversely affects amenity of existing residents
- Detrimental to character and landscape and does not enhance the village
- Adverse effect on local biodiversity – value is understated in Ecological Assessment
- Increased risk flooding in locality
- Northern part of site outside the settlement boundary in the NDP
- Proposal does not represent change for the better
- Access road too narrow for bin lorry
- Proposal is contrary to linear development that characterises Garway
- Potential impact of garage on ancient yew tree
- Vegetation on site removed by applicant in readiness for development
- Unacceptable suburban form of development
- Brownfield sites available in Garway
- Garway has reached its target for dwellings to 2031 – no need for further development
- No reference to design responding to the challenge of reducing carbon emissions (orientation/large windows in NW elevation)

5.3 A further 3 letters of objection received to the re-consultation in relation to the amended drainage solution:-

- There is an increased risk of flooding in the locality
- Percolation testing should be done during wetter months
- Revised proposal does not demonstrate that drainage and sewage disposal solutions are not fit for future use
- Appears to be a “sticking plaster” approach to drainage

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=191330&search=191330

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). It is also noted that the site falls within the Garway Neighbourhood Area. Garway Parish Council submitted their draft Neighbourhood Development Plan (GNDP) to Herefordshire Council on 18 January 2019. The consultation ran from 23 January to 6 March 2019. At this time the policies in the NDP can be afforded limited weight.

6.3 The National Planning Policy Framework is also a significant material consideration.

Policy SS1 of the Herefordshire Local Plan Core Strategy (CS) sets out that proposals will be considered in the context of the 'presumption in favour of sustainable development' which is at the heart of national guidance contained within the NPPF.

6.4 The policy states:

'When considering development proposals Herefordshire Council will take a positive approach that reflects the presumption in favour of sustainable development contained within national policy. It will always work proactively to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the social, economic and environmental conditions in Herefordshire.'

Planning applications that accord with the policies in this Core Strategy (and, where relevant, with policies in other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or the relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking account whether:

- a) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in national policy taken as a whole; or*
- b) Specific elements of national policy indicate that development should be restricted.'*

6.5 At this moment in time, the Council is unable to demonstrate a five year housing land supply. It is therefore acknowledged policies relating to the supply of housing are out of date, as identified within Paragraph 11d of the Framework. Paragraph 11d effectively echoes the approach set out in CS Policy SS1.

6.6 In the context of the above, the overall assessment is whether the proposal represents sustainable development, taking account of its three dimensions (social, economic and environmental). In order to assess this reference should be paid to the NPPF as a whole.

6.7 In locational terms, the NPPF seeks to restrict development in isolated locations (Paragraph 79) but acknowledges that in rural locations it may be the case that development in one village supports the services in another nearby.

6.8 The CS recognises that proportionate growth is required in rural areas for social and economic purposes. It is with this in mind that the proposal is assessed under CS policies alongside the NPPF, notwithstanding the 'out of date' nature of the housing policies.

6.9 Policies SS2 (Delivering new homes) and SS3 (Releasing land for residential development) of the CS clearly set out the need to ensure sufficient housing land delivery across the County. In order to meet the targets of the CS the Council will need to continue to support housing growth by granting planning permissions where developments meet with the policies of the CS, and, where relevant, with policies in other Development Plan Documents and Neighbourhood Development Plans. Policy SS2 states that a supply of deliverable and developable land will be identified to secure the delivery of a minimum of 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. 6,500 of these will be in Hereford, where it is recognised that there is a wide range of services and consequently it is the main focus for development.

6.10 Outside of Hereford City, and the market towns, CS Policy RA1 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). Garway is within the Ross-on-Wye HMA, which is earmarked for an indicative 14% indicative housing growth and is listed in Figure 4.14 as a settlement which will be the main focus of proportionate housing development. This percentage increase translates to 1150 new dwellings over the plan period. In terms of the Garway Neighbourhood Area it must be acknowledged that it has performed well in relation to its proportionate target of 25 dwellings during the Plan period. Indeed based upon the latest published figure from April 2019 there have been 5 new dwellings built and there are 23 commitments, an exceedance of 3 dwellings. However it must also be acknowledged that the target represents a minimum growth expectation and that presently, proposals must be considered in light of the inclusion of Garway as a settlement which is a main focus for proportionate growth and the tilted balance in favour of sustainable development.

- 6.11 The above sets out the overarching strategic objectives. An assessment will now be undertaken in respect of the proposed site. The emerging GNDP has identified a settlement boundary that excludes the application site and the adjacent development site where permission for 8 dwellings is under construction. I recognise this policy conflict but can only afford the GNDP limited weight at this time. In the context of the Council's published inability to demonstrate the required delivery of housing, there is a presumption in favour of sustainable development and greater weight must be afforded to CS Policy RA2. It states:

'To maintain and strengthen locally sustainable communities across the rural parts of Herefordshire, sustainable housing growth will be supported in or adjacent to those settlements identified in Figures 4.14 and 4.15. This will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the community concerned.'

'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.'

- 6.12 Policy RA2 then goes onto outline that 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 Figure 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 development 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 a particular settlement, reflecting local demand.

- 6.13 Policy RA2 also outlines Neighbourhood Development Plans will allocate new housing or otherwise demonstrate delivery to provide levels of housing. As stated above, the GNDP can only be afforded limited weight at the present time. With this in mind, it is necessary to consider the proposal in the context of Policy RA2 and the provisions set out in points 1 to 4 above.

- 6.14 Officers are acutely aware of the further progression of the GNDP process and have no desire to undermine this process. However, whilst the GNDP has reached Regulation 14, the public response to the consultation which ran until March 2019 has not been published and as such the Neighbourhood Development Manager has opined that it can only be given limited weight. In this context and in common with the CS, the ongoing inability of the Council to demonstrate the required 5 year housing land supply, renders the settlement strategy related policies out of date and as such, Members are advised that it is the requirements of CS policy RA2 that carry the most significant weight.
- 6.15 Both the policy and pre-ambles accompanying RA2 specify the need for the site to be located within or adjacent to the main built up area. The garden of Ivy Cottage is located at the eastern edge of the village and would be set back behind the property and its immediate neighbours (Lilac Cottage and The Cottage) as well as the development site that is currently under construction. The site is located along a lane of clearly rural nature (narrow, unlit with no footpaths) but its access lies closer to the main through road than the neighbouring development site and it is clearly adjacent to the built form of the village with the Public House, School and Village Hall all within walking distance via the main through road. Accordingly, it is maintained that the broad principle of residential development can be supported and that the acceptability or otherwise of the proposal must be considered on the basis of the tilted balance described by the NPPF.

Landscape and townscape

- 6.16 CS policy LD1 requires new development to achieve the following:
- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
 - Conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management.
- 6.17 CS policy SD1, amongst other criteria, requires development proposals to incorporate the following requirements:
- Ensure that proposals make efficient use of land – taking into account the local context and site characteristics;
 - New buildings should be designed to maintain local distinctiveness.
- 6.18 These principles are embodied with the requirements of Policy GAR2 of the emerging GNDP which can be afforded limited weight, and seeks to positively influence design within the Parish by assessing:
- a. Contribution to improving and enhancing the built heritage and natural environment of the site and its surroundings;
 - b. The overall design of the proposal in terms of siting, scale, height, proportions, massing, orientation, mix of uses, detailing, and materials;
 - c. The design does not adversely impact on existing natural horizons, and has appropriate regard to existing roof lines;
 - d. The design does not adversely impact on the residential amenity of existing and future residents;

e. Sustainable construction and design is used to minimise the use of resources and emissions and use recycled materials, renewable energy and the natural treatment of waste water and the re-use of grey water, wherever possible;

f. The use of locally-sourced or recycled natural slate tiles for roofing and local stone for walling is encouraged;

g. Use of suitable native species in any planting and inclusion of bird nest boxes and roosting opportunities for bats; and

h. Access and highway safety, including the provision of new and improved pedestrian footpaths and footways, permissive pedestrian rights of way and cycle paths, and provision of safe pedestrian road crossings where required.

6.19 The application site extends to some 0.23 hectares and forms part of the garden to the north of Ivy Cottage. It has a narrow road frontage of some 4 metres, limited to the width of the proposed new access driveway by reason of the set back nature of the plot. The western boundary is defined by a well established hedgerow. The northern and southern boundaries are less vegetated but are shared with the boundary of the new development site and Lilac Cottage and The Cottage respectively. The site is considered to be inconspicuous and is not readily visible from the C1239 or in longer distant views from the higher ground to the north of the site. Having regard to the visually contained nature of the site, it is not considered that there is any adverse impact in relation to the wider undesignated landscape or long distance views of the setting of the village and its relationship with Garway Common. Indeed the set back nature of the site and the positioning of the proposed dwelling and new garage in relation to existing and new development is such that views of the proposed buildings will be negligible and limited to only a very fleeting glimpse along the proposed new driveway in the immediate vicinity of the site.

6.20 In this regard, and with due respect to the many opposing views expressed by the Parish Council and objectors, the localised impact is not considered to be a visual one but is essentially associated with the “backland” setting and orientation of the dwelling relative to the strongly prevailing linear character of Garway. This approach, together with the form and layout of the proposed dwelling has attracted a number of objections. The extent to which the orientation of the site is “at odds” with the linear form of the village is recognised, but having regard to the wider setting of Garway, one can find examples of properties and more frequently ancillary buildings of varying scales that occupy such set back positions (The property known as The Back of the Moon and the buildings associated with The Garway Moon public house for example). This coupled with the fact that the site is not visible on the main road through Garway from either the east or west, is such that any harm attributed to the setting and orientation of the dwelling is considered to be very limited and having regard to the “tilted balance” required by the NPPF does not, in your officers opinion, result in a significant adverse impact upon the character of the village. In this sense it is the lack of any physical manifestation of the proposed dwelling that is telling and leads officers to conclude that the harm identified in many of the objections is limited and does not warrant the refusal of planning permission.

6.21 A number of comments refer to the felling of trees and vegetation within the garden, which does not require any form of approval, but it should be noted that existing boundary planting and trees within the garden that provide screening to and from the existing dwellings are retained and it is recommended that tree protection measures should be conditioned as part of any approval.

Design and amenity

- 6.22 The detailed design of the building is assessed by reference to CS policy SD1 (and to a more limited extent GNDP policy GAR2). In essence these policies state 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.
- 6.23 The dwelling proposed is a detached, single storey property in an 'H shaped' form and will accommodate three bedrooms with 3 en-suites, a lounge, a kitchen and a dining room together with a utility and WC. It will be predominantly rendered with a natural stone plinth under an unspecified slate roof. It will feature an oak framed porch and oak joinery.
- 6.24 The single storey nature of the dwelling and its siting is such that it will not be visible from outside of the site and whilst a simpler (more agricultural) form was promoted through the pre-application process, there will be no overriding harm caused to the character of the locality. There are examples of single storey development in the village in closer proximity to the Primary School) and the choice of materials are not uncharacteristic of the eclectic mix of materials that are evident in the locality.
- 6.25 With regard to amenity impacts, the dwellings potentially affected by the proposal are Lilac Cottage and The Cottage which lie to the south of the site. The orientation, relative distance and retained vegetated boundaries are such that there would be no adverse impacts. Similarly, the proposed dwelling does not compromise the amenity of future occupiers of the dwellings under construction next to the site due to the orientation and single storey scale.
- 6.26 CS policy SD1 also encourages the incorporation of on site renewable energy generation linking to policy SS7 which seeks to mitigate the impact on climate change in broad terms to the sourcing of local materials (where available); achieving thermal efficiency in line with current Building Regulations requirements; reference is made to the potential use of rain water harvesting and the ability to use the garage for secure cycle storage (to be fitted with solar panels) and the possibility of providing an electric charging point. The Statement comments that occupation of the dwelling will support the services and facilities available within Garway. In the absence of any more specific local policy, it is advised that ultimately compliance with the Building Regulations is the legitimate fall-back position and whilst there is a limited commitment to exceed such requirements, this is not a matter that can be conditioned based upon current policy provisions.

Access and parking

- 6.27 Policy MT1 of the CS and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where "the residual cumulative impacts of development are severe.
- 6.28 The proposed development would be accessed via a new access with visibility improvements secured through the realignment of the boundary wall to Ivy Cottage. It is recognised that one of the main concerns raised in local responses to the application relates to the suitability of the local road network. With regard to the cumulative highways impacts as a result of the proposed development, the addition of one new dwelling would not result in highways impacts that would be classed as severe and lead the decision maker to refuse the application

- 6.29 Moving onto parking requirements, in light of the dwelling including 3 bedrooms, a minimum of two car parking spaces are required to accord with the Highways Design Guide. The double garage and other hardstanding proposed more than meets this requirement.
- 6.30 In light of the above, and the lack of objection to the scheme from the Council's Transportation Manager, the proposal is found to be compliant with the aims of policy MT1.

Ecology

- 6.31 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.
- 6.32 The application has been supported by an Ecological Impact Assessment and Biodiversity Protection and Enhancement Plan which has been viewed by the Council's Ecologist. The range of protective measures proposed and the mitigation measures proposed to minimise the risks associated with the proposed development are considered appropriate and subject to conditions recommended by the Council's Ecologist being attached to any approval, the scheme will accord with policies LD2 and LD3.

Drainage

- 6.33 CS Policy SD3 states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk and avoid an adverse impact on water quality. 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).
- 6.34 In this case, surface water will be drained to a soakaway being installed in the garden of an adjacent dwelling under construction pursuant to Application 173224, which has been agreed with the development. Foul drainage is proposed to an existing septic tank with proven capacity to receive additional discharges from a single dwelling. The specification of the associated drainage field has been informed by percolation tests and the Council's drainage consultant has assessed the solution to be acceptable.
- 6.35 The development has been the subject of an Appropriate Assessment under the Habitat Regulations and Natural England has raised no objection subject to the condition recommended by the Council's Ecologist.
- 6.36 The strategy conforms with CS policies SD3 and SD4 and will have no unmitigated effects upon the River Wye Special Area of Conservation/Site of Special Scientific Interest in accordance with CS policy LD2.

Planning balance and conclusions

- 6.37 Both CS policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan. The NPPF encompasses the government's view of what is meant by sustainable development in practice. The three themes, economic, environmental and social should be pursued jointly and simultaneously.

6.38 The application is for housing and in the light of the housing land supply deficit must be considered against the test prescribed at NPPF paragraph 11 and CS Policy SS1. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF when considered as a whole.

6.39 In assessing the three elements of sustainability:

Economic

6.40 Economic benefits would be derived from the construction of one dwelling and associated infrastructure through both the supplies and employment of the required trades. After completion the occupiers would contribute some disposable income to the local economy and Council Tax revenue and New Homes Bonus would accrue. That said, given only one dwelling is proposed, those benefits would be limited.

Social

6.41 The provision of housing, in the context of a shortfall, would contribute to the supply of housing and the social needs of the county. In addition occupiers could contribute to village life at the village hall and pub, as well as potentially providing pupils for the primary school. It is recognised this could help to provide the critical mass of population to sustain them. However, given only one dwelling is proposed, the social benefits would be limited.

Environmental

6.42 The site is immediately adjacent to the main built up area of the settlement and as such is considered to be locationally sustainable. The site is not in a protected landscape nor is it subject of any heritage designations. That is not to say the site is not a sensitive one in terms of its edge of village location. However, whilst it is recognised that there is opposition to the impact of the proposed development upon the character of the village, it is considered that the well screened nature of the site mitigates this and whilst officers do not consider there to be harm in this instance, were this to be identified, it would not be adverse nor would it outweigh the NPPF presumption in favour of development. The Sustainability Statement does not make any significant commitments in relation to addressing climate change but in the absence of specific policy requirements, this is not considered to be a basis for withholding planning permission at this point in time.

6.43 Having undertaken an overall assessment of the proposal in light its economic, social and environmental impacts as required by the NPPF, it is considered any economic and social benefits would be limited. The environmental impacts are limited for the reasons set out above and lead officers to conclude that the proposal is representative of sustainable development and approval is therefore recommended.

RECOMMENDATION

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

1. **C01 - Time limit for commencement (Full Permission)**
2. **C06 - Development in accordance with the approved plans (drawing nos. CLL19.01 02, 03, 04 and 05 and 19-02-02 01 D)**
3. **C13 - Samples of external materials**

4. **CE6 - Efficient use of water**
5. **All foul water shall discharge through connection to new private foul water treatment system with final outfall to suitable soakaway drainage field on land under the applicant's control; and all surface water shall discharge to appropriate soakaway systems; unless otherwise agreed in writing by the Local Planning Authority.**

Reason: In order to comply with Conservation of Habitats and Species Regulations (2018), National Planning Policy Framework, NERC Act (2006), and Herefordshire Local Core Strategy policies LD2, SD3 and SD4.

6. **Before any work commences and, equipment or materials moved on to site, a detailed Arboriculture Method Statement and Plan (based on guidance in BS5837:2012) should be submitted and approved by the local authority and shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed. Any loss or impacts to any hedgerow or trees resulting from the construction phase should be compensated for by new planting of native species hedgerows/trees with a full specification and 5 year establishment-management plan supplied. All trees and woody shrubs proposed for planting should only be of locally characteristic, native species.**

Reason: To safeguard all retained trees during development works and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7. **No external lighting should illuminate any of the adjacent habitats; boundary or enhancement features.**

Reason: To comply with Herefordshire Core Strategy policies LD1 LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/18)

8. **Within 3 months of completion of the approved works evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed ecological enhancements as recommended in the report by Pure Ecology dated February 2019 should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any enhancement or boundary feature.**

Reasons: To ensure that all species and habitats are protected and enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006)

9. **CK3 - Landscape Scheme**
10. **CK4 – Implementation**
11. **CAB - Visibility splays (2.4 X 39.8m - Southbound, 2.4 x 43.5m northbound)**
12. **CAE - Vehicular access construction**
13. **CAH - Driveway gradient**

- 14. CAI - Parking - single/shared private drives
- 15. CAL - Access, turning area and parking
- 16. CAT - Construction Management Plan
- 17. CBK - Restriction of hours during construction
- 18. CBN - Drainage in accordance with approved plans

INFORMATIVES:

- 1. IP2 - Application Approved Following Revisions
- 2. I11 - Mud on highway
- 3. I09 - Private apparatus within highway
- 4. I45 - Works within the highway
- 5. I05 - No drainage to discharge to highway
- 6. I47 - Drainage other than via highway system
- 7. I35 - Highways Design Guide and Specification

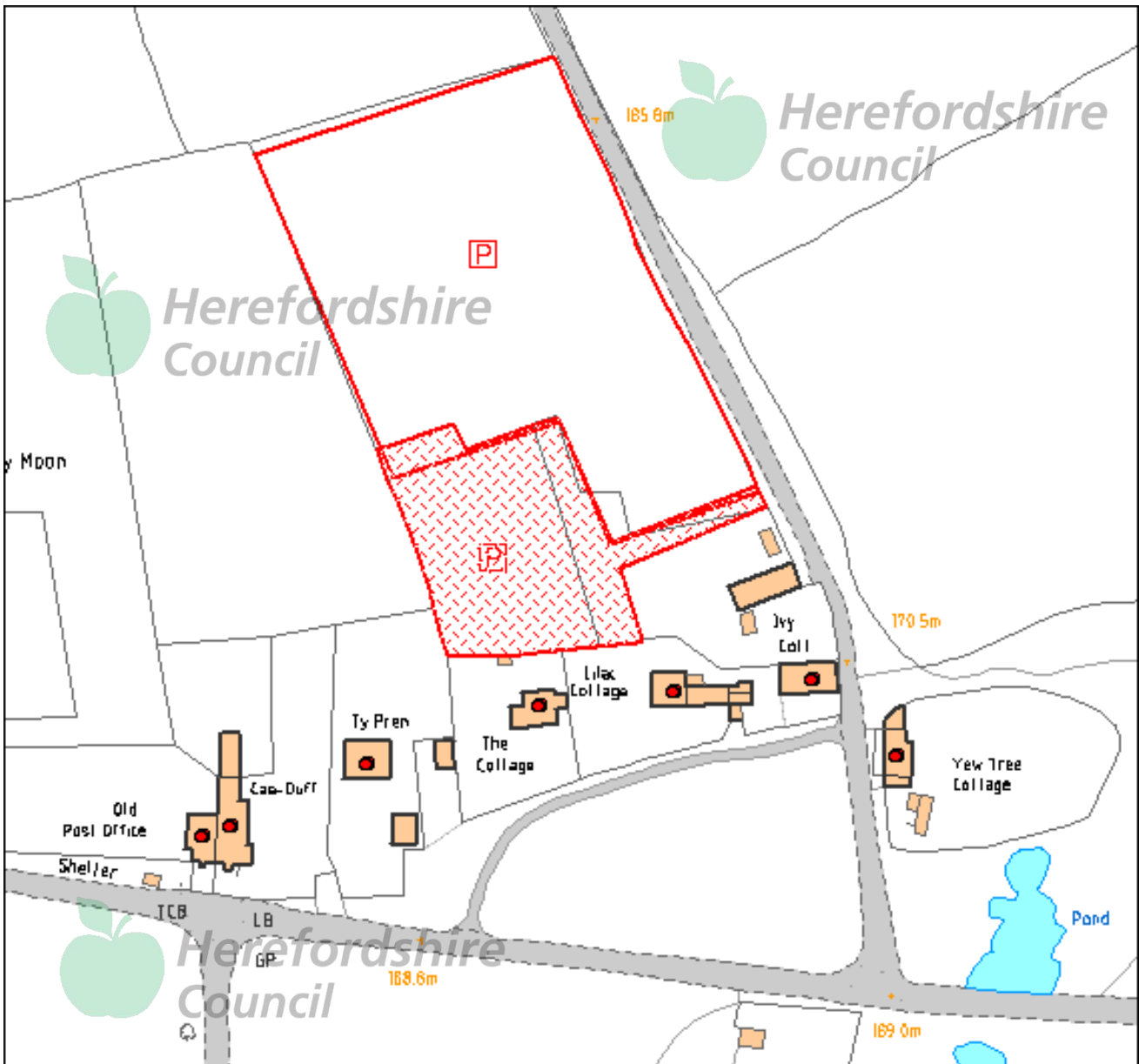
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 191330

SITE ADDRESS : LAND TO THE NORTH WEST OF IVY COTTAGE, GARWAY COMMON, GARWAY

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	16 OCTOBER 2019
TITLE OF REPORT:	190032 - PROPOSED DEVELOPMENT OF 8 HOUSES AND GARAGES. AT LAND TO THE WEST OF B4361, LUSTON, HEREFORDSHIRE. For: Mr Brechtmann per Mr Edward Brechtmann, Kingsland Sawmills, Kingsland, Leominster, Herefordshire HR6 9SF
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190032&search=190032
Reason Application submitted to Committee – Re-direction	

Date Received: 7 January 2019
Expiry Date: 4 March 2019

Ward: Bircher

Grid Ref: 348644,262710

Local Member: Councillor Sebastian Bowen,

1. Site Description and Proposal

1.1 The application relates to a site approximately 3km north of the market town of Leominster in the village of Luston. The site is located on the southern edge of the village on the western side of the B4361 and comprises a broadly rectangular parcel of land totalling 0.85 hectares (2.1 acres) in area. The location of the application site in relation to the village is denoted by the red star in Figure 1 below.

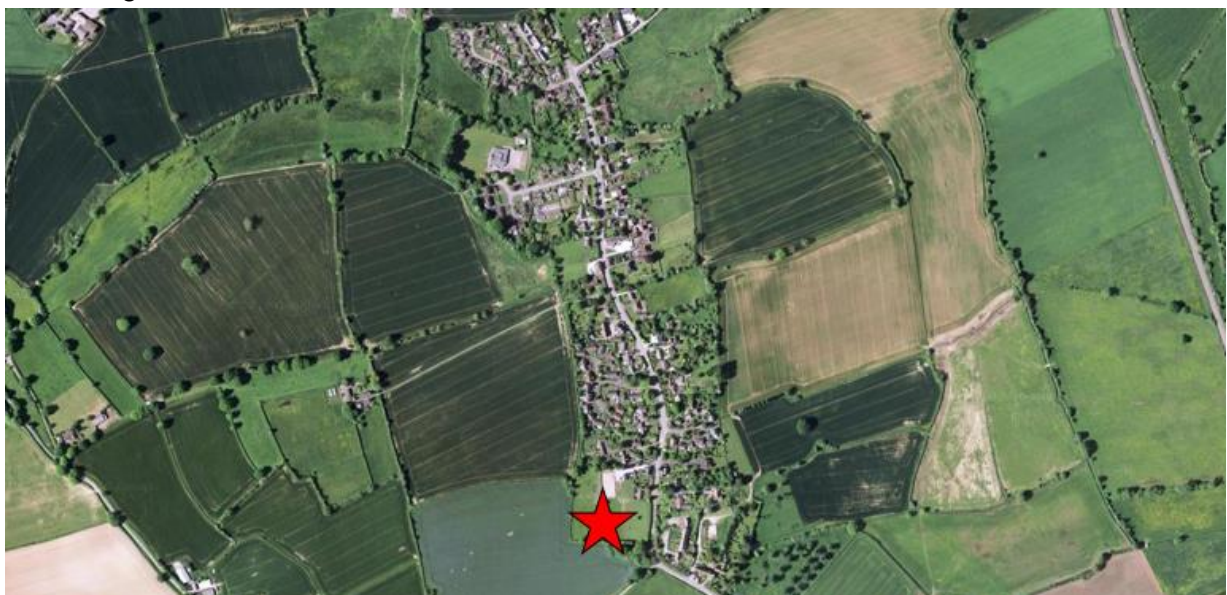


Figure 1: Site Location Plan

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

1.2 Historically the proposal site has been associated with the residential dwelling known as the White House and has been used as paddocks / pasture for the grazing of horses. The land is currently subdivided into smaller parcels by post and rail fencing and is laid to grass interspersed with a number of small trees. Whilst not forming part of the proposal site, a ménage and stable building is situated immediately to the north. A residential bungalow known as Ashlea adjoins the site in the north eastern corner near to the roadside. The site has a frontage onto the B4361 to the east which is defined by an established mixed species hedgerow. A hedgerow also forms the site boundary to the west with open countryside beyond, whilst to the south there is thick band of mature trees that includes a patch of oaks and elms which are subject to a Tree Preservation Order. The site is elevated relative to the adjacent highway by approximately 1.75 metres and the topography is gently undulating with the land rising slightly to the south. The site is located within the designated Luston Conservation Area, and the White House (to the north) and the converted barns at Bury Farmhouse (on the opposite side of the highway to the east) are listed at Grade II. The extent of the proposal site is shown on Figure 2 below.



Figure 2: Application Site

1.3 The current application has been made in full and seeks consent for the erection of 8 dwellings. The proposed site layout is shown in Figure 3, below:



Figure 3: Proposed Site Layout Plan

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

- 1.4 As part of the proposal a new single point of access would be created approximately midway along the site's frontage onto the B4361, with the existing roadside hedgerow being removed and replanted to achieve the required visibility splays. The dwellings would then be arranged around a tarmac internal road which includes provision to retain a means of access to the parcel of pasture land to the north west of the proposal site. The scheme would also provide a new footpath link which abuts the boundary of the property known as Ashlea and provides pedestrian connectivity to the existing village footway network that runs alongside the B4361 to north east of the site.
- 1.5 Eight dwellings are proposed in total and these would be arranged as six detached units and a pair of semi-detached units. A summary of the proposed dwellings is included below;

Plot 1	3 bed two storey detached unit with detached three bay garage
Plot 2	4 bed two storey detached unit with detached two bay garage
Plot 3	3 bed two storey detached unit with detached two bay garage
Plot 4	5 bed three storey detached unit with separate annexe and adjoining two bay garage
Plot 5	4 bed two storey detached unit with detached three bay garage with studio above
Plot 6	3 bed two storey detached with detached two bay garage
Plot 7 Plot 8	Pair of semi-detached 3 bed two storey units

- 1.6 In general terms, the internal layout of the site has been arranged to have smaller units at the front (east) roadside boundary with the larger units at the rear of the site to the west. The semi-detached units would be sited near to the eastern boundary and, alongside the detached unit on Plot 1, would form the site's frontage on the B4361. A street scene section plan has been provided with the application and is included below at Figure 4;

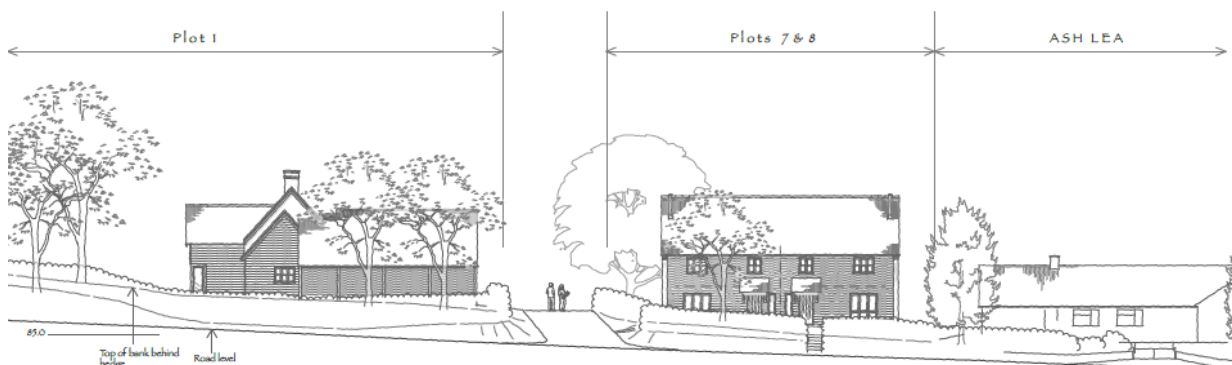


Figure 4: Proposed Street Scene Section

- 1.7 Each unit is individually designed and a mixed palate of materials is proposed for external finishes to include a combination of brick work, render and timber weatherboarding under clay tile roofs. The existing hedge and tree boundaries to the south and west would be retained as part of the scheme, with new internal boundaries between plots being formed by new hedgerow planting and metal 'estate' style fencing. New tree planting is also proposed within the site which includes an area of traditional orchard planting on a parcel of land to the north of the site. The driveway and parking areas to each property would be formed of permeable gravel.
- 1.8 An outline drainage strategy has been provided which shows foul water to be managed through a connection to the mains sewer network. Surface water would be dealt with through the use of soakaways on each individual plot.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy (2015)

The following policies are considered to be of relevance to this application:

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
RA1	-	Rural Housing Strategy
RA2	-	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
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
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

2.2 The Luston Group Neighbourhood Development Plan (made January 2018)

LG1	–	General Development Principles
LG2	–	Design of development in Luston Group
LG3	–	Protecting and enhancing local landscape character and views
LG4	–	Dark Skies
LG5	–	Flood Risk, Water Management and Surface Water Run Off
LG6	–	Scale and type of new housing in Luston
LG11	–	Developer contributions and Community Infrastructure Levy

The Luston Neighbourhood Development Plan policies together with any relevant supporting documentation can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/directory_record/3083/luston_group_neighbourhood_development_plan

2.3 National Planning Policy Framework (February 2019)

1. Introduction
2. Achieving sustainable development
3. Plan Making
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

12. Achieving well designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

3. Planning History

- 3.1 The site does not have any directly relevant planning history.

4. Consultation Summary

Statutory Consultations

4.1. Natural England – Qualified Comments / Objection

Thank you for your re-consultation on the above dated and received by Natural England on 04 October 2019 following an updated Habitats Regulation Assessment.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The application site is within the catchment of the River Lugg which is part of the River Wye Special Area of Conservation (SAC) which is a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). The SAC is notified at a national level as the River Lugg Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

European site - River Wye SAC

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal, in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that your authority is not able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, Natural England concurs with the conclusion you have drawn that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity. Following the ruling of Coöperatie Mobilisation (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17) Natural England is currently unable to advise that the proposals are acceptable within the River Lugg catchment with regards to the question of phosphate inputs to the SAC.

Regulation 63 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site, subject to the exceptional tests set out in Regulation 64 of the Conservation of Habitats and Species

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

Regulations 2017 (as amended). As the conclusion of your Habitats Regulations Assessment states that it cannot be ascertained that the proposal will not adversely affect the integrity of the European site, your authority cannot permit the proposal unless it passes the tests of Regulation 64; that is that there are no alternatives and the proposal must be carried out for imperative reasons of overriding public interest.

Your authority may now wish to consider the exceptional tests set out within Regulation 64. Specific guidance about these tests can be found at: <https://www.gov.uk/government/publications/habitats-and-wild-birds-directives-guidance-on-the-application-of-article-6-4>.

4.2 **Welsh Water – No Objection**

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

SEWERAGE

We have reviewed the information submitted as part of this application with particular focus on drawing number 1743.15 which shows that the intention is to drain foul water to the mains sewer and surface water to soakaways to which we have no objection to in principle. Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

Conditions

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network

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

WATER

Dwr Cymru Welsh Water has no objection to the proposed development

Internal Council Consultations

4.3 **Neighbourhood Planning Manager – Qualified Comment / Objection**

The Luston Neighbourhood Plan was Made on the 2 January 2018. The application for 8 dwellings with associated garages is on the southern section of an allocated site as referenced in Policy LG6 (site 136/212). The whole site is 1 ha and has 11 dwellings as indicative number of dwellings for the site.

The application is contrary to Criteria (e) of policy LG6, as by developing only part of the site means that no affordable housing is required to be delivered as detailed:

(e) Demonstrates a contribution to the delivery of an appropriate mix of dwelling types and sizes including affordable housing, to meet the needs of all sectors of the community;

Therefore it is considered that this application is contrary to the Luston Neighbourhood Plan.

4.4 **Housing Development Officer** – Qualified Comment / Objection

This site has 11 units as an indicative number of dwellings for the site. The developer is proposing 8 units which is contrary to Lustons NDP. As a result there would be a requirement to provide 40% affordable housing on this site which equates to 4 units.

With this in mind I am mindful to object to this application.

In order for me to support this application I would be looking for the developer to provide affordable housing by way of intermediate tenure; 2 x 2 and 2 x 3 bed houses.

With regards to the open market units having reviewed the needs data for the area it is apparent that the greatest need is for 3 beds followed by 2 beds then 4 beds and finally 1 bed.

Whilst the developer is providing a majority of 3 beds it would be good to see the inclusion of 2 bed units as well.

4.5 **Transportation Manager** – No objections

The amended drawings and the submission of an ATC that supports the calculation of the visibility splays is sufficient to demonstrate that an acceptable and correct splay can be formed at the site.

It is noted that the amended drawing shows a tarmac area for the access and shared private drive and the access area should be constructed to the requirements of Appendix A1 (Construction Thicknesses) of Herefordshire Council's Highways Specification for New Developments. If minded for approval it is suggested that a condition would be sufficient to ensure this.

The pedestrian route to the development, connecting residents to the walking routes on the B4361 is shown behind the property 'Ashlea'. Whilst this may be appropriate further agreement over the suitability of this crossing point may be required prior to installation. In any case, it is clear that an acceptable crossing point is deliverable and a further condition may be appropriate to allow more detailed design to occur prior to implementation.

There are no highways objections to the proposal, subject to the following conditions being applied:

CAB (Visibility Splays – 2.4m x 50m in both directions)

CAE (Vehicular Access Construction Details)

CAP (Relating to the provision of a suitable uncontrolled crossing point on the B4361)

4.6 **Arboricultural Officer** – No Objections

After viewing the proposed layout and the documents: Tree survey and Categorisation to BS5837:2012 Arboricultural Impact Assessment – H.E.C Proposed Landscaping – drawing 1743.1B, I can confirm that I do not have any objections to the proposal. Tree protection and soft landscaping will be undertaken via condition.

4.7 **Conservation Manager (Historic Buildings)** – No objections

The proposal is in the south-western corner of Luston Conservation Area, and also within the settlement boundary. This part of the conservation area is characterised by the farm buildings across the road, the road itself and detached dwellings of various ages in good sized plots. Boundaries are tall mature hedgerows and trees which give an enclosed feeling to the road. The older buildings which enhance the character of the conservation area are further into the village,

and new housing here will not overly dilute the experience of these older buildings. The proposals are for detached houses in their own plots which is in keeping with the general density of development within the conservation area.

The site plan preserves as much hedgerow as possible whilst allowing for the access required to allow the new housing and maintains the enclosed feel of this part of the village.

The proposal will not harm the setting of the nearby listed buildings - the barns at Bury Farmhouse across the B4361 or the White House to the north. Both are sufficiently shielded from the development site by topography, distance and plantings that there will be little inter-visibility between the listed buildings and new development.

The proposed designs for the houses and garages use materials and proportions which reflect the local vernacular and are appropriate for the conservation area.

Therefore, we have no objection to this proposal.

4.8 **Conservation Manager (Ecology) – Qualified Comments / Objection**

Habitats Regulations Assessment / Appropriate Assessment Comments 4th October 2019

The previous Habitats Regulations Assessment – Appropriate Assessment was undertaken for this application 22nd February 2019 with a formal ‘no objection’ response received from Natural England 6th March 2019. This however was completed prior to recent rulings concerning HRA and before the implications of these rulings for applications in the River Lugg (part of River Wye SAC catchment) became apparent. Further review and scrutiny is therefore required PRIOR to any planning consent being granted. This review is due to the Dutch ‘nitrogen’ Judgement and the failing phosphate level conservation status of the River Lugg SAC catchment area of the wider River Wye SAC. See attached Natural England formal casework response letter dated 4th August 2019.

Notwithstanding the previous information and HRA appropriate assessment (in which the applicant has indicated that foul water will be managed through a connection to the local mains sewer network which had been confirmed as acceptable by Welsh Water) the updated advice from Natural England and ongoing QC and other consultations by this LPA confirm that any additional phosphate loading, even to main sewage treatment works, will result in additional phosphates being discharged in to the River Lugg SAC catchment which would mean this development is contrary to the ‘Dutch Nitrogen’ judgement and so ‘fail’ this HRA appropriate assessment.

This updated HRA has to therefore conclude that there remains a pathway for phosphates to enter the River Lugg SAC and these phosphates would have an adverse effect on the integrity of the River Lugg SAC. This application should NOT be granted planning consent until such time in the future that legal and scientific certainty that these Phosphate pathways can be mitigated and that the Lugg Catchment can scientifically and legally be shown to have a capacity to accommodate additional phosphate loadings can be provided and a further HRA process and supportive appropriate assessment undertaken at that time.

There are no identified adverse effects for surface water based on the supplied information

Comments in Respect of Ecology Report

The supplied ecology report appears relevant and appropriate and full implementation of all recommendations should be secured through condition:

Nature Conservation – Ecology Protection, Mitigation and Protected Species

The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements (net gain), as recommended in the report by Betts Ecology dated October 2018 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.

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 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework (2018), NERC Act 2006

4.9 Land Drainage – No objections

In principle we do not object to the proposals, however we recommend that the following information provided within suitably worded planning conditions:

- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- A detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event, and no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change;
- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure that site-generated surface water runoff is controlled and limited to agreed discharge rates for all storm events up to and including the 1 in 100 year rainfall event, with an appropriate increase in rainfall intensity to allow for the effects of future climate change;
- Evidence that the Applicant is providing sufficient storage and appropriate flow controls to manage additional runoff volume from the development, demonstrated for the 1 in 100 year event (6 hour storm) with an appropriate increase in rainfall intensity to allow for the effects of future climate change;
- Results of infiltration testing undertaken in accordance with BRE365 and confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice;
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of;
- Evidence that the Applicant has sought and agreed permissions to discharge foul water from the site with the relevant authorities;
- Demonstration that appropriate pollution control measures are in place prior to discharge;
- Confirmation of the proposed authority responsible for the adoption and maintenance of the proposed drainage systems.

4.10 Waste Management – General Comment

This area is currently accessed by an 18 tonne refuse collection vehicle (RCV). The road within the site, including the turning area, would need to be constructed to adoptable standard in order for the RCV to travel it. A swept path analysis should also be provided to show in principle, that the RCV can safely access and turn within the development.

A collection point at the entrance to the site would not be acceptable for this development due to the risk to collection operatives working to the rear of the RCV, in close proximity to the bend in the road.

5. Representations

5.1 Luston Group Parish Council – Support

Luston Group Parish Council supports the planning application but would like the physical connection to the village to be improved via a suitable footway for pedestrians, and for surface water run-off to use existing drainage infrastructure to drain away on the other side of the B4361 (to avoid additional water being directed under the culvert by the telephone kiosk).

Second Consultation - Luston Group Parish Council supports the amended and additional plans/ documents

5.2 Two Letters of Support have been received. They are summarised as follows;

- The scheme is full compliant with the Luston Group NDP
- The mix, density and character as currently proposed is appropriate to the village
- A higher density of development would be out of keeping with the village
- The allocation of 11 units in the Luston NDP is indicative and not a requirement
- The scheme will support local business and have economic benefits
- The scheme can be delivered quickly by the developer to help the village deliver its required housing growth.
- The scheme provides two lower cost homes
- The proposed orchard planting will enhance biodiversity

5.3 Two General Letters have been received. They are summarised as follows;

- The surface water flooding issues need to be resolved before the development proceeds
- External lighting should be kept to a minimum to preserve dark skies
- Visibility from the proposed access is limited. Access would be preferred from the lane to the south of the site near Bury Corner

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=190032&search=190032

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:

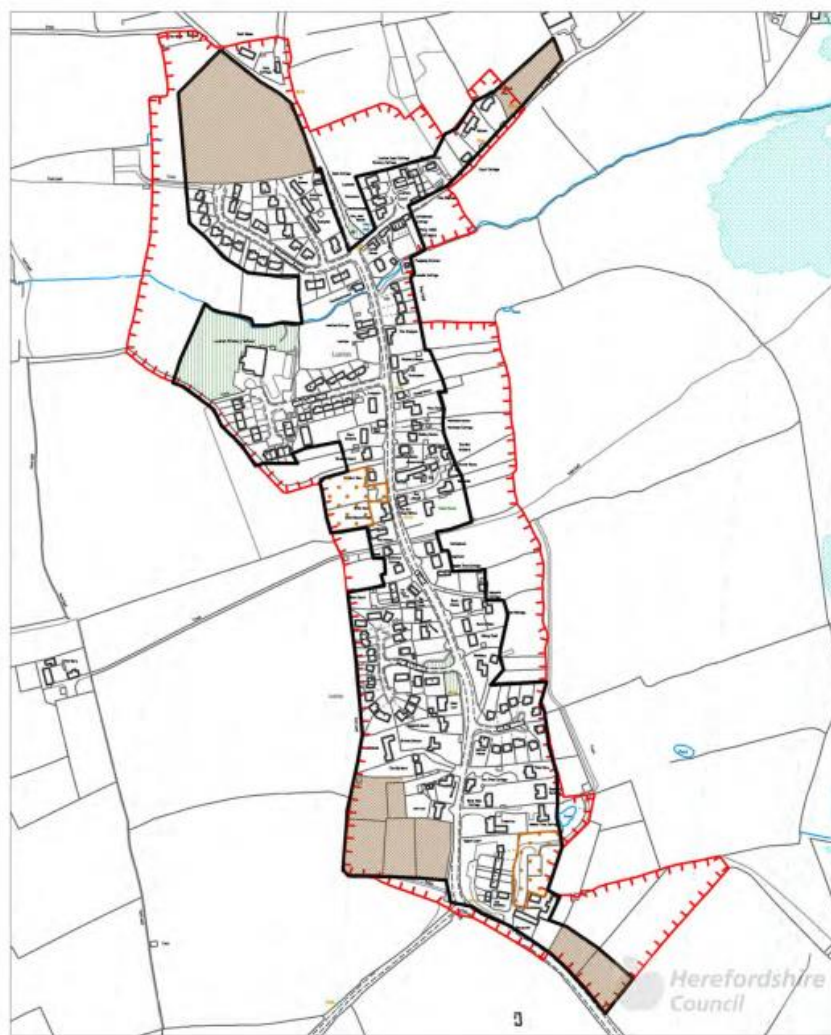
"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

6.2 In this instance the adopted development plan comprises the Herefordshire Local Plan – Core Strategy (CS) and the Luston Neighbourhood Development Plan. The latter was formally 'made' as part of the statutory development plan in January 2018. 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 that lies at the heart of the NPPF. Policy SS1 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 The presumption in favour of sustainable development and how this should be applied to planning decisions is discussed in more detail at paragraph 11 of the NPPF. At 11 (d), the framework states that where the policies most important for determining the application are ‘out-of-date’ planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or the application of the policies in the framework provides a clear reason for refusing the proposal. At footnote 7, it is confirmed that a failure to demonstrate a five year supply of housing and requisite buffer in accordance with paragraph 73 will render policies relevant to delivering housing out-of-date.
- 6.5 The matter of housing land supply has been the subject of particular scrutiny and it has been consistently concluded that that the Council is not able to demonstrate a 5 year supply of housing land. The most recent supply statement outlines that the supply position in Herefordshire stands at 4.05 years as of April 2019. Owing to this shortfall in the five year supply, the housing relevant policies of the development must be taken to be out-of-date and the presumption as set out at Paragraph 11d is fully engaged.
- 6.6 Notwithstanding this, the absence of a 5 year housing land supply does not render policies related to the supply of a housing an irrelevance for the purposes of decision taking. Indeed, recent case law (Suffolk Coast DC v Hopkins Homes [2016 – EWVA Civ 168]) has reinforced that it is a matter of planning judgement for the decision-maker to attribute the degree of weight to be afforded depending on the context of the decision.
- 6.7 Moreover, it should be noted that Paragraph 14 of the Framework directs that in situations where the presumption at 11d) applies to applications involving the supply of housing, the adverse impact of allowing development that conflicts with a 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 last three years.*
- 6.8 In this case, all of the criteria above are satisfied. The Luston Group NDP has been part of the development plan for less than two years; the plan contains policies and allocations to meet the identified housing need; the Local Planning Authority has over a three year supply of housing land (4.05 years); and the housing delivery test exceeds 45% (74%). Notwithstanding the 5 year supply issue therefore, Paragraph 14 directs that the adverse impacts of approving development which conflicts with the Luston Group NDP is likely to significantly and demonstrably outweigh the benefits.
- 6.9 Core Strategy policy RA1 sets out the general approach to housing in the rural areas and states that 5,300 new dwelling will be provided across seven Housing Market Areas (HMAs). The application site in this instance lies within the Leominster HMA, which has an indicative growth

target of 14% across the plan period. For the Luston Group Parish, this equates to providing a minimum of 55 new dwellings over the period to 2031.

- 6.10 CS policy RA2 goes on to state that within the county's rural areas housing growth will be directed to existing settlements in order to support sustainable patterns of development. The policy identifies the settlements where housing growth is considered to be appropriate at Figures 4.14 and 4.15. The village of Luston is identified in Figure 4.14 as a settlement to be the main focus for proportionate housing growth. The settlement has been identified as a sustainable location for housing which provides a good range of services and facilities, including a primary school and public house, and good access to additional services in the nearby market town of Leominster. The policy also sets the expectation that, where appropriate, settlement boundaries or reasonable alternatives for the identified settlements will be defined by either Neighbourhood Development Plans or Rural Areas Sites Allocations DPD.
- 6.11 The status of Luston as a settlement for proportionate growth is reflected in the policies of the NDP and the approach to meeting the group parishes' housing needs is set out at Section 5.3 of the plan. The supporting text outlines that the parish's housing needs will be met by retaining sites which already have planning permission as commitments; allocating land for development; and making a small allowance for windfall development based upon past trends. Policy LG6 then sets out the approach to development within Luston itself as the parish's main settlement. The policy defines a settlement boundary for the village and states that new residential development will be supported on sites within the boundary which are either allocated for development, are an infill site, or involve the conversion of an existing building. The village policies map is shown in Figure 5 below



Luston Settlement Boundary (LG6)	Housing Commitments (LG8)
Local Green Space (LG11)	Land Liable to Flood
Conservation Area	Housing Allocations (LG6)

Luston village Policies Map

3789

Further information

PF2

Figure 5: Luston Village Policies Map

- 6.12 The proposal site in this instance is located in the south west corner of the village and is shown in greater detail in Figure 6;

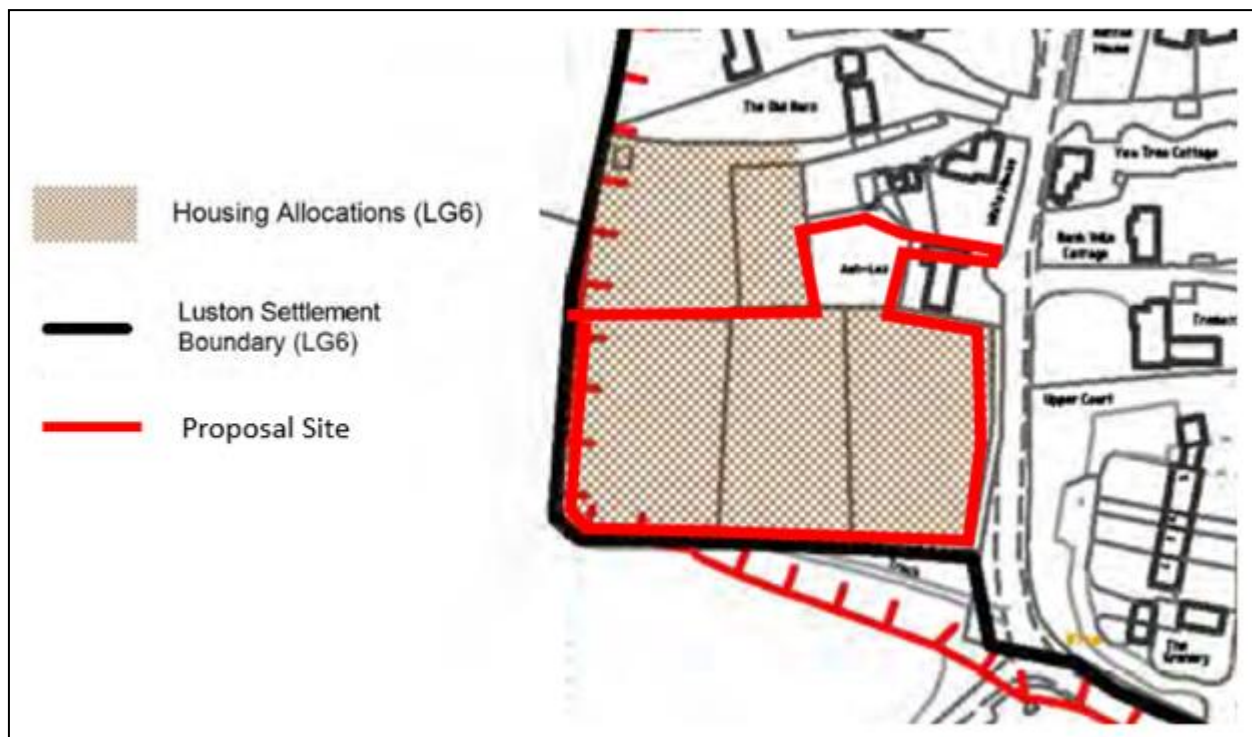


Figure 6: Proposal Site in relation to Luston Settlement Boundary and Site Allocation

- 6.13 As can be seen in the map above, the proposal site lies within the settlement boundary for Luston and it is noted that it forms part of a parcel of land which is allocated for residential development through policy LG6. In a purely locational sense therefore, the principle of new residential development on this site is acceptable.
- 6.14 In order to gain full support however, the application must be considered against the detailed policy requirements of the CS, NDP and guidance contained within the NPPF. In the view of Officer's there are two primary issues in this regard, which are discussed further below.

Under-Utilisation of Allocated Housing Land

- 6.15 Chapter 5 of the NPPF makes it clear that it is a key Government objective to significantly boost the supply of homes. Paragraph 59 sets out that in order to do so, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. Chapter 11 of the Framework adds to this, with Paragraph 117 directing that planning policies and decisions should promote effective use of land in meeting the need for new homes whilst safeguarding and improving the environment and ensuring safe and healthy living conditions. At paragraph 122, it is directed that planning policies and decisions should support development which makes effective use of land taking into account a number of factors and constraints.
- 6.16 In the context of the current shortfall in the county's five year housing land supply, the advice set out at Paragraph 123 is also particularly pertinent. This states that;

'Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site'.

In such circumstances, point C of Paragraph 123 directs that;

'c) local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework'

- 6.17 As highlighted previously, there is a requirement within the Luston group parish for 55 new dwellings to be provided across the plan period to meet identified housing needs. In the parish of Luston alone, this equates to a need to provide 43 new dwellings and the approach to delivering this required growth is manifested through policy LG6. The approach consists of allocating land for development, as well as retaining existing commitment sites and making a small allowance for windfall development. As well as site allocations, the policy also sets out a number of detailed criteria for new residential development in the village, which includes under point e) that schemes should *'demonstrate a contribution to the delivery of an appropriate mix of dwelling types and sizes including affordable housing to meet the needs of all sectors of the community'*. This policy requirement reflects Objective 6 of the NDP, which is to *'ensure that new housing is provided of a size, type and tenure to accommodate local need'*.
- 6.18 From the CS, policy SD1 seeks to ensure that development proposals create safe, sustainable and well integrated environments for all members of the community. The first bullet of the policy also states that proposals should make efficient use of land – taking into account local context and site characteristics. The objective of SD1 to create inclusive communities is further supported by policies RA2 and H3. The former requires under point 4) that development proposals should result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements reflecting local demand. The latter requires that residential developments should provide a range and mix of housing units based upon the latest Local Housing Market Assessment in order to contribute to the creation of balanced and inclusive communities.
- 6.19 As previously established, the proposal site in this case forms part of a larger parcel of land which is allocated for residential development through policy LG6. The allocation as a whole totals just over 1 hectare in area and it is earmarked for an indicative 11 dwellings through policy LG6 of the NDP under the site reference 136/212. However, the current application omits a sizeable 0.3 hectare portion of the allocated land (shown hatched red in Figure 7 below) and is only for 8 units. This is despite the omitted area remaining within the ownership of the applicant, and it is also noted that the current proposal scheme has been laid out in a manner which retains a means of access to the excluded part of the allocated site.

Figure 7: Area of allocation 316/212 omitted from current proposal (hatched red)

- 6.20 The issues stemming from the omission of the allocated site are considered to be two-fold.



Further information on

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6.21 First, in omitting part of the allocated site the proposal fails to make use of the site's full potential and deliver the indicative number of houses the land has been allocated for by policy LG6 of the Luston NDP. This is in direct conflict with the advice contained with the NPPF in terms of ensuring that development makes optimal use of the potential of each site in order to meet the Government's aim of significantly boosting the supply of housing. Moreover, in the context of the current housing land supply shortfall at a county level the failure of the scheme to make efficient use of an allocated site to deliver housing is a significant dis-benefit that weighs heavily against the scheme. It also leads to conflict with policies SD1, RA2, H3 and LG6 in terms of making efficient use of land and providing housing to meet local needs.

6.22 With regards to housing numbers, it is noted that the Parish Council support the application for 8 units and that there has been much discourse throughout the application process between the applicant, the Parish Council and Local Planning Authority regarding the interpretation of policy LG6 and its allocation of the site for an 'indicative' 11 dwellings. It is argued by the applicant that the use of the word 'indicative' means that the figure of 11 is not an absolute requirement; a minimum; or indeed a maximum which is to be delivered on the site. In order to understand the significance of the chosen figure however, it is important to understand how it was established in the first instance. Referring back to the draft version of the NDP which was submitted for Independent Examination in 2016, it is noted that policy LG6 as originally drafted sought to set an upper limit of 5 dwellings to any one site. The Examiner noted at Section 4.51 of their report however that this was an overly restrictive policy which was not based on robust evidence, and hence that reference was removed from the plan. The specific land parcel to which the current application relates (136/212) was also originally put forward as an allocation for 5 units in the Examination version of the NDP; however again the Examiner noted that no evidence had been submitted to support this and justify the provision of such a low density that was equivalent to just 5 units per hectare. At Section 4.52-3 of their, the Examiner noted that the site allocation 136/212 is;

'...sufficiently large to be developed for 10 or more dwellings and would therefore provide scope for a mix of house types and sizes and the inclusion of some affordable homes should the need be demonstrated.... A more realistic indicative number of dwellings should be included for sites 136/212 [and 136/214] and the background text should explain that the figures are indicative only and not maximum figures'

6.23 There was clearly a concern on the Examiner's part therefore that the original allocation on this site failed to make efficient use of land. At 1 hectare in area, the allocated site was considered to be of ample size to accommodate 10 units or more; provide a mix of housing; and provide some affordable housing as needed. Presumably, it was these comments from the Examiner which led to the inclusion of the indicative number of 11 units in the final version of policy LG6 which was subsequently passed at local referendum and adopted as part of the development plan. Officer's would agree with the findings of the Inspector that this site is readily capable of accommodating 10 units or more, and are also of the view that the current application does not offer any convincing reason which would justify departing from the NDP's indicative figure of 11 and delivering a lesser number of dwellings which does not make use of the site's full potential.

6.24 Moreover, even if the omitted part of the allocated site is taken out of the equation the scheme as deposited still presents a very low density of development equivalent to 10 dwellings per hectare. This in itself is still considered to represent an inefficient use of land. For the sake of comparison, an assessment of the existing developed areas of land within the settlement boundary against registered address points shows that Luston village has an existing density of approximately 14 dwellings per hectare. However, it is noted that this calculation includes large areas of historic buildings within large curtilages and a review of more recent residential developments shows higher densities again. The nearby development at The Willows for instance has a density equivalent to 22 units per hectare, whilst developments at Brick House and Lilac Grove have densities equivalent to 18 and 16 units per hectare respectively. Based on

existing patterns therefore, there is clearly scope for the site to accommodate a higher number of dwellings without causing adverse impacts upon the character of the village.

- 6.25 The second issue stemming from the subdivision of the allocated site and the delivery of fewer dwellings is that the proposal now falls below the threshold whereby affordable housing provision is required. The NPPF and policy H1 of the CS stipulate that schemes of 10 units or more will be expected to contribute to meeting affordable housing needs, and criterion e) of NDP policy LG6 requires that schemes demonstrate delivery of affordable housing where appropriate. Had the allocated site been brought forward in full for 11 units (or more) in line with indicative figures set out by LG6, there would be a policy requirement for the scheme to make provision for affordable housing to meet local needs. The Council's Housing Development Officer has confirmed there is a need for affordable homes within the village and advises that in this area of the county (Northern Rural housing value area) a target of 40% affordable would be sought from qualifying schemes. The Herefordshire Local Housing Market Assessment (2013) also provides an insight into affordable housing needs and the estimated requirements within the Leominster HMA are included below for reference;

Table 62: Estimated Size and Type of Dwellings Required 2011 to 2031 – Affordable Housing (Leominster HMA)

Type/size	Leominster Urban		Leominster Rural		Leominster HMA	
	Number	%	Number	%	Number	%
1 bedroom	133	23.1%	44	24.1%	177	23.4%
2 bedroom	188	32.6%	57	31.5%	245	32.4%
3 bedroom	225	39.0%	78	42.6%	302	39.9%
4+ bedroom	30	5.2%	3	1.8%	33	4.4%
Total	575	100.0%	183	100.0%	757	100.0%
Houses	385	66.9%	171	93.9%	556	73.4%
Flats	190	33.1%	11	6.1%	201	26.6%
Total	575	100.0%	183	100.0%	758	100.0%

Source: Housing Market Model

Figure 8: Estimated requirements for affordable housing in the Leominster HMA

- 6.26 The provision of affordable housing would represent a significant benefit of any scheme and would contribute to the achievement of the social dimension of sustainable development as set out in the NPPF. Moreover, the NDP highlights at Section 1.9 that Luston Parish has a lower proportion of shared ownership and social rented housing (9.4%) than Herefordshire as a whole (14.9%), and therefore the provision of affordable housing on this allocated site would have tangible benefits locally in terms of addressing this shortfall and helping to create a balanced and inclusive community. The provision of affordable housing, which is likely to be more attainable to younger households and families, would also have benefits in terms of supporting service such as the local primary school, which is understood to currently be under capacity across all year groups.
- 6.27 It is the view of Officers that the allocated site as whole is more than capable of delivering in excess of 10 units and consequently affordable housing, and no reasonable explanation has been offered by the applicant as to why the full extent of the site allocation has not been brought forward as one comprehensive scheme. The only conclusion that can be reached is that the omission of part of the allocated site from the current application is a mechanism to artificially bring the number of dwellings proposed below the threshold whereby affordable housing (and other financial contributions) is required by the NPPF, policy H1 and LG6. It is noted in this sense that the omitted 0.3 hectare part of the allocated site remains in the ownership of the applicant, and had it been included in the current scheme at the same density of 10 dwellings per hectare it could support a further 3 units; which would bring the scheme up to 11 units given as a indicative figure in policy LG6 of the NDP. It is entirely possible that the remaining area of the allocation may come forward in the future; but granting planning permission for the current

scheme of 8 dwellings would sterilise the site's ability to provide any affordable housing and deprive the community of this significant benefit.

- 6.28 In summary of the above, it is the view of Officers that the scheme as deposited fails to make efficient use of land by omitting part of a site which has been allocated for residential development and in doing so it fails to provide the number of dwellings which could reasonably be accommodated on the land; including the provision of affordable housing for which there is a local need. By consequence the proposal is contrary to policy LG6 of the NDP, policy RA2, H3 and SD1 of the CS, and the guidance set out at Chapters 5 and 11 of the NPPF.

Housing Mix

- 6.29 Notwithstanding the issue above in relation to tenure, the NPPF, CS and NDP all also seek to ensure that development proposals provide a range of housing types and sizes to support the creation support strong, inclusive and vibrant communities. This is integral to the achievement of the social objective of sustainable development as set out at Paragraph 8 of the NPPF.
- 6.30 At Section 5.3, the Luston NDP highlights that a key issue arising from the plan's supporting evidence and questionnaire was support for a mix of house sizes to be provided in new developments to meet local housing need. This is reflected by Objective 6 of the plan which is to 'ensure that new housing is provided of a size, type and tenure to accommodate local need'. Policy LG6 e) supports this objective by requiring that scheme should 'demonstrate a contribution to the delivery of an appropriate mix of dwelling types and sizes including affordable housing to meet the needs of all sectors of the community'. Based on Census data, the plan also recognises that there are currently a disproportionately high number of larger dwellings within the parish when compared to Herefordshire as a whole (33.5% four+ bedrooms in Luston, compared to 24.8% four+ across Herefordshire as a whole).
- 6.31 The Herefordshire Local Housing Market Assessment was undertaken in 2013 and forms part of the evidence base to the CS. It provides an assessment of housing need across the county's seven Housing Market Areas (HMA) in terms of sizes, types and tenure for the plan period 2011-2031. The site in the case is within the rural part of the Leominster HMA and the table below sets out the estimated requirements for Open Market Housing in this region;

Table 61: Estimated Size and Type of Dwellings Required 2011 to 2031 – Market Housing (Leominster HMA)

Type/size	Leominster Urban		Leominster Rural		Leominster HMA	
	Number	%	Number	%	Number	%
1 bedroom	112	6.5%	32	5.8%	144	6.3%
2 bedroom	412	23.9%	142	25.8%	554	24.4%
3 bedroom	846	49.1%	324	59.1%	1,170	51.5%
4+ bedroom	354	20.5%	50	9.2%	405	17.8%
Total	1,725	100.0%	548	100.0%	2,272	100.0%
Houses	1,623	94.1%	547	99.9%	2,170	95.5%
Flats	102	5.9%	1	0.1%	103	4.5%
Total	1,725	100.0%	548	100.0%	2,273	100.0%

Source: Housing Market Model

Figure 9: Estimated market housing needs in the Leominster HMA

- 6.32 The Needs Assessment indicates that the greatest area of need for open market housing within the Leominster Rural area is for three bedroom dwellings at 59.1%. This is followed by a 25.8% need for two bedroom properties and a 9.2% need for dwellings which have four bedrooms or more.

- 6.33 The scheme in this case provides 5 three bedroom dwellings which are delivered as three larger detached units and two smaller semi detached units. They make up the equivalent of 62.5% of the scheme and this is broadly in line with the requirements highlighted above. The remaining three units however provide four bedrooms or more and make up the equivalent of 37.5% of the scheme as a whole. By contrast, the estimated requirement for units of this size is just 9.2%. There is not any provision in the current scheme for two bedroom units; despite this making up the second greatest area of need in the HMA at 25.8%.
- 6.34 The under provision of smaller units in the current scheme and over provision of larger ones is considered to be such that the proposal fails to deliver an appropriate mix of housing types and sizes to meet local needs. The over provision of 4+ bedroom units in particular fails to address the disproportionately high number of larger dwellings in the Parish's existing housing stock which has been identified by the NDP, whilst the absence of any smaller and more attainable units compounds the issue identified previously in terms of no affordable housing being provided. For this reason the scheme as deposited is considered to be contrary to the requirements of policy LG6 e), RA2 (4) and H3 and the guidance set out at Chapter 5 of the NPPF.

Design, character and appearance

- 6.35 CS Policy RA2 requires that the design and layout of new development within identified settlements should reflect the size, role and function of the location. Schemes should result in high quality, sustainable development which are appropriate to their context and make a positive contribution to the surrounding environment. Policy SD1 supports this insofar as it directs that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, proportions and massing of surrounding development. LD1 is also of relevance in so far as it relates to the impact of the development upon the landscape and townscape. At a local level, policy LG2 sets out a range of principles for the design of new development in the Luston Group Parish. Amongst other things, it requires that developments contribute to local identity and sense of place, respect the character and setting of Luston Conservation Area, and have an active frontage which relates well to the surrounding street scene. These all embody the tenets set out in the NPPF with regards to achieving well designed places.
- 6.36 The site in this instance is well related to the existing built up form of the village and the allocated land forms a natural extension of the settlement to the south west. The topography of the surrounding land and vegetation features at its boundaries also mean that the site is reasonably well contained within the wider landscape and hence the potential for adverse impacts in this regard is fairly limited. Whilst the dwellings would be slightly elevated within the street scene on account of the sunken nature of the road in this location, this characteristic is typical in this area of the village and Officers are satisfied that the frontage of the development would not appear as unduly prominent or overbearing. The design of the dwellings themselves is also broadly appropriate, with the use of locally distinctive features and materials being seen throughout the scheme. On the whole therefore, the design of the scheme is not considered to create any significant tension with development plan policy.
- 6.37 Policies SD1 and LG1 also both require that all developments achieve good standards of residential amenity for existing and future occupiers and avoid any potential for adverse impact through means such as overlooking, overshadowing, overbearing, noise or nuisance. This accords with the principles of the NPPF to achieve well designed places and high standards of the amenity. In this case, Officers are satisfied that the proposal adheres to these principles. The proposal is compatible with neighbouring land uses; the amenity of existing residents is safeguarded; and good standards of living would be delivered for future occupants of the dwellings. No conflict with SD1 or LG1 is therefore found in these terms.

Sustainable Design and Energy Efficiency

- 6.38 SS7 of the CS also sets the strategic objective for all development proposals to include measures which help mitigate the impact upon climate change. This includes locating development in the most sustainable locations; reducing the need to travel; and designing development to reduce carbon production and promote the efficient use of resources. Policy SD1 also states that development will be supported where it utilises physical sustainability features such as orientation of buildings, water conservation measures; cycle storage and renewable energy generation. In this case, the proposal is considered to adhere to the principles of SS7 in the sense that the site is sustainably located within a settlement that offers a range of services, facilities and public transport links – including to the wider range of services found in nearby Leominster. In terms of the details of the scheme, whilst no specific details on sustainability or energy efficiency measures have been provided with the application any future dwelling will need to meet the minimum standards of energy efficiency as required by Building Regulations. On the whole therefore, it is not considered the proposal creates a level of tension with SS7 or SD1 which would in of itself warrant withholding consent.

Potential for Impact upon Designated Heritage Assets

- 6.39 The proposal site in this case is within the Luston Conservation Area and as such Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon the Local Planning Authority to have special attention to the desirability of preserving or enhancing the character or appearance of that area. Grade II listed buildings are also found nearby at the White House and the barns at Bury Farmhouse, and therefore Section 66 of the Act places a similar duty upon the Local Planning Authority to have special regard to the desirability of preserving the buildings or its setting.
- 6.40 These duties are manifested through policies LD4, LD1, LG2 and LG3 of the development plan. The policies broadly require that development proposals affecting heritage assets and the wider historic environment should protect, conserve, and where possible enhance heritage assets and their settings. The NPPF contains guidance for considering proposals affecting heritage assets at Paragraphs 193-196.
- 6.41 The proposal site in this instance lies at the fringes of the conservation area where the character of the settlement transitions from built up form to undeveloped countryside. It is the view of the Council's Conservation Officer that the scheme respects this setting and he advises that no adverse impact would occur upon the Conservation Area as a result of what is proposed. In a similar vein, it is also considered that the degree of separation, topography and visual screening between the site and nearby listed buildings is such that no harm or adverse impacts are identified upon their settings. There is hence no conflict with relevant conservation policies and the duties placed upon the Local Planning Authority by Sections 66 and 72 of the 1990 Act are fulfilled.

Highways and Pedestrian Connectivity

- 6.42 Core Strategy Policy MT1 relates to the highways impacts of new development, and requires that proposals demonstrate that the strategic and local highway network can absorb the traffic impacts of the of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. It also requires under (4) that developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space. Similar principles are found in policy LG1 of the NDP, and both policies are reflective of Chapter 9 of the NPPF. Of particular relevance is Paragraph 109, which advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact upon highways safety, or the residual cumulative impacts on the road network would be severe.

- 6.43 The application here proposes the creation of a new access onto the B4361 to the east of the site which would require the removal of a section of roadside hedgerow and ground works to accommodate the change in levels between the site and the highway. The plans indicate that the new access would deliver visibility splays of 2.4m x 50m in each direction. An Automated Traffic Count (ATC) survey has also been undertaken and the Council's Transportation Manager confirms that the visibility splays are appropriate for the recorded traffic speeds on the adjacent highway. The internal layout of the site also ensures that adequate manoeuvring space is available for a range of vehicles, and adequate parking is provided with the curtilage of each dwelling to ensure there would be no overspill onto the public network. The Transportation Manager consequently confirms he is satisfied the proposal would have no adverse impact upon the highways network and thus no conflict with MT1 or LG1 is found.
- 6.44 In terms of pedestrian connectivity, the application proposes the creation of a new footpath link onto the B4361 to the north of the site between the existing dwellings at the White House and Ashlea. Limited details of this footpath have been supplied, however the Transportation Manager is satisfied that the solution is appropriate subject to full details of the crossing point on the B4361 being secured by condition. The path would facilitate pedestrian access from the development to the existing village footway network which provides access to services and facilities such as the school and public house. The scheme therefore promotes the use of sustainable transport modes, and accords with MT1 and SS4 in this sense.

Ecology and Green Infrastructure

- 6.45 Policy LD2 of the CS is most applicable in considering matters of ecology and this broadly requires that all developments should conserve, restore and enhance the biodiversity assets of the county through a range of measures. Policy LD3 also requires that proposals should protect, manage and plan for the preservation and provision of green infrastructure, whilst policy LD1 states that developments should maintain and extend tree cover where they are important to amenity. Similar requirements are also found within the development and design principles set out by policies LG1 and LG2 of the Luston NDP. All of these policies are in line with the tenets set out by Chapter 15 of the NPPF.
- 6.46 The proposal site in this case predominantly comprises grassland interspersed by a number of small fruit trees with mature hedgerows and trees at the site boundaries. An Ecological Survey of the site has been undertaken and concludes that the proposals are likely to have only minor adverse impacts on ecological or biodiversity assets. The Council's Planning Ecologist has reviewed this report in the context of the site and does not dispute its conclusion. Subject to the recommended surveys, mitigation, compensation and working methods being secured by condition, no conflict with relevant policy is identified and no objections are offered.
- 6.47 The application is also supported by Tree Survey to BS5837:2012. The report highlights that the majority of the trees on the site are to be retained with only two specimens, which are recorded as being in poor condition, proposed for removal. There would be no impact upon the area of TPO'd trees which lie slightly beyond the site boundary to the south. Existing hedgerows would also be retained with the exception of an area to the eastern roadside boundary which would be relocated in order to deliver the necessary visibility splays. The scheme however offers a range of additional planting and enhancement measures, including the provision of a new area of traditional orchard to the north of the site, and the Tree Report sets out protection measures for the trees and hedgerow features which are to be retained. The Council's Arboricultural Officer offers no objections to the scheme subject to the recommendations and measures being secured through condition if consent is granted. On that basis, no conflict with policies LD3, LD2 or LD1 is identified.

Drainage

- 6.48 It is proposed to manage foul water from the development through a connection to the mains sewer network. This is an appropriate solution in principle which would accord with the hierarchical approach required by CS policy SD4. Welsh Water confirm that there are no capacity issues and they have no objection to the connection being made, hence there is no conflict with the requirements of LG1 (h) in particular.
- 6.49 In respect of surface water, the scheme proposes the use of soakaways within each individual plot to manage additional runoff. The Council's Land Drainage Team have reviewed the context of the site and have not identified any critical drainage issues. In principle therefore there are no objections to the proposals and the use of SuDS features accords with the principles set out in policies SD3 and LG5. It is recommended that full technical details of the scheme be secured by condition if permission is granted.

Habitats Regulations Matters

- 6.50 The site in this instance also lies within the catchment of the River Lugg which, in turn, is a sub-catchment of the River Wye Special Area of Conservation (SAC). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value. Under the Conservation of Habitats and Species Regulations 2017, Herefordshire Council has a legal duty to assess the potential impact of new developments in this area by undertaking an 'Appropriate Assessment' (AA) which must be able to determine with scientific certainty that there would be no 'likely significant effects' upon the designated site. The obligations are embodied with CS policies LD2 and SD4, as well as the guidance of the NPPF.
- 6.51 The River Lugg, which is a tributary of the River Wye and forms part of the SAC designated site, is currently failing its conservation targets on phosphate levels. This as a result of water pollution from 'point' source, particularly sewage outlets, and 'diffuse' source, particularly from agricultural run-off.
- 6.52 The proposal in this case would generate additional phosphates through foul water. Whilst foul water is to be managed through the mains system, some phosphates will remain in water discharged post-treatment and therefore there is potential pathway for the development to have an adverse impact upon the River Wye SAC. Until recently, the approach taken by Herefordshire Council and Natural England has been that there is a route for development to be able to proceed in the River Lugg catchment, even when it may add to the existing phosphate levels in the river as above, as any increases would be mitigated by the River Wye's Nutrient Management Plan (NMP). The NMP is a partnership project developed to reduce phosphate levels in the Wye catchment, including the River Lugg, to below the target level by 2027 in line with the Water Framework Directive. The NMP is managed by the Nutrient Management Board (NMB), comprising of Herefordshire Council, Powys Council, Natural England, Natural Resources Wales, the Environment Agency, Dwr Cymru Welsh Water, CABA (WUF), National Farmers' Union and the County Land and Business Association.
- 6.53 However, this situation regarding development with potential phosphate impacts in the Lugg catchment is currently under review following Natural England's advice to Herefordshire Council, on 22nd July 2019, and through subsequent further advice in August 2019, that, in light of the interpretation of the recent 'Dutch Case', a ruling in July 2018 by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive, from which the Habitats Regulations arise in UK law, in the case of *Cooperatie Mobilisatie* (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17).
- 6.54 Natural England have advised following the Dutch Case, that where a site is failing its water quality objectives, and is therefore classed as in unfavourable condition, there is limited scope

for the approval of additional damaging effects and that the future benefit of measures cannot be relied upon at Appropriate Assessment, where those benefits are uncertain at the time of the assessment. Natural England have advised that for any plans or projects with a significant effect (on phosphate levels in the River Lugg) and which require Appropriate Assessment, the effects are currently uncertain, as in their opinion there remains reasonable scientific doubt as to whether the NMP can provide appropriate mitigation (based on how much certainty this currently demonstrates). Natural England have therefore advised that they will not, in the short term, provide advice on such planning applications that require Appropriate Assessments, while they seek legal advice. The Council is also seeking its own advice on this matter.

6.55 It is noted that the Council's Ecologist initially undertook the required AA in February 2019 and this concluded that the scheme would have no un-mitigated likely significant effects upon the River Wye SAC. Natural England, as the relevant statutory consultee, confirmed they had no objections shortly after. As above however, the circumstances have changed considerably since the initial AA was undertaken and therefore a further assessment was undertaken on 3rd October 2019 in light of recent developments and advice from statutory consultees. The revised assessment finds that through the generation of foul water the development would lead to additional phosphates entering the River Lugg, which is already failing its conservation objectives in these terms. It consequently concludes that the development would have a likely adverse effect on the integrity of the River Lugg and River Wye SAC and hence permission should not be granted at the present time. This assessment has been presented to Natural England and they have confirmed that they agree with its conclusions. The proposal is not considered to have any imperative public interests which would justify overriding this.

6.56 Owing to this, the proposal fails to meet the requirements of the Conservation and Habitats and Species Regulations 2017 and would also be in conflict with policies LD2 and SD4 of the CS. It is also noted that Paragraph 177 of the NPPF is engaged insofar as it directs that;

'The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site'

Planning Balance and Conclusions

6.57 The application here is to be considered in the context of the presumption in favour of sustainable development as set out by Paragraph 11 of the National Planning Policy Framework. In light of the identified shortfall in the Council's five year housing land supply, Paragraph 11 d) directs that planning permission should be granted 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.

6.58 The restrictive policies which are referred to at Paragraph 11 i) are set out at Footnote 6 of the NPPF. They include those relating to habitats sites, which the glossary of the Framework confirms includes Special Areas of Conservation (SAC). The proposal in this instance has been identified through an Appropriate Assessment as having an adverse impact upon the integrity of the River Lugg / River Wye SAC through the generation of additional phosphates through foul water. This adverse impact would be contrary to the requirements of the Conservation and Habitats and Species Regulations 2017 and Policies LD2 and SD4 of the CS. Moreover, Paragraph 175 a) directs that if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Paragraph 177 also directs that the presumption in favour of sustainable development does not

apply where the plan or project is likely to have a significant effect on a habitats site. Given an adverse effect has been identified on the River Wye SAC in this case, the proposal does not benefit from the positive presumption and the policies of the Framework provide a clear reason for refusing the proposal.

- 6.59 Notwithstanding the above, it is also considered that there are a number of fundamental issues with the proposal as deposited which ultimately stem from the omission of part of the land which has been allocated for residential development through policy LG6 of the Luston Group NDP. In omitting part of the allocated site from the current application, the proposal fails to utilise the site allocation to its full potential and deliver the indicative number of houses which have assigned to it by the NDP. Permitting the proposal for a fewer number of dwellings would therefore potentially compromise the ability of the NDP to achieve its minimum housing growth requirements, and in the context of the current shortfall in the Council's housing land supply the under-delivery of housing on an allocated site would represent a significant harm which goes against the Government's objective to substantially boost housing supply. In this regard, it is noted that Paragraph 123 of the NPPF directs that where there is a shortage of land for meeting housing needs, Local Planning Authorities should ensure that developments make optimal use of each site and refuse applications which they consider fail to make efficient use of land (123 c)).
- 6.60 Moreover, Officers consider that they have not been presented with any reasonable justification for the omission of part of the allocated site from the current application and therefore the only conclusion that can be reached is that it has been used as a mechanism to artificially keep the scheme below the threshold whereby affordable housing provision and financial contributions would be due. Whatever the reason may be, the failure to deliver any affordable housing - for which there is an identified local need - is again a significant harm which weighs against the proposal and would compromise the achievement of the social dimension of sustainable development as defined in the NPPF. It also brings the proposal into conflict with the requirements of Core Strategy policies RA2 and H3 and NDP policy LG6 e), which broadly are that schemes should provide of an appropriate mix of housing, including affordable, to meet the needs of all sectors of the community.
- 6.61 Placing the issue above aside, it is also considered that the deposited scheme for 8 market houses fails to provide an appropriate mix of dwellings sizes and types to meet local needs. The scheme is predominantly comprised of larger 3 and 4+ bed units, and there is no provision of any smaller 2 bed units which make up the second largest area of need (25.8%) within the Leominster HMA. Further conflict is identified with RA2 and H3 and NDP policy LG6 e) for these reasons.
- 6.62 Overall, despite the five year supply issue the policies of the Framework clearly direct that the application in this case should be refused in light of the identified adverse impact on the River Wye SAC. Because of this, Paragraph 177 also directs that the presumption in favour of sustainable development does not apply. In any scenario, the adverse impacts identified as result of the underutilisation of an allocated housing site and the policy conflict this creates is also considered to significantly and demonstrably outweigh the limited benefits of the scheme,
- 6.63 It is therefore recommended that the application be refused for the reasons set out below.

RECOMMENDATION

That planning permission be refused for the following reasons;

- 1. The application site lies within the River Lugg sub-catchment of the River Wye Special Area of Conservation (SAC) and the nature of the proposal triggers the requirement for a Habitat Regulations Assessment to be undertaken. Under the Regulations there is a requirement to establish with certainty, and beyond all**

reasonable scientific doubt, that there will not be any adverse effect on the integrity of the River Wye SAC. The River Lugg sub-catchment however suffers from the effects of point source and diffuse water pollution and phosphate levels in the river have already exceeded conservation objectives. The proposal in this case would add to this through the generation of additional foul water / phosphates and as such the Local Planning Authority is unable to conclude that the development would not have an adverse effect on the integrity of the River Lugg / River Wye SAC. As a result, the proposal has failed the Appropriate Assessment required by The Conservation of Species and Habitats Regulations 2017 and is hence contrary to Policies LD2 and SD4 of the Herefordshire Local Plan Core Strategy, the Natural Environment and Rural Communities (NERC) Act 2006 and the guidance set out at Paragraphs 174-177 of the National Planning Policy Framework

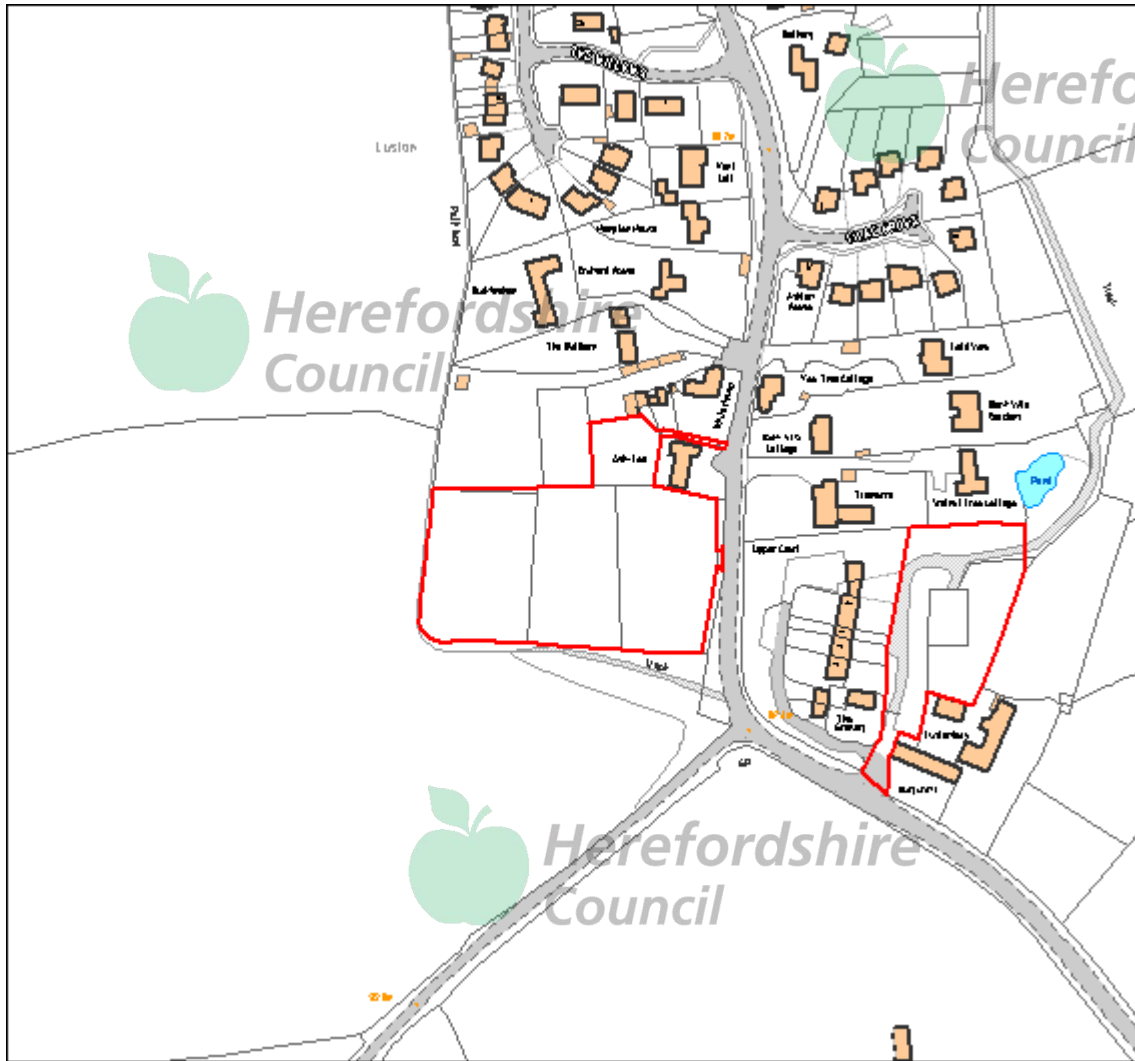
2. By omitting a large portion of land parcel 136/212 which has been allocated for an indicative 11 dwellings through Policy LG6 of the Luston Group Neighbourhood Development Plan, the Local Planning Authority considers that the scheme as deposited represents an underutilisation of land which fails to provide the number of dwellings which could reasonably be accommodated on the site in order to meet local housing needs. Moreover, by bringing forward only part of the allocated site in the current scheme the proposal has circumvented the requirement to provide affordable housing, for which there is an identified local need. In the context of the current shortfall in the county's housing land supply, the under delivery of housing is considered to be a significant harm which is contrary to the advice contained at Paragraph 123 of the National Planning Policy Framework to ensure that developments make efficient use of land and the optimal use of a site's potential. In failing to make efficient use of the site and provide a range of housing to meet local needs, the proposal is also in conflict with policy LG6 of the Luston Group Neighbourhood Development Plan and policies RA2, H3 and SD1 of the Herefordshire Local Plan Core Strategy.
3. The scheme as deposited fails to deliver an appropriate mix of sizes and types of market housing to meet the needs of all sectors of the local community and thus the proposal would be contrary to policy LG6 of the Luston Group Neighbourhood Development Plan, policies RA2 and H3 of the Herefordshire Local Plan Core Strategy and the guidance set out at Chapter 5 of the NPPF.

Informatives

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to negotiate a way forward for the current proposal. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal – which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

Background Papers

Internal departmental consultation replies



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

APPLICATION NO: 190032

SITE ADDRESS : LAND TO THE WEST OF B4361, LUSTON, HEREFORDSHIRE

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	16 OCTOBER 2019
TITLE OF REPORT:	182607 - PROPOSED CREATION OF 4 NO. NEW DWELLINGS. AT LAND NORTH OF THE CORNER HOUSE, TEMPLE LANE, LITTLE HEREFORD CROSSING. For: Mrs Kerby per Mr Tom Froggatt, Watershed, Wye Street, Hereford, Herefordshire, HR2 7RB
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182607&search=182607
Reason Application submitted to Committee – Re-direction	

Date Received: 13 July 2018

Ward: Leominster
North & Rural

Grid Ref: 354692,268401

Expiry Date: 10 September 2018

Local Member: Councillor John Stone

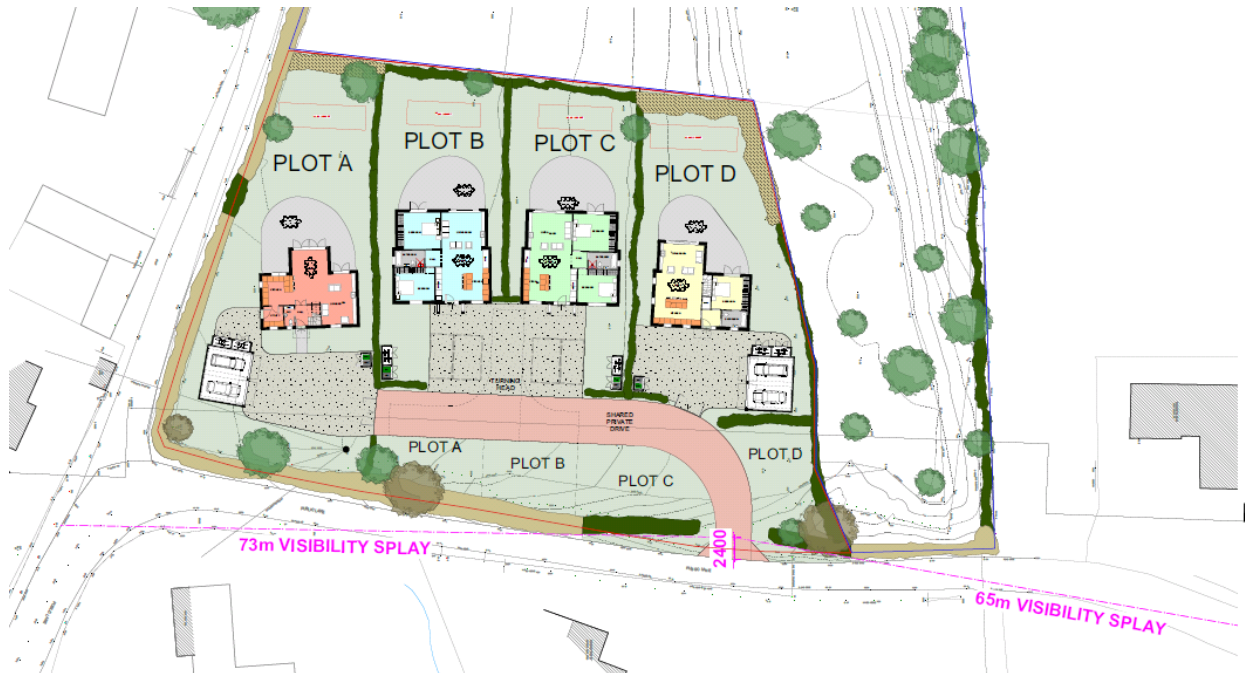
1. Site Description and Proposal

- 1.1 The application site is located on land to the north of The Corner House and fronts onto a single track, C class road, close to its junction with the A456. The road is designated as the national speed limit.
- 1.2 The site amounts to 0.4ha of land taking a rectilinear form running parallel to the road. It forms part of a larger area of open grassland and is bound by a vegetation corridor (approximately 5-10 metres wide and fenced off) on the north, the road and attendant hedgerow to the east; an unsurfaced lane (Temple Lane) and hedgerow to the south and open grassland on the west.
- 1.3 The level change across the site is approximately six metres from the highest point to the north and falling to the south (Temple Lane). The natural gradient of the land has been markedly changed by earthworks to form embankments and terrace for the Leominster-Stourport Canal. The canal has been drained and is redundant, the remnants being the earthworks as described and a depression in the land.
- 1.4 The landscape character of the site, as defined by the Council's Landscape Character Assessment is Principal Timbered Farmlands. The sites southern boundary lies on the margin of the Riverside Meadow and the River Teme lies approximately 200 metres to the south.
- 1.5 A full planning application has been submitted for the erection of four dwellings comprised of two 2 bed bungalows and two three bed 1 ½ storey houses. The application is supported by the following documents:

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

- Design & Access Statement
- Arboricultural Report
- Ecological Impact Assessment
- 7 day Automated Traffic Count (ATC) results
- Drainage Strategy

1.6 The plans have been amended since their original submission in order to address matters raised by the Council's Drainage Engineer, Ecologist and Natural England in respect of the provision of an appropriate drainage strategy and potential impacts of the development on the River Teme. As a result the four dwellings are proposed to be served by their own individual cesspits. The plan below shows the proposed layout of the scheme and the position of the cesspits:



2. Policies

2.1 Herefordshire Local Plan – Core Strategy

The following policies are considered to be of relevance to the application:

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
RA2	–	Housing in Settlements outside Hereford and the Market Towns
MT1	–	Traffic Management, Highway Safety and Promoting Active Travel
LD1	–	Landscape and Townscape
LD2	–	Biodiversity and Geodiversity
LD3	–	Green Infrastructure
LD4	–	Historic Environment and Heritage Assets
SD1	–	Sustainable Design and Energy Efficiency
SD3	–	Sustainable Water Management and Water Resources
SD4	–	Waste Water Treatment and River Water Quality

2.2 Brimfield and Little Hereford Neighbourhood Development Plan (made 22 July 2016)

The following policies are considered to be of relevance to the application:

BLH3	–	Housing to meet local needs
BLH4	–	Ensuring an appropriate range of tenures, types and sizes of houses
BLH5	–	Criteria for new housing sites in Little Hereford
BLH8	–	Building design principles
BLH9	–	Landscape design principles
BLH12	–	Water management
BLH13	–	Criteria for assessing the suitability of future development sites
BLH14	–	Development in areas of flood risk
BLH15	–	Design for flood resilience and resistance
BLH16	–	Design to reduce surface water run off

https://www.herefordshire.gov.uk/directory_record/3039/brimfield_and_little_hereford_group_neighbourhood_development_plan_made_22_july_2016

2.3 National Planning Policy Framework

The NPPF is a material consideration in the assessment of this application. The following sections are relevant:

Chapter 1	–	Introduction
Chapter 2	–	Achieving Sustainable Development
Chapter 5	–	Delivering a Sufficient Supply of Homes
Chapter 8	–	Promoting Healthy and Safe Communities
Chapter 9	–	Promoting Sustainable Transport
Chapter 11	–	Making Effective 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

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

https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

3. Planning History

3.1 None identified

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.

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 (first response) – **Further information required**

As submitted, the application could have potential significant effects on River Teme Site of Special Scientific Interest. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- Clarification of how outfall from the proposed Package Treatment Plans will be dealt with
- Information on the proposed means to ensure that surface water run-off is controlled to prevent silt or other pollutants entering watercourses

Without this information, Natural England may need to object to the proposal.

Following the receipt of amended plans, Natural England confirms that they have **no objection** to the proposal and comment as follows:

River Teme Site of Special Scientific Interest

Based on the additional information submitted related to the disposal of foul effluent, 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.

Internal Council Consultations

4.3 Transportation Manager – **Recommends conditions**

Site Location and Access

The application site is located on land north of The Corner House, Temple Lane, Little Hereford Crossing, Herefordshire. The land is situated on a single-track access road just off the A456. The road is designated as the national speed limit but due to the context of the road, actual observed speeds are significantly lower. The ATC data supplied by the applicant shows that the 85th% speed is 26mph with an average speed of 21mph. With this in mind, the visibility splays will be acceptable if they deviate from standard for a 60mph road.

Proposal

The application is for the proposed creation of 4 no. new dwellings. It should be noted that new vehicular and pedestrian accesses will be constructed and a new public road will be created on site. As such, section 278 and section 38 agreements between the local authority and the developer should be entered into prior to any construction.

Parking, Turning and Manoeuvring

The proposal includes the provision of six new standard parking spaces which will be provided within the curtilage of the proposed new dwellings. 12 cycle spaces will also be provided along with four disabled spaces. Herefordshire's parking and cycle parking standards are set out in the Highways Design Guide for New Developments 2006.

The applicant should provide a clear plan to demonstrate that proposed car parking spaces are designed to standard and that sufficient space is to be provided within the layout of the site to facilitate turning and manoeuvring. All vehicles should be able to access and egress in a forward gear. The applicant's plans should be supported by a swept path analysis/tracking plan

to show that manoeuvres can be comfortably achieved within the layout of the site. From the drawing titled '*Scheme Proposal Proposed Site Plan rev d*' the number of parking spaces on the plan is not consistent with the number set out in the application form. 10 (6 Standard, 4 Disabled) in the app form and 8 on the plan (inclusive of garages). It should be further detailed by the applicant if the 4 disabled spaces are included within the 6 total spaces or separate.

Traffic Generation

Is not considered that this level of development will have any significant impact upon the local highway network in terms of trip generation.

Visibility

Visibility splays provided in drawing 2562 P(0) 002 rev D are suitable based on the 85th percentile speeds provided in the ATC data. However, these are only achievable based on the vegetation cut back. This should be conditioned in to any approval.

Drainage

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

Waste Collection

The developer should ensure that waste collection points are in keeping with Manual for Streets guidance on waste collection. With the bins being accessible within 25m from the public carriageway.

Conclusion

The transportation department has **no objections** to this application. However, if minded for approval, please can the following conditions be included:

- i) Landscaping plans and access as shown on the proposed site plan are completed prior to any occupation of the dwellings.
- ii) Further details on the parking provision as numbers in the application form are not consistent with drawings.
- iii) Swept path analysis for a refuse vehicle accessing and egressing the site in a forward gear.

4.4 Landscape Officer – **Recommends conditions**

Site Boundaries

The sites is bound by a vegetation corridor (approximately 5-10 metres wide and fenced off) on the north; a narrow road (C1053), with hedgerows on the east; an unsurfaced lane with hedgerows (Temple Lane, U94410) on the south and open grassland on the west (owned by the applicant).

Landscape

The level change across the site is approximately 6 metres from the highest point to the north and falling to the south (Temple Lane). The natural gradient of the land has been markedly changed by earthworks to form embankments and terrace for the Leominster-Stourpourt Canal, constructed in 1794. The canal transported coal for 60 years, then made redundant, drained and filled. Over time the ground has settled leaving a depression that forms a shallow basin that collects storm water from the neighbouring property. Note the water may contain nutrient rich or chemical residue that may impact on the nature and use of the proposed pond.

The change of topography has created a distinctive landscape step. The upper third of the site is the canal terrace with an embankment that abruptly slopes down (approximately 3 metres) to the remaining two thirds of the site that gently slopes to Temple Lane. This is the area selected for the proposed 4 no. new dwellings.

Secondary earthworks to form the C1053 road have created a steep embankment along the majority of the eastern boundary and may be influential how the proposed access road is treated.

Since the days of the canal, two old apple trees along the remnant canal suggests the land was once an orchard. This is supported by historic maps and the traditional orchard located on the other side of the C1053 road.

The landscape character of the site, as defined by the Landscape Character Assessment (LCA), SPG 2004 is Principal Timbered Farmlands with a primary characteristic: Ancient Timbered Sandstone Landscape. The sites southern boundary lies on the margin of the Riverside Meadow, with primary characteristics: Wetland Landscape.

Neither of these characterisations are strongly represented, however the site is within outer flood zone of the River Teme (200 metres to the south).

Designations

- SSSI Impact Risk Zone (River Teme)
- Flood zone 2 (>0.1% flood risk)

Views

Hedgerows along Temple Lane (U94410) the narrow road C1053 will assist in screening the proposed development, therefore it will be essential to maintain the existing hedgerow and establish new Hedgerows. The newly planted vegetation/hedgerow along the norther boundary, once established will assist screening views from the neighbour.

Hedgerows

The scheme proposes to remove and relocate 25 metres of hedgerow at the point of access. According to the definition of a hedge row, this would contravene the continuous nature of the hedgerow. The minimum length is 20m.

Access Road

The proposed access road is off the C1053. The embankment along the eastern boundary is steep and of reasonable height and would suggest that a splayed access with landing in this vicinity would warrant considerable grading and/or retaining structures to enable a safe intersection. The scheme does not address this in terms of levels and contour information, so it is difficult to ascertain the resultant effects of the new road.

From site observations, site lines appear to be tight at the proposed location. Note: This information would need validation from the Transport team.

The road will result in clearance of hedgerows. Refer to the above comments.

It is recommended to consider an alternative access and road alignment to minimise impacts of earthworks; impact on hedgerows and road safety.

Materials

Permeable paving setts - shared private drive.

Permeable resin-bound gravel - parking and turning areas

The use of permeable surface is supported. However, the slopes and gradients of the surfaces need to be taken into consideration to ensure that the water can infiltrate, particularly given the steep gradient of the private drive at the point of access. Surface drainage may still be required.

Levels and Gradients

The proposal does not indicate proposed levels. From the plan is difficult to ascertain if the proposed site will be terraced; if retaining walls are required; if earth slopes are used and how the building interfaces with the carparks and road.

Proposed Pond

The proposed pond appears to be conceptual, and does not indicate levels, edge treatments (sloped, hard edged or natural); proposed depths; if the pond is permanent (plastic lined or clay) and how water drains into the pond and where the overflow is diverted.

More information is required.

Surface Drainage

The scheme proposes permeable surfaces and storm water attenuation along the eastern boundary open space. Roof rainwater is proposed to be collected using a soakaway system. The proposal does not identify locations and details.

Foul Sewage

The proposal indicates that a foul sewage will be retained on site and treated with a package treatment with proprietary reed bed system. Where is this system located and how does this integrate into the landscape scheme. Is this for each individual dwelling or combined?

Public Open Space

The scheme offers a sizeable parcel of land to public space. How is this maintained?

Orchards

The proposal to plant fruit trees is a well considered proposal and supports the history of the site, reinforces the existing remnant apple trees and the overall character of the region.

Conditions

- i) Detailed engineering drawings

Detailed plans and sections of the access, road and carpark plan layout to ascertain impacts on landscape, hedgerows and drainage.

- ii) Detailed Levels and Drainage Plan

Existing and proposed levels, contours and gradients of external works to understand the cut/fill of the site; retaining structures; how building levels relate to the external landscape (parking areas, road, hard surfaces, pavements) and drainage (attenuation swales, drainage lines and outlets).

Refer to:

Refer to Herefordshire Council Drainage guidance notes for sustainable drainage systems (SuDS).

- iii) Detailed plan and sections of the pond

To understand the type (permanent or ephemeral), system (Ornamental or ecological), edge condition (Hard or natural); inlet/ outlet (Catchment and overflow); context (relationship with surrounding landscape habitat or amenity) and depths (Safety).

- iv) Soft landscape Plan and Schedule

Proposed location of trees, zones of planting and plant types clearly describing the species, sizes and densities and specific requirements (orchard, aquatics, swale zones or other operations associated with plant establishment) in order to ascertain that the landscape vision has been supported technically.

v) Landscape Management Plan

The report should include long term design objectives, management responsibilities and maintenance schedules for all landscape areas and submitted to and approved by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

vi) Landscape Maintenance Arrangements

No development shall take place until a scheme of landscape maintenance for a minimum of 5 years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

4.5 Ecologist – Further information required

With proximity to the River Teme SSSI confirmation of how Foul Water will be managed must be approved as part of any planning consent granted. No discharge of outfall from PTP in to any local watercourse, stream or culvert would be acceptable and all outfall should be managed through a soakaway drainage field on land under the applicants control. Confirmation of this soakaway field on supplied plans is requested in order that it can be made subject to implementation condition and so through required Habitat Regulation assessment conclude 'no likely significant effect'. If soakaway fields are not possible then details (including relevant discharge certificates) of secondary Phosphate Removal systems added to each PTP should be supplied. These secondary treatment units should achieve a certificated mean Phosphate (P) level of <1mg/litre (equivalent to discharge from a mains sewerage treatment plant). (NPPF, NERC Act, Habitat Regulations, Core Strategy LD1-3 and SD4.

I am slightly unsure why the development has included the old canal corridor within the application boundary as I can see no good ecological reason for doing so. The inclusion of this area as part of approved plans will mean that a legal agreement to secure 'in perpetuity' management as an ecological site will be required adding potentially unnecessary complexity and cost both at application stage and for the residents concerned going forwards. From an ecological perspective this area could be removed from the application area and just the planting and biodiversity enhancements already proposed that are directly relevant to the dwelling considered in more detail.

I note that Highways have not yet responded but I would expect that a considerable length of the highway side hedgerow will have to be removed or translocated to create required visibility splay. Any loss of significant length of this hedgerow would mean a break in this important ecological corridor and 'enclosed' lane habitat. Consideration for creating the access along the southern boundary is suggested as this avoids direct access on to a highway and is likely to result in significantly less ecological harm.

No external lighting should illuminate any biodiversity enhancement, boundary feature, highway/track corridor or wider local 'Dark Skies'.(NPPF, NERC Act, LD1-3)

Based on above comments I would welcome the submission of revised plans for further comment.

4.6 Tree Officer – **Recommends condition**

After reading the Arboricultural Survey, Impact Assessment And Protection Plan – Barton Hyett & Associates I can confirm that I do not have any objections to the proposals. This is on account on the relative poor quality of the trees on site and the minimal impact on the only tree of higher quality, T5 English Oak.

However, there is still a need for a condition to protect all trees that are to be retained during development.

4.7 Land Drainage Engineer – (first response) **Further information required**

Prior to the council granting planning permission, we recommend that the following information is provided:

- Clarification of the surface water drainage outfall, including establishing the presence of any services in the road. This should include cross section to demonstrate the surface water and treated effluent outfalls can be constructed;
- Further details of the foul water disposal system, including percolation tests in accordance with BS6297 to determine whether infiltration techniques are a viable option for managing treated effluent. This will produce a Vp value which can be used to size the required drainage field. If infiltration is not viable, approval from Natural England would be required for the outfall to a watercourse (as this is within 500m of a SSSI).

In principle we do not object to the proposals, however we recommend that the following information provided within suitably worded planning conditions:

- Re-design of the surface water drainage system to ensure that the runoff rates are restricted to the pre-development Greenfield values and the 40% climate change has been used;
- Confirmation that the riparian owner of the watercourse (into which the discharge is proposed) gives permission for discharge into this watercourse;
- Confirmation of the proposed adoption and maintenance arrangements for the surface water drainage system.

Following the receipt of amended plans the Land Drainage Engineer has provided the following comments, **recommending the imposition of conditions:**

Surface Water Drainage

The updated site layout plan does not demonstrate the proposals for surface water runoff management.

Our previous comments have not been addressed. We still request that the below is reviewed and addressed:

The Applicant has stated that the surface water runoff will be disposed of via outfall into an existing ditch at 5l/s (using a 99mm orifice). It has also been stated that storage will be provided for the 1 in 100 year + 30% climate change event, however in February 2016, the EA updated their advice on potential effects of climate change and that a range of allowances should be considered to understand the implications: <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances> in summary, 40% climate change should be applied.

The rate and volume of discharge should be restricted to the pre-development Greenfield values as far as practicable. Reference should be made to The SUDS Manual (CIRIA C753, 2015) for guidance on calculating runoff rates and volumes. The assessment of pre and post-development runoff rates should consider a range of storm durations to determine those which are critical for the site and receiving watercourse or sewer and demonstrate sufficient storage

has been provided. Allowances for climate change would not typically be included in the calculation of existing discharge rates.

We note that the proposed watercourse (into which the surface water is proposed to discharge), is not directly adjacent to the Applicants land. In addition to this it appears that the proposals are to connect to the culvert underneath the road. This is not acceptable. Any outfall must be connected to the open watercourse. The Applicant should consider the presence of services in the road during the design of the outfall. It may not be buildable if existing services hinder the installation of a drain to outfall into the watercourse. Any pipeline will need to be designed to meet Herefordshire Council Highways requirements and the headwall should provide adequate support to the highway.

The Applicant must establish the adjacent landowner as they are the riparian of this watercourse and ensure that permission is obtained for disposal of water into this watercourse.

We also note that the proposed attenuation tank (appears to be offline) is located on 'shared grass land'. The Applicant must be aware that a private management company must be responsible for the maintenance of the shared drainage system, but the land on which the attenuation tank is located should be jointly owned by the residents.

For any proposed outfall to an adjacent watercourse, the Applicant must consider the risk of water backing up and/or not being able to discharge during periods of high river levels in the receiving watercourses. Any discharge of surface water to an ordinary watercourse will require Ordinary Watercourse Consent from Herefordshire Council prior to construction, in addition to approval from the riparian owner of the watercourse.

The drainage system should be designed to ensure no flooding from the drainage system (which can include on-the-ground conveyance features) in all events up to the 1 in 30 year event. Surface water should either be managed within the site boundary or directed to an area of low vulnerability. Guidance for managing extreme events can be found within CIRIA C635: Designing for exceedance in urban drainage: Good practice.

The Applicant must confirm the proposed adoption and maintenance arrangements for the surface water drainage system.

Foul Water Drainage

Following consideration of all options of foul water disposal, it has been concluded that cesspits are the viable option. An assessment of the tankering access should be undertaken to ensure this can be achieved. We do note that public representations have raised that the existing lane is narrow. The need for emptying the cesspits may produce a nuisance factor due to the narrow nature of the existing lane.

The Applicant stated that the cesspits would be emptied on an 8 week cycle. This is not in accordance with the Building Regulations Part H. This guidance clearly states that typically, cesspools are emptied on a monthly basis.

The emptying cycles can be estimated by assuming a filling rate of 150l per person per day (thus the number of bedrooms proposed for ease dwelling determines the size of the cesspool required and frequency of emptying). Cesspools should be inspected fortnightly. No evidence has been provided in regards to the sizing of the cesspools.

Overall Comment

We do not object to the proposed development, however the following information should be provided within suitably worded planning conditions:

- Clarification that the cesspits can be tankered without producing a nuisance for existing residents in this area;

- Calculations to demonstrate that the cesspits have been correctly sized;
- Clarification of the surface water drainage outfall, including establishing the presence of any services in the road. This should include cross section to demonstrate the surface water and treated effluent outfalls can be constructed;
- Re-design of the surface water drainage system to ensure that the runoff rates are restricted to the pre-development Greenfield values and the 40% climate change has been used;
- Confirmation that the riparian owner of the watercourse (into which the discharge is proposed) gives permission for discharge into this watercourse;
- Confirmation of the proposed adoption and maintenance arrangements for the surface water drainage system.

4.8 Waste Management Officer – **Recommends condition**

Each property will be provided, as standard, with 1 x 180 litre black general rubbish bin and 1 x 240 litre green recycling bin.

The area is accessed currently by an 18 tonne refuse collection vehicle (RCV). In order for the RCV to travel the private road it would need to be constructed to the specification for adoptable roads. A risk assessment would also need to be passed.

Alternatively, a suitable site needs to be identified where residents can put their bins on collection day, e.g. and area of hard standing to one side of the entrance to the development, in accordance with 'Guidance Notes for storage and collection of domestic refuse and recycling'.

4.9 Neighbourhood Planning Manager – **Qualified comment**

The Brimfield and Little Hereford NDP was adopted in August 2016, this means that in accordance with para 14 of the NPPF the housing supply policies are considered as 'out of date'.

The proportional growth targets for the parish is 75 of which 10 have been built and 47 committed, the plan also has a site allocation of 20 dwellings, this means that the proportional growth target (with the site allocation) has been achieved.

The NDP does not designate a settlement boundary for Little Hereford but within Policy BLH5 indicates that development should be within or adjacent to the settlement.

There is no formal description within the plan of the area considered as Little Hereford however the area subject to this application is included within the policies map for Little Hereford and therefore considered to be within and adjacent to the settlement of Little Hereford.

It is considered that in terms of location the proposal accords with Policy BLH5.

5. Representations

5.1 Brimfield and Little Hereford Group Parish Council – (first response) **Objection**

The Parish Council object to this application as it does not adhere to policy BLH5 3a of the Neighbourhood Development Plan – with regards to access, traffic and drainage, this will adversely affect people's enjoyment of their homes and gardens.

Light pollution on surrounding properties are also a concern.

This development will exacerbate river and surface water flooding and impact on the already busy rural road used frequently by farm traffic, making it unsustainable. We consider the date

the traffic report was undertaken does not reflect the true picture from farm and other traffic throughout the year, on a single track 60mph lane, with no footpaths or passing places and poor visibility. There has been an increase lately of school children walking down this road to catch the bus at the corner. To place a new access at this point with further traffic is dangerous.

We have further concerns regarding surface water and foul drainage, with an attenuation pond proposed. Excess surface water will run off and be discharged into the opposite property into a culvert under the A456 and into the river. We understand permission is required by the riparian owner for this discharge.

Further concerns regarding the loss of an established hedgerow and maintenance of the proposed pond and shared areas within the development are raised.

We have contacted our local member to request this application is decided by the planning committee

Further comments following the submission of amended plans – **Objection**

The Parish Council continue to object to this application, our previous comments stand.

The proposal of cesspits for each of the properties is not a viable solution to foul water drainage either financially or environmentally, it would fall to the occupier to empty them regularly at substantial cost to themselves. This would also be of further detriment to highway safety due to the large vehicles required to empty the cesspits frequently.

We welcome the decision that the application is to be determined by committee, and would ask that a site visit be undertaken to understand our concerns. This application conflicts with our neighbourhood development plan for the reasons stated, we have achieved proportional growth to date and due to the ongoing concerns of local residents, this application should be refused.

5.2 Objections have been received from fifteen local residents. Letters relate to the plans as originally submitted and to the amended plans. In summary the points raised are as follows:

Policy Issues

- The principle of development is in question. The site is not within or adjacent to the main built up area and the proposal is consequently contrary to Policy RA2 of the Core Strategy
- The proposal is in conflict with policies BLH3 and BLH5 of the Brimfield and Little Hereford NDP
- The development proposed is in an area where there are 13 other properties. This would increase housing numbers by circa 28%. This is not a proportionate increase

Highway Safety

- Access proposed is onto a single carriageway road. The gradient of the access is too steep
- Visibility at the proposed point of access is poor
- Potential danger to existing road users, both vehicular and pedestrian
- Access should be taken from Temple Lane
- The road survey report was completed in December 2017. It should have been completed in the summer months when daylight hours are longer and more farm vehicles are using the road
- It is not clear that the visibility splays shown are achievable

Drainage

- Local flood risk will be increased
- The proposed development will increase surface water run off
- Insufficient information has been provided to show that surface water run off will not increase flood risk elsewhere

Ecology and Landscape

- The removal of part of the roadside hedgerow will have an adverse visual impact on the street scene and wider landscape views
- Unacceptable impacts on the biodiversity and ecological values of the site
- The removal of species rich grassland and part of the hedgerow will not make a positive contribution to the environment and landscape setting

Residential Amenity

- Adverse impact on existing residential amenity arising from car lights shining into Sunny Dale and Sunnymead as the exit the development site

Issues in relation to the submission of amended plans

- The use of cesspits is a retrograde step
- The amount of tanker traffic will be significant given the requirement for cesspits to be emptied on a monthly basis

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=182607&search=182607

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 made Brimfield and Little Hereford Neighbourhood Development Plan (NDP). The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.3 CS Strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms proposals that accord with the policies of the Core Strategy (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.
- 6.4 The Council is not able to demonstrate a 5 year supply of housing land. Therefore, policies relevant to the supply of housing are, in accordance with paragraph 74 of the NPPF, out-of-

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

date. However, this does not render such policies an irrelevance and they may still be afforded some weight. For the avoidance of doubt, Inspectors have determined that CS policies SS2, SS3, RA1 and RA2 are all relevant to the supply of housing in the rural context.

6.5 The preamble to RA2 – Housing in settlements outside Hereford and the market towns states: “Within these settlements carefully considered development which is proportionate to the size of the community and its needs will be permitted.” The proactive approach to neighbourhood planning in Herefordshire is also noted and that when adopted, Neighbourhood Development Plans (NDPs) will be the principal mechanism by which new rural housing will be identified, allocated and managed.

6.6 Paragraph 11 of the NPPF sets out that decisions should apply a presumption in favour of sustainable development, part d states:

d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, 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.

6.7 Footnote 7 states that policies that are considered out-of-date where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, as stated earlier Herefordshire Council are currently not able to provide a five year supply.

6.8 As stated previously, the development plan is comprised of the Core Strategy and also the Neighbourhood Development Plan. In this instance the plan is more than two years old and therefore those policies relating to housing delivery are considered to be out of date.

6.9 Sustainable development is achieved through three objectives, identified within paragraph 8 of the NPPF:

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a) An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and

c) An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

6.10 Figure 4.14 of Policy RA2 identifies those settlements considered to be sustainable and a main focus settlement for proportionate housing growth. Brimfield is one of the settlements identified, reflecting the existing local services and public transport provision in the village. Figure 4.15

identifies a secondary tier of settlement where proportionate growth will also be appropriate and Little Hereford is identified here. The policy provides that; "...housing growth will be supported in or adjacent to those settlements identified in Figures 4.14 and 4.15."

- 6.11 The policies contained within the NDP do not define a settlement boundary for Little Hereford. It is a dispersed settlement with nucleated areas around the Temeside Inn to the south of the site, the village hall and church, and Temple Meadow immediately to the north of the application site. It is a row of post war housing that fronts onto the public highway. Your officers are of the view that the site continues this linear form of development. Without clear direction from a settlement boundary, your officers are of the opinion that the application site should be considered as being adjacent to the settlement and therefore complies with the requirements of CS policy RA2. The proposal is considered to be acceptable as a matter of principle.

Highway Safety

- 6.12 Policy MT1 of the CS and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.
- 6.13 The Council's Transportation Manager has visited the site and has considered the proposals in detail. The ATC submitted with the application confirms that, whilst the national speed limit applies to the highway onto which the development fronts, actual vehicle speeds are significantly lower than 60mph. This allows for the reduced splays as shown on the layout plan submitted as part of the application.
- 6.14 There is no evidence to suggest that the proposed development will demonstrable increase risks for highway users, whether vehicular or pedestrian. Matters raised in objection to the application in respect of access gradients can be addressed through the imposition of appropriately worded conditions.
- 6.15 Whilst it is generally accepted that ATCs should be conducted within term times to give the most accurate reflection of daily vehicle movements, there are otherwise no constraints as to when they should be conducted. The suggestion that a winter time survey would not reflect agricultural activity may have some validity but is not reason to require further survey work or to refuse the application.
- 6.16 Officers are content that any highway impacts arising from the development can be appropriately mitigated through the imposition of conditions. On this basis they are content that the proposal is compliant with CS policy MT1 and the NPPF.

Drainage

- 6.17 CS Policy SD3 states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk and avoid an adverse impact on water quality. 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). The policy concludes by stating that the use of cesspools will only be considered in exceptional circumstances and where it can be

demonstrated that sufficient precautionary measures will ensure no adverse effect upon natural drainage water quality objectives.

- 6.18 The comments from Natural England with respect to potential impacts on the River Teme SSSI have particularly led to the amendment of the scheme and the introduction of cesspools to serve each of the dwellings. It will be noted that CS policy SD3 does not rule out their use entirely, but is clear that they will only be permitted in exceptional circumstances where there are no adverse effects on water quality objectives.
- 6.19 The applicants agent has exhausted all alternative options to deal with waste water and the use of cesspools is considered to be the only viable option. The fact that Natural England have withdrawn their original concerns and now do not object to the application lead Officers to conclude that the proposal will not have an adverse effect on water quality objectives. They are clearly satisfied with the arrangements to be made for the retention and release of surface water in an attenuation tank.
- 6.20 The Council's land Drainage Engineer initially raised concerns about the drainage arrangements proposed but is now satisfied that the outstanding issues can be addressed through the imposition of conditions. Crucially, the applicant's agent has provided further details about the outfall from the attenuation tank to the watercourse such that there is no reliance on third party land to achieve this
- 6.21 The views of the Council's drainage consultant have been considered and subject to conditions, there is no technical objection to this proposal on flooding or drainage grounds. However control will need to be imposed to ensure that the cesspools are emptied at a suitable disposal site. This can only be achieved via a Section 106 Planning Obligation with suitable monitoring fee.

Landscape and townscape

- 6.22 CS policy LD1 requires new development to achieve the following:
- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
 - Conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management.
- 6.23 CS policy SD1, amongst other criteria, requires development proposals to incorporate the following requirements:
- Ensure that proposals make efficient use of land – taking into account the local context and site characteristics;
 - New buildings should be designed to maintain local distinctiveness.
- 6.24 The application site extends to some 0.4 hectares and forms part of a parcel of land owned by the applicant. It has a significant road frontage that extends to some 95 metres which is defined by a mature hedgerow that is recognised to make a positive contribution to the rural character of the area.
- 6.25 The proposal would entail the formation of a new access to the site which would require the removal of approximately 30 metres of the well established hedgerow along the road frontage. The groundworks required to form the driveway/embankment and level plots will have a significant localised impact when viewed from the public highway in the immediate vicinity of the site.

- 6.26 It is inevitable that development changes the nature of an area. Areas of open grassland become occupied with buildings and this will almost always be viewed as a negative visual impact. However, in this case, the proposal is considered to minimise the impacts that it is likely to have. Hedgerow removal is limited and the plans show that approximately two thirds will be retained. The layout of the development is such that it maintains the linear pattern of Temple Meadow to the north and the design choices of single and 1 ½ storey dwellings, combined with level changes across the site will mitigate impacts to an acceptable degree.
- 6.27 There are no specific landscape character designations in the area and the proposals are considered to be compliant with CS policies SD1 and LD1 and NDP policy BLH5, all of which seek to ensure that developments reflect the character and appearance of their localities.

Ecology

- 6.28 The comments from the Council's Ecologist regarding the proximity of the site to the River Teme SSSI have been addressed through the revisions to the drainage scheme. This is reflected by the fact that Natural England has withdrawn their concerns about the application and now raise no objection.
- 6.29 Similarly, the amended plans have reduced the red line area of the application site and the canal corridor is excluded from the application site.
- 6.30 As stated earlier, the provision of a new access will require the removal of a length of hedgerow of approximately 30 metres. The plans indicate that the majority will be re-planted behind the visibility splay. Whilst it is accepted that this will take time to re-establish its removal is considered to be a modest environmental impact weighing against the proposed development.
- 6.31 The proposals do include new hedgerow planting to define the curtilages between the properties which will provide wildlife corridors to the land to the west and provide links to the canal corridor to the north. Subject to the imposition of conditions it is considered that the ecological impacts of the proposal can be mitigated such to ensure compliance with CS policy LD2.

Residential Amenity

- 6.32 Specific concerns have been raised about the impact of the development on the properties of Sunnymead and Sunnydale resulting from car headlights shining into the properties. With respect to the former, it is approximately 45 metres to the north of the application site's access road (at its closest point). The property is positioned on higher ground and is bounded by its own hedgerow. The proposal of four dwellings will give rise to limited vehicle movements. Combined with the topography and the proximity of the property to the site it is highly unlikely that Sunnymead will suffer any demonstrable impact to residential amenity arising from vehicular movements.
- 6.33 Sunnydale lies to the east, on the opposite side of the road and to the south east of the proposed access. Any impacts from headlights shining into the property would result from vehicles turning out of the site. However, the property is positioned on lower lying land behind a mature hedgerow and it is not considered that it will suffer any demonstrable impacts.
- 6.34 There are no other residential impacts likely to arise as a result of the proposed development. It is well spaced from nearby properties and will not give rise to demonstrable impacts in terms of overlooking or loss of privacy. The proposal is considered to accord with CS policy SD1 and BLH5 of the NDP.

Sustainable Design and Energy Efficiency

- 6.35 SS7 of the CS also sets the strategic objective for all development proposals to include measures which help mitigate the impact upon climate change. This includes locating development in the most sustainable locations; reducing the need to travel; and designing development to reduce carbon production and promote the efficient use of resources. Policy SD1 also states that development will be supported where it utilises physical sustainability features such as orientation of buildings, water conservation measures; cycle storage and renewable energy generation. In this case, the proposal is considered to adhere to the principles of SS7 in the sense that the site is sustainably located in a settlement that is identified under CS policy RA2. In terms of the details of the scheme, whilst no specific details on sustainability or energy efficiency measures have been provided with the application any future dwelling will need to meet the minimum standards of energy efficiency as required by Building Regulations. On the whole therefore, it is not considered the proposal creates a level of tension with SS7 or SD1 which would in of itself warrant withholding consent.

Planning Balance and Conclusions

- 6.36 Both CS policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan. The NPPF encompasses the government's view of what is meant by sustainable development in practice. The three themes, economic, environmental and social should be pursued jointly and simultaneously.
- 6.37 The application is for housing and in the light of the housing land supply deficit must be considered against the test prescribed at NPPF paragraph 11 and CS Policy SS1. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF when considered as a whole.

In assessing the three elements of sustainability:

Economic

- 6.38 Economic benefits would be derived from the construction of four dwellings and associated infrastructure through both the supplies and employment of the required trades. After completion the occupiers would contribute some disposable income to the local economy and Council Tax revenue and New Homes Bonus would accrue. The impact of the new dwellings as proposed would result in modest economic benefits towards sustainability.

Social

- 6.39 The provision of housing, in the context of a shortfall, would contribute to the supply of housing and the social needs of the county. In addition occupiers may contribute to village life and support local facilities. This is considered to represent a modest benefit towards the social arm of sustainable development.

Environmental

- 6.40 The site is immediately adjacent to existing dwellings that constitute the main built form of Little Hereford and as such is considered to be sustainably located. In landscape terms, the site is not in a protected landscape nor is it subject of any site specific heritage designations, Whilst it is recognised that objectors to the development are concerned about the landscape impacts of the proposal; particularly the loss of the roadside hedgerow, it should be recognised that any new development will change the character of an area in a visual sense. In this instance your officers are of the view that this will be mitigated to an extent by new planting, the siting of the dwellings in a linear form in a fashion similar to those to the north and the fact that they are a

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

combination of single and 1 ½ storey properties. On balance these factors have led your officers to conclude that any modest landscape and ecological harm caused would not be adverse nor is it considered that they would outweigh the NPPF presumption in favour of development.

- 6.41 Having undertaken an overall assessment of the proposal in light of its economic, social and environmental impacts as required by the NPPF, it is considered any economic and social benefits would be modest. The environmental impacts are limited for the reasons set out above and lead officers to conclude that the proposal is representative of sustainable development and approval is therefore recommended.

RECOMMENDATION

That subject to the completion of a Section 106 Planning Obligation to ensure that the disposal of waste from the cesspools takes place at a appropriate location together with monitoring fee that officers named in the scheme of delegation to officers be authorised to grant planning permission subject to the following conditions and any other conditions considered necessary by officers.:

1. **C01 Time limit for commencement (full permission)**
2. **C06 Development in accordance with the approved plans**
3. **C13 Samples of external materials**
4. **CA1 Landscape Scheme**
5. **CA2 Landscape Maintenance Plan**
6. **CA3 Landscape monitoring**
7. **Before any other works hereby approved on the application site are commenced, the new entrance shall be set back 2.4 metres from the nearside edge of the adjoining carriageway. On each side of the set back entrance, splays shall be formed at an angle of 45 degrees with the highway boundary in accordance with the approved plans and the whole of the splayed areas shall be graded and cleared so that no part thereof exceeds a height of 0.6 metres above the relative level of the adjoining carriageway.**

Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.
8. **CAE Vehicular access construction**
9. **CAH Driveway gradient**
10. **CAI Parking – single/shared private drives**
11. **CAT Construction Management Plan**
12. **Prior to the occupation of the development details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first use occupation of any of the dwellings hereby permitted. The details to be**

provided should include the following:

- Calculations to demonstrate that the cesspits have been correctly sized;
- Clarification of the surface water drainage outfall, including establishing the presence of any services in the road. This should include cross section to demonstrate the surface water and treated effluent outfalls can be constructed;
- Re-design of the surface water drainage system to ensure that the runoff rates are restricted to the pre-development Greenfield values and the 40% climate change has been used;
- Confirmation that the riparian owner of the watercourse (into which the discharge is proposed) gives permission for discharge into this watercourse;
- Confirmation of the proposed adoption and maintenance arrangements for the surface water drainage system.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy, Policies BLH12 and BLH16 of the Brimfield and Little Hereford Neighbourhood Development Plan and the National Planning Policy Framework.

13. CCK Details of slab levels

14. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan: Arboricultural Survey, Impact Assessment And Protection Plan – Barton Hyett & Associates 01-08-18.

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with LD1 & LD3 of the Herefordshire Core Strategy.

INFORMATIVES:

1. IP2 Application Approved Following Revisions

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. 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.

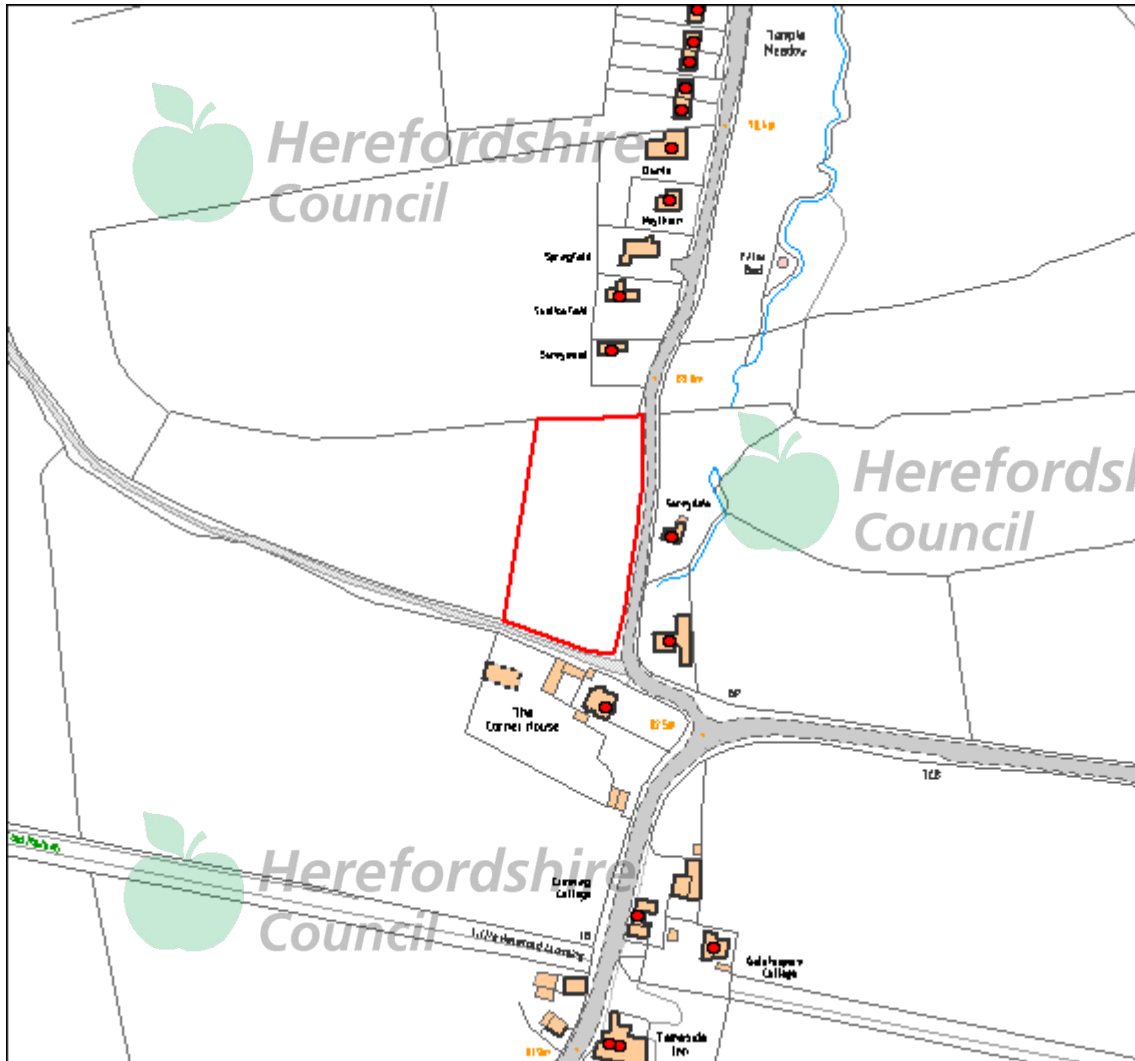
Decision:

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: 182607

SITE ADDRESS : LAND NORTH OF THE CORNER HOUSE, TEMPLE LANE, LITTLE HEREFORD CROSSING, HEREFORDSHIRE

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	16 October 2019
TITLE OF REPORT:	184593 - CHANGE OF USE OF EXISTING ANNEX INTO HOLIDAY LET ACCOMMODATION AT WOODMILL COTTAGE, OCHRE HILL, WELLINGTON HEATH, LEDBURY, HR8 1LZ For: Mr & Mrs Clack per Mr John Kendrick, Procuro, St Owens Cross, Hereford, Herefordshire HR2 8LG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=184593&search=184593
Reason Application submitted to Committee – Re-direction	

Date Received: 18 December 2018 Ward: Ledbury North Grid Ref: 371399,240547
Expiry Date: 6 June 2019

Local Member: Councillor Liz Harvey

1. Site Description and Proposal

- 1.1 The application site totals approximately 0.6ha and forms part of the land holding which forms Woodmill Cottage, on Ochre Hill, within the parish of Wellington Heath and within the Malvern Hills Area of Outstanding Natural Beauty (Malvern Hills AONB). The site itself comprises an existing dwelling, this being Woodhill Cottage, and a brick-facing with render annex, which is sited to the north of site and dwelling, which this application concerns. The vernacular of this part of the village represents homes in a variety of styles but with a roadside perspective and continuation upon Ochre Hill. The annex has been subject to some re-building, with what was previously a stable block, including a grinding machine for sheep feed with sheep dip during the early 1990s.
- 1.2 Given its location on Ochre Hill, the site is somewhat elevated. The land steeply slopes to the east, to the rear of Woodmill Cottage. It lies within the forest smallholdings and dwellings landscape character type and one will note that this landscape character, given it is set atop a steep valley, offers views which are generally internal and short ranged, framed and closed with hedges, small pasture lands and trees. Where longer views exist they are often spectacular, sometimes encompassing the textures and patterns of intensive commercial orchards or key features such as the contours of British Camp, an important respected view within the Malvern Hills AONB, which itself is an important asset nationally as a protected landscape.
- 1.3 The application proposed seeks planning permission for the change of use of the existing annex into holiday let accommodation. One will note that no external alterations are proposed and that solely internal changes are proposed to facilitate the change of use. For ease of understanding, I refer one below to the proposed plans, under Figure 1. One will see the site plan showing the

Further information on the subject of this report is available from Mr J Bailey on 01432 261903

existing elevations alongside the existing and proposed floorplans. A closer view of existing and proposed floor plans is available under Figures 2 and 3 respectively.

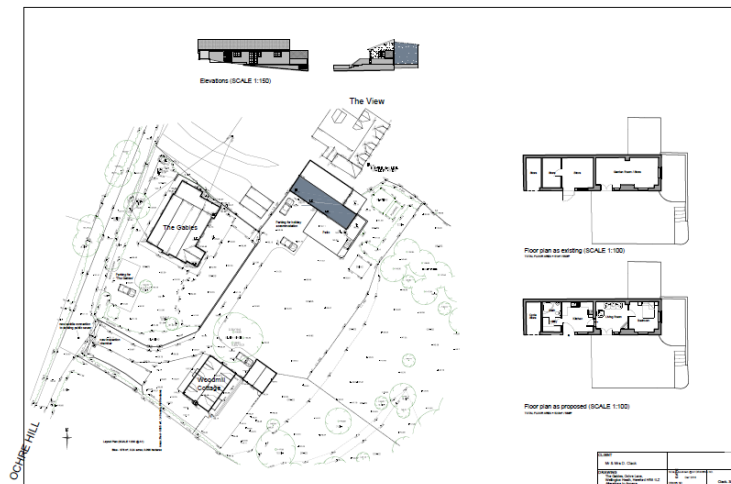


Figure 1: Site Plan indicating existing and proposed floor plans, elevations and layout

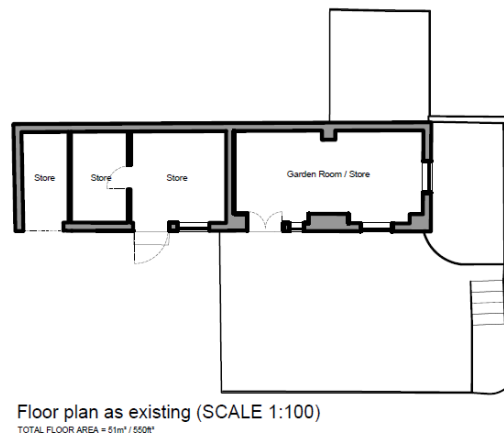


Figure 2: Existing floor plans

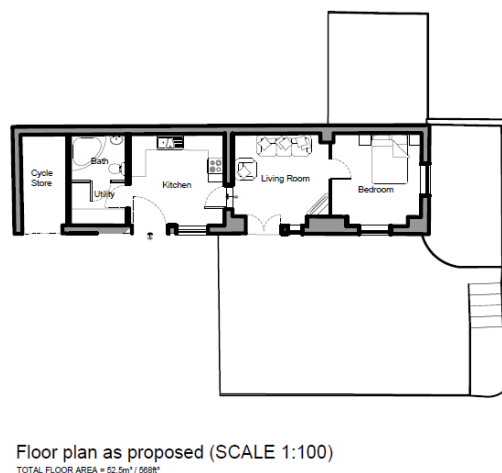


Figure 3: Proposed floor plans

- 1.4 For clear understanding, one should be made aware that Ochre Hill is not a public highway, it actually forms public footpath WH14, to which there is vehicular access currently used by residents of Ochre Hill. Given the nearest public highway is The Common (U66402), the red line has been amended to run to the U66402, in order to reflect National Planning Practice

Guidance, in which the red line needs to show means of access to the nearest public highway. As a result, it was made clear to the applicant that correct certification would need to be served on residents of Ochre Hill, as well as other potential landowners, this being Certificate C, which was undertaken in late March 2019, following the application being invalidated by officers. The application has subsequently been re-validated following this and has undergone further public consultation.

- 1.5 As shown on the photo below (Figure 4), one will identify the current siting of the annex under consideration:



Figure 4 – Photograph of annex

2. Policies

2.1 Herefordshire Local Plan – Core Strategy 2011-2031 (adopted October 2015)

Officers view that the following policies below are applicable in considering this application:

- SS1 - Presumption in favour of sustainable development
- SS4 - Movement and transportation
- SS6 - Environmental quality and local distinctiveness
- RA5 - Re-use of rural buildings
- RA6 - Rural economy
- MT1 - Traffic management, highway safety and promoting active travel
- E4 - Tourism
- 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

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

2.2 Wellington Heath Neighbourhood Development Plan (Wellington Heath NDP)

The Wellington Heath NDP was made on 18 October 2018. The NDP now has full material weight as set out in paragraph 48 of the National Planning Policy Framework (June 2019) which itself is a significant material consideration.

Officers consider that the following policies below are applicable in considering this application:

- WH1 - Settlement Boundary
- WH6 - Development Outside the Settlement Boundary – and in the Countryside
- WH10 - Employment
- WH12 - Pollution, Water, Waste and Light Management
- WH16 - Footpaths
- WH17 - Vehicle Parking and Access Arrangements

The Wellington Heath Neighbourhood Development Plan 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/directory_record/3113/wellington_heath_neighbourhood_development_plan_made_18_october_2018

2.3 National Planning Policy Framework (NPPF)

The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The National Planning Policy Framework has been considered in assessing this application. The NPPF was updated on 19th June 2019, and as such, the following sections are considered relevant to this application:

- Chapter 1 - Introduction
- Chapter 2 - Achieving Sustainable Development
- Chapter 4 - Decision-making
- Chapter 6 - Building a strong, competitive economy
- Chapter 8 - Promoting healthy and safe communities
- Chapter 9 - Promoting sustainable transport
- Chapter 11 - Making effective use of land
- Chapter 12 - Achieving well-designed places
- Chapter 14 - Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 - Conserving and enhancing the natural environment

The National Planning Policy Framework can be viewed by using the following link:-

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf

3. **Planning History**

- 3.1 The annex has not been subject to previous planning applications or planning history. Members should be aware of a number of other applications on site, which bears relevance:

P163182/RM – Application for approval of reserved matters following outline approval 160541 – approved under delegated powers on 20 December 2016

P160541/O – Site for proposed erection of one new 3 bedroom dwelling – approved under delegated powers on 12 April 2016

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 statutorily protected sites”.

4.2 Severn Trent – No objection:

“Thank you for the opportunity to comment on this planning application. Please find our response noted below: With Reference to the above planning application the company’s observations regarding sewerage are as follows. As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied. Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.”

4.3 Welsh Water – No comments to offer:

“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 do not provide sewerage services for this area, therefore we have no comments to make on the above Planning Application. Notwithstanding the above we do provide potable water service and have no objection to the proposed development”.

4.4 Public Rights of Way – No objection

“No objection”

4.5 The Ramblers – No objection

“Many thanks for the notification of this planning application which has been sent to me on behalf of the Ramblers’ Association. The proposed development does not appear to have any impact on public footpath WH14 so NO OBJECTION. It would have been helpful if the public footpaths were clearly marked on the location plan. We ask you to ensure that the development is aware that there is a legal requirement to maintain and keep clear and safe public right of way at all times during development”.

4.6 Malvern Hills AONB Partnership – No response received

Internal Council Consultations

4.7 Transportation – Conditions recommended:

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

The site is access via a PROW - Footpath. To access the site the applicant will have to agree the use of the footpath with the residents. Please see informative I50. Whilst this permission is for a holiday let, there is a concern that future permissions will be sort to change it to a dwelling;

therefore increasing the use on the footpath to vehicles, therefore if permission is given conditions should restrict the use.

CAL - Access, turning area and parking
CAZ - Parking for site operatives
CB2 - Secure covered cycle parking provision

HIGHWAY INFORMATIVE NOTES

I11 – Mud on highway
I10 – Access via public right of way
I09 – Private apparatus within the highway (Compliance with the New Roads and Streetworks Act 1991, the Traffic Management Act 2004 and the Highways Act 1980)
I05 – No drainage to discharge to highway
I50 – Vehicular use of public rights of way
I47 – Drainage other than via highway system
I35 – Highways Design Guide and Specification”

4.8 Ecology – Conditions recommended:

“There are no ecological records for or immediately adjacent to the site, but opportunistic protected species (eg Bats) and birds could be transient or present on the site as they are recorded in the wider locality. The applicant and their contractors have their own legal duty of care towards wildlife protection under UK Legislation that applies throughout any construction process. Any breach of this legal Duty of Care would be a criminal offence. In this instance this LPA has no reasonable cause to require this information as part of the planning application.

As identified in the NPPF, NERC Act and Core Strategy LD2 all developments should demonstrate how they are going to practically enhance (“Nett Gain”) the Biodiversity potential of the area. To secure these enhancements a relevant Condition is suggested:

Nature Conservation – Biodiversity and Habitat Enhancement

Prior to first occupation as accommodation evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the application site of at least TWO Bat roosting enhancements and TWO bird nesting boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting on the newly created accommodation or associated access should illuminate any habitat enhancement or existing boundary feature.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2017, Core Strategy LD2, National Planning Policy Framework (2018), NERC Act 2006. Dark Skies Guidance Defra/NPPF 2013 (2018)”.

4.9 Environmental Health Officer (Contaminated Land) – Conditions recommended

“I refer to the above application and would make the following comments in relation to contaminated land and human health issues which echo those made at the pre-application stage. According to our records, the development will fall at least in part on a former sawmills. This is a potentially contaminative use which will require specialist consideration in accordance with good practice.

Recommended condition

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

Further information on the subject of this report is available from Mr J Bailey on 01432 261903

- a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice;
- b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors;
- c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health.

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

Reason: In the interests of human health.

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

Reason: In the interests of human health.

Technical notes about the condition

1. I would also mention that the assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012.

2. And as a final technical point, we require all investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.

5. Representations

5.1 Wellington Heath Parish Council – Objection to both consultations:

1st consultation (February 1st 2019) –

“Wellington Heath Parish Council does not support this application for the following reasons:

1. This new dwelling lies outside Wellington Heath’s settlement boundary as defined in our adopted Neighbourhood Development Plan (NDP). Within the NDP document it is specifically stated that “In general, new housing development will be allowed only within the Settlement Boundary”.

2. *Although the intended use is given as that of a holiday let there is a potential for a converted storeroom facility of this type to be used as a permanent dwelling by any subsequent owners of Woodmill Cottage.*

3. *We believe that the likely loss of amenity (noise disturbance) that might be experienced by neighbours should this application be approved has been underestimated by the applicant . This runs contrary to NDP policy WH12.1.*

4. *Access to this property is via a privately owned and privately maintained drift-way that is also a public footpath. Increased vehicular use of this access route would potentially result in further surface wear/damage and would therefore involve increased maintain costs”.*

2nd consultation (29th April 2019) –

“We note various recent e-mail correspondence published in relation to this application, together with additional representation from AFA Planning Consultants on behalf of a group of Ochre Hill residents. We wish to confirm our objections to this application given in our representation dated 1st February 2019”.

5.2 Site Notice/Newspaper

At the time of writing, 22 letters have been received from 16 residents.

17 of these letters object to the application and their comments are summarised as follows:

- Contrary to NDP;
- Impact on wildlife;
- Unauthorised works undertaken;
- No employment benefit;
- Ownership issues on Ochre Hill;
- Highway/pedestrian safety;
- Impact on amenity;
- Sustainability of proposed development;
- Contaminated land;
- Water pressure issues

A further 5 letters support this application and their comments are summarised as follows:

- Promotes sustainable tourism, namely walking and cycling within the AONB;
- Near to services and facilities in the area;
- A need for holiday lets in the area

Full consultation responses for this application, as well as the proposed plans and supporting documentation, 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=184593&search=184593

6. **Officer’s Appraisal**

Policy context

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows: *“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”*

6.2 In this instance the 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 Wellington Heath Neighbourhood Area, which made a Neighbourhood Development Plan (Wellington Heath NDP) on 18 October 2018.

Principle of development

6.3 Whilst the application is not phrased as a dwelling, the site lies beyond the defined settlement boundary for Wellington Heath, given the adoption of the Wellington Heath NDP, outlined under Policy WH1 of the NDP. However, it is not appropriate to consider this application in terms of new residential development in meeting the Council’s 5 year housing land supply deficit. The application solely concerns a change of use and is for a holiday let and is not a new residential dwelling. Certainly, in the context of its surroundings, the site falls beyond the settlement boundary although is clearly not isolated given the presence of surrounding development, as shown on figure 5 below (the site under consideration is denoted by the red star). Indeed, there are a number of properties on Ochre Hill, to which two dwellings have been approved within the last 18 months by the Council.

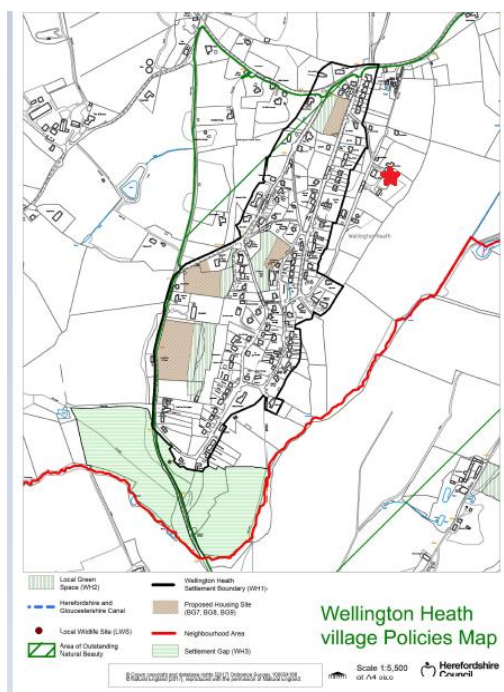


Figure 5 – Settlement boundary of Wellington Heath and indication of the application site by red star

6.4 The application is assessed on the principle of development, this being the suitability of the provision of a change of use of an annex to a holiday let, in considering tourism accommodation hereabouts and to consider the point about the impact of the proposed change of use in the locality.

Tourism provision

6.5 Planning policies outline the benefits from tourism related development (primarily covered under policy E4 of the Herefordshire Core Strategy) as well as the NPPF, which promotes that decisions may sometimes be found beyond defined settlements, as identified under paragraphs 83 and 84 of the NPPF (June 2019), and which is also quoted below:

“83. Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) the development and diversification of agricultural and other land-based rural businesses;*
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and;*
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.*

84. 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”.

- 6.6 As stated above, the adoption of the Wellington Heath NDP and the Herefordshire Core Strategy are both important to assessing this application, as this represents a key material planning consideration, as applications should be assessed in accordance with the development plan.
- 6.7 The only reference to tourism development in the Wellington Heath NDP is contained within the supporting information of listed buildings and heritage assets within the parish. As such, there is no local guidance on tourism and its benefits under policy, however employment is certainly of relevance (discussed below).
- 6.8 Notwithstanding this, Policy E4 of the Herefordshire Core Strategy (Tourism), identifies Herefordshire will be promoted as a destination for quality leisure visits and sustainable tourism by utilising, conserving and enhancing the county’s unique environmental and heritage assets and by recognising the intrinsic character and beauty of the countryside. In particular, the tourist industry will be supported by a number of measures including:

- “1. recognising the unique historic character of Hereford and the market towns as key visitor attractions and as locations to focus the provision of new larger scale tourist development;*
- 2. the development of sustainable tourism opportunities, capitalising on assets such as the county’s landscape, rivers, other waterways and attractive rural settlements, where there is no detrimental impact on the county’s varied natural and heritage assets or on the overall character and quality of the environment. Particular regard will be had to conserving the landscape and scenic beauty in the Areas of Outstanding Natural Beauty;*
- 3. retaining and enhancing existing, and encouraging new, accommodation and attractions throughout the county, which will help to diversify the tourist provision, extend the tourist season and increase the number of visitors staying overnight. In particular proposals for new hotels will be encouraged. Applicants will be encouraged to provide a ‘Hotel Needs Assessment’ for any applications for new hotels;*
- 4. ensuring that cycling, walking and heritage tourism is encouraged by facilitating the development of long distance walking and cycling routes, food and drink trails and heritage trails, including improvements to public rights of way, whilst having special regard for the visual amenity of such routes and trails, and for the setting of heritage assets in their vicinity; and*
- 5. the safeguarding of the historic route of the Herefordshire and Gloucestershire Canal (shown on the Policies Map), together with its infrastructure, buildings, towpath and features. Where the original alignment cannot be re-established, a corridor allowing for deviations will be safeguarded. New developments within or immediately adjoining the safeguarded corridor will*

be required to incorporate land for canal restoration. Development not connected with the canal that would prevent or prejudice the restoration of a continuous route will not be permitted”.

- 6.9 In this instance, the scheme is sited within reasonable distance of the market town of Ledbury, which itself provides an important tourism contribution to the county as a whole. The inclusion of cycle storage as part of the change of use, ensures that future occupiers have the opportunity to access nearby services and facilities without requiring the use of a private motor vehicle or indeed, potentially without needing to utilise the road network, using the PROW which runs via Frith Wood and Bradlow. Being sited within the Malvern Hills AONB, the scheme would promote sustainable cycling and walking tourism to visit and utilise the landscape appropriately. The siting of the annex is in a positive and unique landscape asset, which is continually visited regularly by users. The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings, is supported and encouraged through the NPPF.
- 6.10 Whilst officers accept that potential future occupiers may need to travel to site via car/taxi, possibly to/from Ledbury Train Station, the scheme proposed is clearly sustainable in terms of opportunities to promote walking, cycling and public transport use, to accord with paragraph 102 of the NPPF and Policy E4 of the Herefordshire Core Strategy. It would promote and enhance existing accommodation to allow visitors to undertake long distance walking and cycling routes, which is identified under Policy E4. The proposal is considered to be sustainable in locational terms given its immediate relationship to Wellington Heath, relative proximity to Ledbury and that it is within the Malvern Hills AONB. However, sustainability is more than simply a matter of location, given there are further matters which are need to be discussed in order to establish the planning balance.

Highways

- 6.11 Many of the objections received to this application have cited highways concerns, particularly in terms of pedestrian safety but also wear and tear on Ochre Hill and visibility onto The Common. One will note that paragraph 109 of the NPPF cites 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”*
- 6.12 The Council’s highways area engineer has visited the site and has concluded that the proposal is acceptable subject to appropriate conditions. Members will note that whilst this permission is for a holiday let, the scheme would increase the use on the footpath to vehicles, therefore if permission is given conditions should restrict the use. Officers have therefore recommended a number of conditions to ensure that the building which is the subject of this application shall be used for holiday accommodation only and for no other purpose. Conditions 5 and 12 will restrict the use in terms of use solely as a holiday let and indeed, length of stay.
- 6.13 One will note that the site is access via a PROW – Footpath WH14. The applicant is aware of this, and appropriate informatives have been recommended. The development would result in vehicles being driven across or along a Public Right of Way, however, other vehicles on Ochre Hill already do this. As a result, notification will be given to the Highway Authority before the permission is implemented. In addition, where public and private rights co-exist, permission should be sought from the landowner in order to obtain lawful authority to drive on the Public Right of Way.
- 6.14 The scheme has also proposed cycle storage, demonstrating that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location within the AONB. The existing access and egress from the site is clearly capable of accommodating the proposal and vehicle parking, to allow vehicles to safely get back onto Ochre Hill and onto The Common, in a forward gear.

- 6.15 Officers have considered the nature of the application and given the proposed vehicle numbers and other active modes of travel, including the cycling storage proposed, it accords with Policy MT1 of the Herefordshire Core Strategy, section 9 of the NPPF, importantly, not contravening paragraph 109 and also according with Policy WH17 of the Wellington Heath NDP.
- 6.16 For clarification, the ownership issues in terms of private rights of access, covenants and rights of way are not material planning considerations, but are civil matters between the applicant and other adjacent land owners and cannot be a material planning consideration in assessment of this application.

Locality Impact

- 6.17 Certainly, Wellington Heath and particularly upon Ochre Hill, the rural appeal tends to be significant but small-scale. Such features as the tranquillity, landscape and the winding network of rural lanes foster pursuits including walking and the quiet enjoyment of the countryside, actively promotes the social well-being within the Malvern Hills AONB. Indeed, at paragraph 172 of the NPPF, great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.
- 6.18 One will note that the AONB Malvern Hills Partnership had been consulted but have not formally responded, but again one should make clear that the scheme is change of use only. No impact in terms of landscape or locality impact is identified which would subsequently not conflict with Policy LD1 of the Herefordshire Local Plan – Core Strategy; Policy WH6 of the Wellington Heath NDP or Section 15 of the NPPF, with particular regards to paragraph 172.

Residential Amenity

- 6.19 A number of objections received have also raised the issue concerning residential amenity. As one will note, the siting of the annex abuts the northern boundary with The View and The Gables to the west. However, given the proposed use, this being a holiday let, officers do not consider that the proposed use competes with adjoining land uses. Officers therefore consider that the proposed development and its use would safeguard future occupiers in terms of residential amenity, in accordance with Policy SD1 of the Herefordshire Core Strategy, as well as Policy WH6 of the Wellington Heath NDP, which discusses development beyond the settlement boundary.
- 6.20 Indeed, there are a small number of similar examples of holiday lets throughout the parish and this is also raised in the Wellington Heath NDP under the supporting information for policy WH10 (employment), discussed below.

Employment

- 6.21 Policy WH10 of the Wellington Heath NDP can also be considered appropriate. Whilst the proposal would create one part-time job, the change of use does not give rise to adverse loss of residential amenity to nearby properties and given no external alterations are proposed, the proposal is in keeping with the scale, form and character of surrounding development. Planning requirements to safeguard the character of locations and their settings, residential amenity, highway safety, and water quality as set out in policy RA6 of the Herefordshire Core Strategy. To complement this strategic approach, the NDP positively supports sustaining existing operations and securing more employment in sectors such as farming, business, and tourism and leisure. The aim is to enable small-scale employment in Wellington Heath to continue to evolve, with a flexible approach to developing enterprises.
- 6.22 Indeed, the supporting background information to Policy WH10 of the Wellington Heath NDP supports a wide variety of businesses. At the smallest scale these are home-based activities

such as consultancy, computer services, and tutoring, but on the other hand there are large horticultural farms employing and accommodating hundreds of seasonal workers. Other notable business activities include equestrian livery and stabling, livestock farming, meetings facilities at Priors Court, bed and breakfast services, a public house, and contractors undertaking kitchen and bathroom installation, landscaping, and building. Officers consider that this is a limited yet modest benefit in favour of the scheme and should be weighed into the planning balance.

Contaminated Land

- 6.23 The issue of contaminated land also needs consideration. Officers from the Council's Environmental Health department for contaminated land have considered the proposals and have identified that the site lies on what was a former sawmill and also the previous site history of being a stable block as a grinding machine for sheep feed and sheep dip. In the interests of human health and to ensure that to ensure that new development does not contribute to, or suffer from, adverse impacts arising from contamination, and to conform with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, conditions have been recommended in the first instance of a 'desk-based' study to ensure contamination is not present. Members will note that the conditions are in phases, if the 'desk-based' assessment confirms the possibility of a significant pollutant.

Drainage

- 6.24 Foul sewerage will be dealt with by means of a main sewer connection, to which Severn Trent, as the statutory sewerage provider advise that they have no objections to the proposals and do not require a drainage condition to be applied. Surface water will be dealt with by means of soakway. Members will note that whilst the matter of weak water pressure has been raised, the statutory consultee has no objections to this proposal for change of use.

Planning Balance

- 6.25 CS policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan. The NPPF encompasses the government's view of what is meant by sustainable development in practice. The three themes, economic, environmental and social should be pursued jointly and simultaneously.
- 6.26 The application is for a change of use of an annex to a holiday let which would still be classed under Use Class C3, given the interpretation is a fact of matter and degree. In the light of this, the proposal should be considered against the test prescribed at NPPF paragraph 11, which considers a presumption in favour of sustainable development and Herefordshire Core Strategy Policy SS1. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF when considered as a whole. In coming to this conclusion, reference must be made to paragraph 8 of the NPPF to which achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- 6.27 Applying this to the current case, it is acknowledged that the scheme would have some benefits in the economic sphere by increasing the provision of tourism accommodation and consequently contributing to visitor expenditure in the local economy. However, this benefit would not be unique to the scheme (in the sense that it would occur with any proposal, regardless of its location) and overall the contribution to the local economy would be relatively modest. Any additional economic activity would also have benefits in the social sphere in terms of its contribution to increasing the vitality of the rural community; however again these would be very modest.

- 6.28 In the environmental sphere, it is clear that limited harm would occur as a result of the proposal. The application proposes a change of use which is sited within built development that comprises Ochre Hill. The site is not significantly removed from the nearest services, facilities and attractions that are likely to be frequented by occupants of the building. Indeed, Wellington Heath is identified as a locally sustainable community under Policy RA2 of the Herefordshire Core Strategy. Members will note that the site lies beyond the defined settlement boundary for the village, however, they are advised to consider this application solely on the remit of a change of use, it is not a new residential dwelling. Future occupiers would have the opportunity of utilising cycling and walking tourism, promoting the social well-being of the Malvern Hills Area of Outstanding Natural Beauty, which is a tremendous asset to the county as a whole, and would not be totally dependent on the use of the private car during their stay. The scheme is not at odds with the aims and objectives of the Framework and local development plan in terms of directing development to the most sustainable locations and reducing the need to travel.
- 6.29 The permanent nature of the building and year-round nature of the use does not incur landscape harm within the Malvern Hills AONB, it is solely a change of use. The proposal would uphold the intrinsic character and beauty of the countryside, reinforcing the landscape character of the locality and preserving residential amenity as a result of the scheme.
- 6.30 Considering the three roles of sustainable development together, it is considered that the very limited harm in the environmental dimension would not demonstrably and significantly outweigh the benefits accrued in the social, economic and environmental spheres. The proposal is therefore representative of sustainable development and hence benefits from the positive presumption at the heart of the NPPF. No conflict has been identified with policies of the development plan, namely policies within both the Herefordshire Local Plan – Core Strategy and the Wellington Heath NDP.

Conclusion

- 6.31 In conclusion, the proposal does not conflict with relevant policies contained within the made Wellington Heath NDP, Herefordshire Core Strategy and the NPPF. As such, officers consider this application to be a justifiable form of sustainable development in accordance with paragraph 11 of the NPPF and Policy SS1 of the Herefordshire Core Strategy. In the absence of a technical reason for refusing this application from statutory consultees and the ability to mitigate the development through appropriate conditioning, this application is recommended for approval, subject to the conditions which are outlined below.

RECOMMENDATION

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

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2. The development shall be carried out strictly in accordance with the approved plans [Location Plan and Drawing Number Clack 3i revision received 28th June 2019], except where otherwise stipulated by conditions attached to this permission.**

Reason. To ensure adherence to the approved plans in the interests of a

satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy WH6 of the Wellington Heath Neighbourhood Development Plan and the National Planning Policy Framework.

3. During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. This permission is for change of use only and detailed plans of any proposed alterations or additions to the building shall be submitted to and approved by the local planning authority before development is commenced.

Reason: To enable the local planning authority to consider any future aspects of the development given the building's siting within the Malvern Hills Area of Outstanding Natural Beauty and to secure compliance with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

5. The building which is the subject of this application shall be used for holiday accommodation only and for no other purpose including any other purpose within Class C of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, unless otherwise agreed in writing with the local planning authority.

Reason: Having regard to Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy WH1 of the Wellington Heath Neighbourhood Development Plan and the National Planning Policy Framework, the local planning authority are not prepared to introduce a separate unit of residential accommodation, due to the relationship and close proximity of the building to the property known as Woodmill Cottage, Ochre Hill, Wellington Heath.

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

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy; Policy WH17 of the Wellington Heath Neighbourhood Development Plan and the National Planning Policy Framework.

7. Development in respect of the change of use shall not begin until details of the following have been submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during alterations to facilitate the development hereby approved:

- **Construction traffic access location**
- **Parking for site operatives within the application site**

The development shall be carried out in accordance with the approved details for the duration of the construction of the development.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy; Policy WH17 of the Wellington Heath Neighbourhood Development Plan and the National Planning Policy Framework.

8. **Prior to first occupation as accommodation evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the application site of at least TWO Bat roosting enhancements and TWO bird nesting boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting on the newly created accommodation or associated access should illuminate any habitat enhancement or existing boundary feature.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2017, Core Strategy LD2, National Planning Policy Framework (2018), NERC Act 2006. Dark Skies Guidance Defra/NPPF 2013 (2018).

9. **No alterations in respect of the change of use shall take place until the following has been submitted to and approved in writing by the local planning authority:**

- a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice;
- b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors;
- c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to ensure that new development does not contribute to, or suffer from, adverse impacts arising from contamination, to conform to the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

10. **The Remediation Scheme, as approved pursuant to condition no. (9) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing**

with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to ensure that new development does not contribute to, or suffer from, adverse impacts arising from contamination, to conform to the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

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

Reason: In the interests of human health and to ensure that new development does not contribute to, or suffer from, adverse impacts arising from contamination, to conform to the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 12 The holiday lodges hereby permitted shall only be used for holiday purposes by tourists only. As such, no person or group of persons shall occupy the accommodation for more than 28 days consecutive days at a time and no same person or group of persons shall occupy the accommodation for more than 156 days in any one calendar year. The owners/operators of the site shall maintain an up- to-date register of the names of all occupiers of the accommodation and of their main home address (i.e. place of residence) and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: Having regard to Policies RA2, RA3 and SD1 of the Herefordshire Local Plan – Core Strategy; Policies WH1, WH6 and WH17 of the Wellington Heath Neighbourhood Development Plan and the National Planning Policy Framework, the local planning authority are not prepared to allow the introduction of a separate unit of residential accommodation, due to its proximity to Woodmill Cottage and as such, allow for sole use as holiday accommodation.

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. It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
3. Access to the site is via a public right of way and the applicant's attention is drawn to the restrictions imposed by Section 34 of the Road Traffic Act 1988 regarding the prohibition of driving motor vehicles elsewhere than on roads.

4. This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 261800), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).

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 261800.

5. 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.
6. The development hereby approved may result in vehicles being driven across or along a Public Right of Way. As a result, notification should be given to the Highway Authority before the permission is implemented. In addition, where public and private rights co-exist, permission should be sought from the landowner in order to obtain lawful authority to drive on the Public Right of Way. For further information, contact Balfour Beatty (Managing Agent for Herefordshire Council) Public Rights of Way Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800).
7. It is the responsibility of the developer to arrange for a suitable outfall or discharge point. It cannot be assumed that the highway drainage system can be used for such purposes.
8. The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.
9. In respect of conditions 9, 10 and 11, the local planning authority would advise that the assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework.
10. In respect of conditions 9, 10 and 11, the local planning authority advises that all investigations of potentially contaminated sites should undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission when seeking to discharge such conditions.

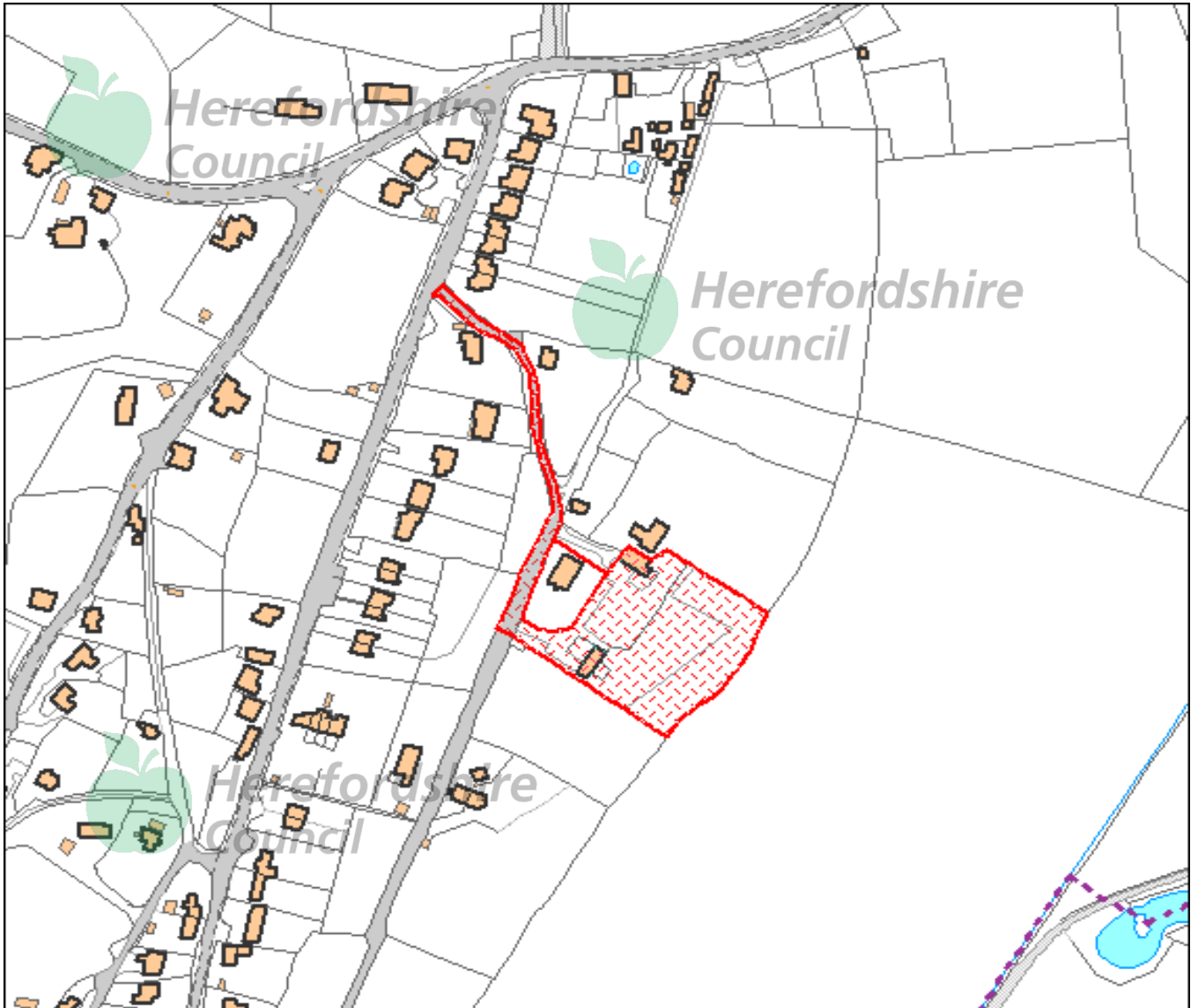
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 184593

SITE ADDRESS : WOODMILL COTTAGE, OCHRE HILL, WELLINGTON HEATH, LEDBURY,
HEREFORDSHIRE, HR8 1LZ

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Further information on the subject of this report is available from Mr J Bailey on 01432 261903