

Agenda

Planning and regulatory committee

Date: **Tuesday 11 February 2020**

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

Agenda		Pages
1.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>To receive 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.</p>	
4.	<p>MINUTES</p> <p>To approve and sign the minutes of the meeting held on 15 January 2020.</p>	11 - 24
5.	<p>CHAIRPERSON'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairperson.</p>	
6.	<p>183792 - LAND TO THE EAST OF BRAMBLE COTTAGE, ALLENSMORE VILLAGE ROAD, ALLENSMORE, HEREFORDSHIRE, HR2 9AG</p> <p>Proposed residential development of three dwellings.</p>	25 - 46
7.	<p>191173 - LAND SOUTH OF LADYWELL LANE, KINGSTHORNE, HEREFORDSHIRE.</p> <p>Application for approval of reserved matters following outline approval 163364/O (site for 3 detached dwellings with garages and access).</p>	47 - 64
8.	<p>192969 - BOWLING GREEN FARM, CLEHONGER, HEREFORDSHIRE, HR2 9SJ</p> <p>Site for poultry managers dwelling.</p>	65 - 82
9.	<p>193682 - LAND ADJACENT BRAMPTON ABBOTTS VILLAGE HALL, BRAMPTON ABBOTTS, HEREFORDSHIRE, HR9 7JD</p> <p>Variation of condition 2 of 171321/F (Proposed residential development of 2 new dwellings). To allow revised drawings, with new access with drives and garages re-positioned at dev 1.</p>	83 - 96
10.	<p>184520 - LAND AT GREYFRIARS BRIDGE, HEREFORD</p> <p>Replace the demountable flood defences with permanent glass panel flood walls and flood gates. This aims to reduce the whole life costs of the defences and reduce the risk of failure to deploy during flooding. The new passive defences will be located entirely along the within the footprint of the existing defences, and will be designed to fit into the existing supports. When open the floodgates will maintain current access routes for pedestrians and maintenance</p>	97 - 108

11. DATE OF NEXT MEETING

Date of next site inspection – 10 March 2020

Date of next meeting – 11 March 2020



The Public's Rights to Information and Attendance at Meetings

YOU HAVE A RIGHT TO: -

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

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- The Shire Hall is a few minutes walking distance from both bus stations located in the town centre of Hereford.

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Please do not allow any items of clothing, etc. to obstruct any of the exits.

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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 15 January 2020 at 10.00 am

Present: Councillor John Hardwick (chairperson)

Councillors: Paul Andrews, Sebastian Bowen, Toni Fagan, Elizabeth Foxton, Bernard Hunt, Terry James, Tony Johnson, Mark Millmore, Jeremy Milln, Paul Rone, John Stone, David Summers, Kevin Tillett and William Wilding

In attendance: Councillors John Harrington, David Hitchiner and Elissa Swinglehurst

72. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Graham Andrews, Polly Andrews, Seldon and Watson.

73. NAMED SUBSTITUTES

Councillor Bowen substituted for Councillor Graham Andrews, Councillor Summers for Councillor Seldon, Councillor Tillett for Councillor Polly Andrews, and Councillor Wilding for Councillor Watson.

74. DECLARATIONS OF INTEREST

None.

75. MINUTES

RESOLVED: That the minutes of the meetings held on 11 December 2019 be approved as a correct record and signed by the Chairman.

76. CHAIRPERSON'S ANNOUNCEMENTS

The legal adviser reminded the committee of the provision in the Planning Code (5.6.23-24) requiring members to ensure that any material received direct from third parties relating to an application was made available to the relevant planning officers.

77. 190032 - LAND TO THE WEST OF B4361, LUSTON, HEREFORDSHIRE

(Proposed development of 8 houses and garages.)

(Councillor James had left the meeting and was not present during consideration of this application. Councillor Bowen fulfilled the role of local ward member and accordingly had no vote on this application.)

The Senior Planning Officer 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, Mr G Poulton, of Luston Group Parish Council spoke in support of the scheme. Mrs M Albright, the applicant, also spoke in support.

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

He made the following principal comments:

- The proposed density was in keeping with the area and integrated well.
- The provision of an orchard to the north of the site was a goodwill gesture.
- The proposal would create no demonstrable harm.
- There was no demonstrable need for affordable housing. The last housing needs survey had been undertaken in 2009. Two units were currently empty. The possibility of discounted market housing had been dismissed by the Planning officer.
- The developer had approached housing associations about the two semi-detached dwellings proposed but there had been no interest. The other houses could be self-build for which there was considerable demand, or custom build. The housing mix provided a good variety of family homes, including provision for home working reducing commuting, and for extended families. The properties were not large. The proposal related well to neighbouring properties and was well designed.
- Most of the materials for the development would come from within the County and construction would involve a local workforce.
- The developer was providing numerous hedges and trees and a good footpath to the village.
- The developer had worked closely with the Parish Council. The Parish Council supported the proposal. There were no objections from local residents. The proposal did accord with the Neighbourhood Development Plan (NDP).
- The proposal would enhance the village and make an attractive entrance to it.
- The Conservation Manager (Historic Buildings) had no objection.
- The Conservation Manager (Ecology) had commented that permission should not be granted until it could be demonstrated that the River Lugg catchment area could accommodate any potential additional phosphate loadings.
- Contrary to the Informative set out in the report the applicant had made every effort to find a way forward.
- He referenced the letters of support at section 5.2 of the report.
- In conclusion, he supported the proposal. If planning permission could not be granted at this stage because of the issue of phosphate discharge into the Lugg catchment he requested that approval be granted subject to that aspect being satisfactorily resolved.

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

- A member expressed support for the views of the local ward member and the Parish Council.
- The proposal for 8 dwellings was acceptable and conformed to the density of development in the locality, avoiding overcrowding. There was support within the local community and no local objections.

- Some concern was expressed that there had been insufficient explanation by the applicant as to why only part of the available site was being developed. The report indicated that the site had been identified for an indicative 11 dwellings. A development of 11 dwellings would have required the provision of 40% affordable housing.
- In relation to the fact the scheme as proposed would not be required to incorporate 40% affordable housing and the assertion that there was no demonstrable need for affordable housing, the Lead Development Manager (LDM) commented that the Housing Development Officer's response set out at paragraph 4.4 of the report indicated support for the provision of affordable housing. Low cost market housing fell within the definition of affordable housing and would have been acceptable on the site. He confirmed that if it transpired that the site had been deliberately split to avoid the requirement to provide affordable housing and there was further subsequent development of the site to provide 11 or more houses in total, depending on the timescale within which that took place, the council would be able to seek to impose a claw back on the developer.
- The LDM confirmed that if the committee was minded to support the application it was proposed that authority to grant planning permission be delegated to officers subject to a positive Habitat Regulations Assessment and no other material considerations or changes in policy arising.
- A member requested that all housing applications should have regard to the orientation of dwellings in order to maximise benefits from solar energy.

The LDM reaffirmed that the application was contrary to the NDP. In carrying out the independent examination of the NDP the examiner had stated the application site was sufficiently large to be developed for 10 or more dwellings and would therefore provide scope for the inclusion of some affordable homes. The adopted NDP reflected this view, with policy LG6 specifying an indicative number of 11 dwellings for the site. The applicants had been advised accordingly but had pursued the application for 8 dwellings. Consideration had to be given to both the local view and the council's needs in terms of housing delivery across the county including the provision of affordable housing.

The local ward member was given the opportunity to close the debate. He considered that the local view was that the proposal was in accordance with the NDP, an indicative number not being an absolute. He reiterated his comments in support of the scale, design and character of the development and its sustainability.

Councillor Stone proposed and Councillor Hunt seconded a motion that the Committee was minded to grant planning permission, subject to a positive Habitat Regulations Assessment and no other material considerations or changes in policy arising, on the grounds that the proposal was compliant with NDP policies LG1, LG2 and LG6 and CS policies RA2 and SD1 and appropriate delegated authority to grant planning permission and attach any conditions considered necessary be given to officers. The motion was carried with 8 votes in favour, 5 against and no abstentions.

RESOLVED:

- that the Committee was minded to grant planning permission, subject to a positive Habitat Regulations Assessment and no other material considerations or changes in policy arising on the grounds that the proposal was compliant with NDP policies LG1, LG2 and LG6 and CS policies RA2 and SD1; and**
- subject to (a) above, the Assistant Director, Regulatory, Planning and Waste be authorised accordingly to grant planning permission and officers**

named in the Scheme of Delegation to officers authorised to detail the reasons put forward for approval by the committee and attach any conditions considered necessary by officers.

(The meeting adjourned between 11.07 and 11.17.)

78. 193156 - LAND TO THE REAR OF THE LAURELS VETERINARY PRACTICE, PONTRILAS ROAD, EWYAS HAROLD, HEREFORDSHIRE

(Application for approval of reserved matters following outline approval 161674/O (construction of three dwellings and alterations to the existing access) for appearance, landscaping, and scale.)

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

The Senior Planning Officer gave a presentation on the application.

In accordance with the Council's Constitution, Councillor Bowen, fulfilling the role of local ward member for the application, spoke upon it.

He made the following principal comments:

- The application was required to be considered by the Committee because it was an application by a Councillor.
- The site had outline planning permission and the application before the committee was a straightforward one for reserved matters. Although a better design for the proposed dwellings might be desired the proposed design was acceptable.
- The site was well sheltered by existing hedges.
- The footpath crossing the site would be cleared and made usable.

In the Committee's discussion of the application some reservation and disappointment was expressed that the design did not reflect the local idiom and the opportunity had not been taken to provide dwellings of a better design.

It was suggested that the orientation of the dwellings could have been improved to benefit from solar energy in accordance with the council's aim to reduce carbon emissions.

The Lead Development Manager commented that the materials to be used and the designs were similar to those used in the village. In the review of the Core Strategy further account would be taken of climate change. Building Regulations at national level were being revised and, although these were not a matter for the Committee, he would arrange for a briefing note to be circulated.

The local ward member was given the opportunity to close the debate. He acknowledged reservations expressed about the design but reiterated that the design was acceptable.

Councillor James proposed and Councillor Stone seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 13 votes in favour, 0 against and 1 abstention.

RESOLVED: 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 approved shall be carried out strictly in accordance with the approved plans (drawing nos. AB-01, AB-02a, AB-03a – Received: 06 September 2019) 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.**

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.**

79. 192317 - DOCKLOW POOLS, DOCKLOW, NR LEOMINSTER, HR6 0RU

(Erection of a single dwelling and garage for occupation by site manager.)

The Senior Planning Officer 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, Mr S Bozward, the applicant, spoke in support of the application.

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

He made the following principal comments:

- The application hinged on the need for the applicant to have accommodation on site and what quality of accommodation was required.
- The site provided local employment for many young people in the summer. It provided the only pub and café in the area. It was well-run.
- The applicant was not a publican but his accommodation was within the pub with rented accommodation above. His responsibilities for the site meant he had to be there from 6am until late at night. His presence on site was essential. Whilst, if the new dwelling some 50m away was approved, he may well still be called upon by those using the site, the quality of life for him and in particular his partner would be improved.
- He considered there was a need for the applicant to have the proposed house and to provide it would be compliant with policy RA4. However, the property should be tied to the business.

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

- There were no objections to the proposal and 25 letters in support.
- The proposed site for the dwelling was not in use and unkempt, out of character with the rest of the site. The proposal would round off the development.

- There was an essential functional need. The applicant's existing accommodation on site was inadequate. The proposal was compliant with policy RA4.
- It was suggested that, if approved, consideration should be given to seeking for the dwelling, which would be in the open countryside, to be of exceptional quality or innovative design.

The Lead Development Manager commented that officers had concluded that the existing accommodation enabled the site to be appropriately managed. This was a matter of judgment. If the Committee was minded to approve the application, authority to grant planning permission would need to be delegated to officers subject to a positive Habitat Regulations Assessment and no other material considerations or changes in policy arising. A S106 agreement tying both the existing and proposed accommodation to the business should also be required.

The local ward member was given the opportunity to close the debate. He had no additional comment.

Councillor Hunt proposed and Councillor Millmore seconded a motion that the Committee be minded to grant planning permission, subject to a positive Habitat Regulations Assessment and no other material considerations or changes in policy arising, and completion of a S106 agreement tying both the existing accommodation and the proposed new dwelling to the business, on the grounds that the proposal was compliant with NDP policies LG1, LG2 and LG6 and CS policies RA2 and SD1, and appropriate delegated authority to grant planning permission be given to officers.

The motion was carried unanimously with 15 votes in favour, none against and no abstentions.

RESOLVED:

- That**
- (a) the Committee was minded to grant planning permission, subject to a positive Habitat Regulations Assessment, and no other material considerations or changes in policy arising, and completion of a S106 agreement tying both the existing accommodation and the proposed new dwelling to the business, on the grounds that the proposal was compliant with NDP policies LG1, LG2 and LG6 and CS policies RA2 and SD1; and**
 - (b) subject to (a) above, the Assistant Director, Regulatory, Planning and Waste be authorised accordingly to grant planning permission and officers named in the Scheme of Delegation to officers authorised to detail the reasons put forward for approval by the committee and attach any conditions considered necessary by officers.**

(The meeting adjourned between 12.13 to 12.25 am.)

80. 191286 - STEEPWAYS, FROM ST WOLSTONS ROAD TO NYTHFA PROPERTY, WELSH NEWTON, HEREFORDSHIRE, NP25 5RT

(Proposed development of two dwellings.)

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Ms S Parkinson, a local resident, spoke in objection to the application.

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

She made the following principal comments:

- There was a high level of objection from local people who believed the development would have a negative impact on the character of the settlement, that it was unacceptable in form, design, scale and location and that it would have a severe impact on the local road network, particularly in the light of the application for a single dwelling close by potentially meaning a cumulative increase of three dwellings.
- For many years Welsh Newton Common had seen minimal growth. The Neighbourhood Development Plan (NDP) noted that the common 'is characterised as a place of beauty and unspoiled nature with a feeling of remoteness and tranquillity reminiscent of days gone by'. Many of the objectors believed that the development for two dwellings would change that character forever and set a precedent.
- The parish as a whole had met the minimum housing target. Whilst it was recognised that Welsh Newton Common was a settlement considered to be appropriate for proportionate growth in policy RA 2 of the Core Strategy the objectors considered that the proposal did not meet the criteria within that policy. Given that the minimum housing numbers had already been exceeded in the parish, there was no reason for these policies not to carry full weight in the planning balance.
- The NDP expressed a clear preference for smaller scale, organic growth with 2/3 bed houses and high levels of sustainability wherever possible and that ridge heights should not exceed 6m. The proposal was in conflict with that policy.
- Objectors considered the design was not in keeping with the 'grain' of the village and would not make a positive contribution to the surrounding environment and its landscape setting as required in policy RA2.
- Many objectors questioned whether Welsh Newton Common should be a RA2 settlement. The post office and shop had recently closed. There were now no services on the common. The bus ran once a week. Broadband was slow.
- The access was via a single track road. This was contrary to Policy MT1 which required that there should be genuine choice as regards movement. Residents had to reverse up sometimes 20 or 40 metres to avoid oncoming traffic. The nature of the lane made it hard to see pedestrians, horse riders or cyclists and a number of letters raised the fear that the congestion would increase to a dangerous extent if this proposal were permitted. Further concern related to the cumulative effect in conjunction with the related application for a single dwelling which one objector stated would push it beyond breaking point. A report had been submitted on behalf of the residents making the case for the impact being 'severe' and in contravention of paragraph 109 of the NPPF and Core strategy MT1 in that regard, by reason of the narrowness, lack of passing places and constraints to forward visibility. She had also been told that, in the past, the nature of the road has been given by the local authority as a reason for refusing planning permission on other sites. Although those decisions were many years ago the road had not changed – if anything it had got worse with the increased levels of car ownership in the village.
- To gain access it would be necessary to cross the common which was identified as a green space in the NDP and accorded a degree of protection. Furthermore the NDP stipulated that new housing should be accessed directly from a made up road and the application site was not directly accessed from the metalled road surface.

- The NDP placed a strong emphasis on protecting and enhancing the high environmental value of the area and the European protected species to be found on the common – particularly Dormice and Great Crested Newts.
- Objectors had raised concern about the potential impact on the habitat and the need to mitigate these impacts successfully. Indeed the benchmark was not simply to do no harm but to arrive at a net environmental benefit/gain. It was important in this context to ensure that the hedgerows were not cut back or cut down and that any new hedgerow planting was successful as a mitigation for hedgerow loss.
- In conclusion the application was strongly resisted by local residents who felt that the qualities that made Welsh Newton Common so special would be destroyed if the proposal went ahead. It did not comply with the preferences expressed in the NDP and it would bring the local infrastructure to breaking point.

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

- Weight should be given to the NDP. The application did not provide economic, social, or environmental benefit. The parish had met its minimum housing target.
- The proposal was out of keeping with the very distinctive, historic character of Welsh Newton Common. The landscape was unchanged from that shown on the 1882 map. It was a very special and rare landscape in the county that should not be damaged.
- The proposal did not promote community cohesion and a sense of belonging as advocated by the National Design Guide because it did not represent organic growth.
- The proposed dwellings were of a size, height and form that was in conflict with the NDP.
- It was questioned whether the access road was a made up road.
- There was conflict between the natural environment and the built development. The pattern of development did not contribute to the local character.
- The settlement lacked facilities and was car dependent.

The Lead Development Manager commented that the area was identified within Core Strategy policy RA2 as an area suitable for proportionate growth. There was a conflict with NDP policies regarding the height and size of the proposed dwellings. However, the NDP had not allocated sites for development. Account therefore had to be taken of the county's lack of a 5 year housing land supply and an assessment made as to whether the harm caused by the development significantly and demonstrably outweighed the benefits. Officers had concluded that the harm did not outweigh the benefits. The landscape was attractive but it was not designated.

The local ward member was given the opportunity to close the debate. She welcomed the Committee's recognition of the character of the settlement and the weight given in the debate to the NDP.

Councillor Fagan proposed and Councillor Milln seconded a motion that the application be refused on the grounds that the proposal was contrary to NDP policies WNL4 and WNL5 and CS policies, SS6, RA2 and SD1. The motion was carried unanimously with 15 votes in favour, none against and no abstentions.

RESOLVED: that planning permission be refused and officers named in the Scheme of Delegation to officers be authorised to detail the conditions and reasons put forward for refusal by the committee on the grounds that the proposal

was contrary to NDP policies WNL4 and WNL5 and CS policies, SS6, RA2 and SD1.

81. 190827 - WOODSIDE STABLES, WELSH NEWTON COMMON, WELSH NEWTON, HEREFORDSHIRE, NP25 5RT

(Proposed new dwelling.)

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Ms S Parkinson, a local resident, spoke in objection to the application.

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

She made the following principal comments:

- She commented that many of the points she had made in relation to the preceding agenda item relating to application 191286 also related to application 190827 before the committee. There was, however, a question of degree to take into account given that the proposal was to provide one dwelling rather than two.
- Objectors thought the proposal would increase traffic on the access road.
- The loss of small paddock spaces would alter the character of the village.
- The area was not suitable for development because of the lack of services.
- The proposal did not comply with the Neighbourhood Development Plan (NDP) in relation to the proposed dwelling's size and height.
- The site would be car dependent in conflict with policy MT1 and the NPPF.
- The NDP did mention the potential for development of the site. However, this related to conversion or redevelopment of existing buildings.
- She quoted a letter from an objector which stated that the proposal would have an adverse impact on the common and set a precedent that would be devastating for the common's future.

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

- Most of the points made in relation to the preceding agenda item relating to application 191286 also related to application 190827.
- The proposal was in conflict with the distinct nature of Welsh Newton common.
- The proposed dwellings were of a size, height and form that was in conflict with the NDP.
- It was confirmed that the Parish Council supported the application although it had opposed application 191286.

The Lead Development Manager commented that each application had to be considered on its own merits. There was a conflict with NDP policies regarding the height and size of the proposed dwellings

The local ward member was given the opportunity to close the debate. She had no additional comment.

Councillor Fagan proposed and Councillor Milln seconded a motion that the application be refused on the grounds that the proposal was contrary to NDP policies WNL4 and WNL5 and CS policies, SS6, RA2 and SD1. The motion was carried unanimously with 15 votes in favour, none against and no abstentions.

RESOLVED: that planning permission be refused and officers named in the Scheme of Delegation to officers be authorised to detail the conditions and reasons put forward for refusal by the committee on the grounds that the proposal was contrary to NDP policies WNL4 and WNL5 and CS policies, SS6, RA2 and SD1.

82. DATE OF NEXT MEETING

The Committee noted the date of the next meeting.

Appendix - Schedule of Updates

The meeting ended at 1.29 pm

Chairperson

PLANNING AND REGULATORY COMMITTEE

Date: 15 January 2020

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

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

ADDITIONAL REPRESENTATIONS

Following the publication of the Officer Report, it is understood that a letter was sent direct to Members of the committee by the Applicant on the 13th January 2020.

OFFICER COMMENTS

The letter supplied to Members by the Applicant is extensive and expands upon the case already set out within the supplied Design and Access Statement whilst providing a critique of the Officer Report. In broad terms, it is not considered that the letter raises any additional material points which have not already been addressed in the Officer Report.

The letter does make comment however on the current situation regarding development in the River Lugg catchment of the River Wye Special Area of Conservation (SAC). Members will be aware of the current situation regarding the failing conservation status of the River Lugg and the implications this is having for development proposals in the catchment which require screening under the Conservation of Habitats and Species Regulations 2017. A detailed appraisal of the application in this regard is set out at sections 6.55 to 6.63 of the Officer Report. At the present time, the LPA is unable to positively screen the proposal and must conclude that it has an adverse effect on the integrity of the River Lugg / River Wye SAC. An Appropriate Assessment has been undertaken to this effect and Natural England have confirmed that they agree with its conclusions. The application therefore fails to meet the requirements of the Conservation of Species and Habitats Regulations 2017 and is 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.

The letter from the Applicant puts forward the suggestion that if Members are minded not to agree with the non-HRA related reasons for refusal, they could defer a decision on the application pending a solution to the current situation in the River Lugg catchment being found or alternatively approve the application subject to conditions preventing occupation of the dwellings until the situation is resolved. In relation to the latter suggestion, Officers would advise that this would not be appropriate as the obligation to screen the proposal under the Habitats Regulations must be discharged at the point permission is granted and at present it is not possible to carry out a positive assessment in these terms. Any condition limiting the occupation of the dwellings until an unspecified point in time when the Lugg situation has been resolved would also fail to meet the tests of precision required by the NPPF. Therefore if members are minded to otherwise support the application the resolution would need to delegate the decision to officers to approve subject to a positive HRA.

NO CHANGE TO RECOMMENDATION

192317 - ERECTION OF A SINGLE DWELLING AND GARAGE FOR OCCUPATION BY SITE MANAGER AT DOCKLOW POOLS, DOCKLOW, NR LEOMINSTER, HR6 0RU

For: Mr Bozward per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG

ADDITIONAL REPRESENTATIONS

Letter from Applicant

A letter from the applicant has also been submitted directly to members on 13th January 2020. Again, this is replicated below for understanding,

“Having read the officer report, I feel moved to write to clarify one or two points that might otherwise be misunderstood.

The business was established by my parents in the 1970s and has expanded steadily ever since to now comprise 140 acres of land, with 14 coarse fishing pools, 50 chalets, tackle shop and the successful Fisherman’s Arms Public House and Restaurant. I have worked for the family business since leaving school and am now General Manager. I have been involved personally in virtually all facets of the business since childhood, established the tackle shop, overseen and been involved in the construction of the guest accommodation on site and the pub/restaurant. I also oversee pond and grounds maintenance, work shifts in the pub/restaurant, deal with procurement and any and all matters arising on a daily basis. There is nobody else with my wealth of knowledge and experience across the site and various elements of the business.

Since my early 20’s I have been living in ‘digs’ besides and above the pub/restaurant. The officer report describes this accommodation as a ‘dwelling’, which I feel overstates the situation. My partner and I have a ground floor kitchen and living room that is separated from the pub/restaurant by an internal door (which opens directly onto the restaurant) and a bedroom above, adjacent the guest letting rooms. There is no private amenity space or separation from the business, the accommodation being surrounded on other sides by visitor parking.

This was acceptable in my 20’s, but during that period the business and my role within it has expanded very significantly. My circumstances have changed professionally and personally, whereby I now have a partner and a continued necessity to be present on site 24/7, but no suitable accommodation to enable me to do so sustainably. Having given it careful thought, we’ve chosen an unobtrusive site for a modest dwelling on land that is already partially developed and to which access already exists. This site would afford me modest separation from the hub of the business whilst being within sight and sound of all that needs my oversight. It would also give me and the business added security and on a personal level, the ability to start a family.

The officer report suggests that I could purchase accommodation off site and install a site manager in my present accommodation. Firstly, this significantly underestimates the importance of my continuous presence on site 24/7 and secondly, suggests I could find a site manager who would be prepared to live in my current accommodation. I’d question whether this is realistic given the scale of the business.

Finally, as you'll note, the application has met with support from the Parish Council and that adjoining and there are numerous letters of support. I am perfectly content to accept any restrictive occupancy condition and any other conditions that might be necessary. I can assure you the intent behind this application is entirely genuine.

Thank you for taking the time to consider this email.

OFFICER COMMENTS

Members will also note that a letter has been directly submitted from the applicant, justifying why permission should be granted. Officers would reiterate again that the applicant confirms that he is already present on site and demonstrates that accommodation can be provided within an existing building, contrary to point 1 under Policy RA4 of the Core Strategy. Indeed, such matters regarding the principle of development, have already been covered IN sections 6.1 through 6.20 inclusive within the report.

Finally regarding the Phosphates issue if members are otherwise minded to support the application the resolution would need to delegate the decision to officers to approve subject to a positive HRA.

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	11 February 2020
TITLE OF REPORT:	183792 - PROPOSED RESIDENTIAL DEVELOPMENT OF THREE DWELLINGS. AT LAND TO THE EAST OF BRAMBLE COTTAGE, ALLENSMORE VILLAGE ROAD, ALLENSMORE, HEREFORDSHIRE, HR2 9AG For: Mr & Mrs Nahorniak per Mr David Kirk, 100 Chase Road, Ross-On-Wye, Herefordshire, HR9 5JH
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=183792
Reason Application submitted to Committee – Re-direction	

Date Received: 12 October 2018

Ward: Wormside

Grid Ref: 346544,235978

Expiry Date: 26 December 2018

Local Member: Councillor Christy Bolderson

1. Site Description and Proposal

- 1.1 The application site comprises scrub land that is overgrown and accessed via a private road (within the applicants ownership) to the west. The site is bounded by residential gardens to the west, south and east with an agricultural field to the north. With Church Road lying to the west, the site is located behind existing residential development.
- 1.2 The site has been included in previous planning applications in 1999 and 1988 (refs: SS990251PF and SH882172PO) for residential development and refused. SH882172PO sought permission for 5 dwellings (including two fronting the road – Bramble Cottage and 1 New House which were subsequently approved under ref: SH960165PF). The 1988 application was dismissed on appeal due to the serious harm the proposal would have on the established linear character of the village because of the large number of dwellings in relation to the present size of the settlement and because of the substantial spread of development away from the lane which would occur. It is noted that the second reason for refusal relating to the access was not upheld by the Inspector.
- 1.3 Moving to application ref: SS990251PF, this was refused due to no demonstration of local housing need, lack of employment opportunities, outside of any settlement boundary and a high water table with risks of possible outbreaks of pollution and flooding. Since the determination of the foregoing applications, there have been several different planning policy documents.
- 1.4 The application seeks outline planning permission for three detached dwellings with all matters reserved. Details regarding access have been submitted with the application to demonstrate that this can be provided within land owned by the applicant.

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

1.5 The block plan is indicative but indicates how three dwellings could be accommodated on the site:



2. Policies

2.1 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
- RA1 - Rural Housing Distribution
- 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
- 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 National Planning Policy Framework (NPPF):

Chapter 2	-	Achieving sustainable development
Chapter 4	-	Decision making
Chapter 5	-	Delivering a sufficient supply of homes
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

2.3 Allensmore Neighbourhood Development Plan (NDP) –

Policy A1	–	Protecting and Enhancing Local Landscape Character
Policy A2	–	Protecting and Enhancing Local Wildlife
Policy A3	–	Proposed Site Allocations
Policy A4	–	Criteria for Development in Settlement Boundaries
Policy A5	–	Housing Mix
Policy A6	-	Conversion of Former Agricultural Buildings
Policy A7	–	Drainage, Flooding and Sewage
Policy A8	–	Protecting the Church and Village Hall and Supporting Investment in Improved Facilities

2.4 The Allensmore Parish was designated as a Neighbourhood Area on 26 May 2017. The draft plan was sent for independent examination on 27 November 2019. The draft plan is a material consideration and, at its current stage of progression, it is considered to carry moderate weight for the purposes of decision taking.

3. **Planning History**

3.1 **SS990251PF** – Erection of two detached dwellings with garages. Refused

SH882172PO – Erection of 3 no. detached dwellings with garages, 2 no semi-detached cottages with parking, access road and turning facilities. Refused (encompassed the application site and area to the east which subsequently gained permission for the two existing cottages under ref: SH960165PF).

4. **Consultation Summary**

Statutory Consultations

4.1 **Welsh Water** – no objections

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

We have reviewed the information submitted as part of this application and it is unclear how the site will effectively drain foul water. Our records indicate that there are no public sewers within the immediate vicinity and we assume alternative drainage methods will be utilised. We recommend that the Environment Agency is consulted as part of this process.

As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development.

(Officer comment: for the avoidance of doubt, noting the nature and scale of the proposal the Environment Agency would not expect a formal consultation and would not request one).

Internal Council Consultations

4.2 **Conversation Manager (Ecology)** – no objection

The detailed ecology report with accompanying Habitat Enhancement Strategy and Management Plan (that includes detailed ecological working methods) by Janet Lomas appears comprehensive, thorough and relevant. The Habitat Enhancement Strategy and Management Plan should be subject to implementation through a relevant condition.

Nature Conservation – Ecology Protection, Mitigation and Protected Species

The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the Habitat Enhancement Strategy and Management Plan by Janet Lomas 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

4.3 **Transportation Manager** – no objection subject to attachment of recommended conditions

4.4 **Minerals & Waste Planning Officer** – no objections

Thank you for consulting me. I can confirm that the site is identified under saved HUDP Policy M5 for the safeguarding of minerals. However, given the context of the site in close proximity to residential dwellings, extraction of sand and gravel is unlikely. There is also currently no need within the County for sand and gravel, and the physical sterilisation of this relatively small resource is not significant.

4.5 **Land Drainage Consultant** – objection and qualified comment

Surface Water Drainage

It has been stated that infiltration techniques will not be a viable option for this site, however no evidence of this has been provided. An attenuation pond has been proposed with final outfall to an existing ditch.

The Drainage Layout Plan shows that all private runoff from the dwellings and the private road will be directed to the proposed pond. This is stated to have a storage volume of 23.3m³ for the 1 in 100 year + 40% climate change event and the maximum water depth will be 0.467m. This provides 233mm freeboard. This should be increased to 300mm. The outflow is proposed to be restricted to 2l/s using an orifice diameter of 37mm.

A MicroDrainage submission has also been provided, however this contradicts the Drainage Layout Plan. The contributing area in MicroDrainage is assumed to be 60m² which then requires a storage volume of 33.4m³.

We request that the MicroDrainage submission is updated to reflect the true proposals. This should demonstrate that the pond has sufficient storage to accommodate the 1 in 100 year + 40% climate change event.

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

The Applicant must confirm the proposed adoption and maintenance arrangements for the surface water drainage system. The Drainage Layout plan should reflect the ownership of the respective drainage components.

Foul Water Drainage

The drainage layout plan shows that each property will be served by a package treatment plant, however then the treated effluent is shown to enter a 'rising main' followed by outfall into a 'field drain' for tertiary treatment before it is directed to the existing dry ditch. There is also mention of a non return valve before the outfall to the ditch.

Pumps should be avoided where possible owing to the risk of pump failure leading to foul flooding. It is not clear why pumps have been proposed as surface water is able to be disposed of via gravity. The foul drainage strategy should be updated to use a gravity fed system only. Outfall of treated effluent is currently proposed to go to a dry ditch. This is not in accordance with the Binding Rules. Treated effluent should be disposed of into a non-seasonal constant flow of water.

The Applicant should undertake percolation tests in accordance with BS6297 to determine whether infiltration techniques are a viable option for managing treated effluent (see Section 1.32 of Building Regulations Part H Drainage and Waste Disposal). It may be that shallow soils allow for disposal of treated effluent to individual drainage fields.

If infiltration testing results prove soakage is viable, the following must be adhered to for Package Treatment Plants:

- The drainage field should be located a minimum of 10m from any watercourse, 15m from any building, 50m from an abstraction point of any groundwater supply and not in any Zone 1 groundwater protection zone. The drainage field should be sufficiently far from any other drainage field, to ensure that overall soakage capacity of the ground is not exceeded.
- Drainage fields should be constructed using perforated pipe, laid in trenches of uniform gradient which should not be steeper than 1:200. The distribution pipes should have a minimum 2m separation.
- Drainage fields should be set out in a continuous loop, i.e. the spreaders should be connected. If this feature is missed, it will gradually clog with debris and the field will become increasingly ineffective.

In accordance with Policy SD4 of the Core Strategy, the Applicant should provide a foul water drainage strategy showing how it will be managed. Foul water drainage must be separated from the surface water drainage. The Applicant should provide evidence that contaminated water will not get into the surface water drainage system, nearby watercourse and ponds.

Overall Comment

We currently object to the proposed foul water drainage strategy as it is not in accordance with the Binding Rules (and includes pumping). There is a risk that effluent can spill into the adjacent ditch causing pollution. The tertiary treatment is not compliant with the Binding Rules and consequently there may be an odour problem where the water lingers in the ditch. Please also review our comments above in relation to foul water disposal. An alternative foul water drainage strategy should be provided.

Once the above information has been submitted and approved, should the Council be minded to grant planning permission, the following information should be provided within suitably worded planning conditions:

- An updated 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;
 - A detailed foul water drainage strategy showing how foul water from the development will be disposed of;
 - Confirmation of the proposed authority responsible for the adoption and maintenance of the proposed drainage systems.

Following the submission of a drainage report and amended layout the following comments were received (8 October 2019):

Surface Water Drainage

It has been stated that infiltration techniques will not be a viable option for this site, and evidence of this has been provided.

An attenuation pond has been proposed with final outfall to an existing ditch. The Drainage Layout Plan shows that all private runoff from the dwellings and the private road will be directed to the proposed pond. This is stated to have a storage volume of 23.3m³ for the 1 in 100 year + 40% climate change event and the maximum water depth will be 0.467m and the top of bank will be 0.8m above the base, thus this will provide 333mm freeboard (assuming that the base of the pond will be the invert level of the outgoing pipe). The outflow is proposed to be restricted to 2l/s using an orifice diameter of 37mm.

The Applicant must confirm the proposed adoption and maintenance arrangements for the surface water drainage system. The Drainage Layout plan should reflect the ownership of the respective drainage components.

Foul Water Drainage

The drainage layout plan shows that each property will be served by a package treatment plant. The treated effluent is then shown to be disposed of into a field drain (to provide tertiary treatment), this is then directed to an existing dry ditch. There is also mention of a non-return valve before the outfall to the ditch.

Outfall of treated effluent is currently proposed to go to a dry ditch. This is not in accordance with the Binding Rules. Treated effluent should be disposed of into a non-seasonal constant flow of water.

We previously requested that invert levels should be demonstrated to show that water can be disposed of via gravity. These have not yet been demonstrated.

Overall Comment

We currently object to the proposed foul water drainage strategy as it is not in accordance with the Binding Rules. We suggest that the 'field drain' carrying the treated effluent is changed to a reed bed (in accordance with Building Regulations). This should be realigned so that it is less likely that effluent will bypass into the ditch. The reed bed could spill into the pond. We ask that the proposed authority responsible for the adoption and maintenance of the proposed drainage systems is clarified. A Private Management Company should be appointed.

Following a response from the applicant's drainage consultant, the responses below were received from the Council's Land Drainage Consultant (31 October 2019):

"It is not in accordance with the binding rules but it does not mean it is illegal. Binding Rules are a set of rules to decide when a permit from the EA is not required. In this case a permit will be required, but the solution is perfectly adequate."

BBLP response : pollution of a neighbours ditch is illegal under the Law of Nuisance.

"Their alternative (a reed bed) does not meet the binding rules either and a permit is required too."

BBLP response : Reed Beds are listed in the Binding Rules as a form of tertiary treatment.

However, Reed Beds are normally located so to avoid the pollution of neighbouring ditches. Water will always drain to the lowest point. So the ditch will receive treated effluent, so pollution will occur.

We had suggested the concept of a reed bed, but this would need to be positioned away from the ditch. There does not appear to be sufficient space to install a reed bed owing to the site layout.

The applicant would need to present the original foul drainage strategy to the EA and seek to obtain an Environmental Permit, before the foul drainage strategy can be approved.

Having reviewed the drawing again, I note that pumps are proposed on the Package Treatment Plants. We had previously requested survey levels to determine whether a gravity system could be installed. If the EA Permit is obtained then we would require a condition on the planning, requesting that the PTP with pumps would be provided with (i) a minimum 24 hours storage in the event of pump failure and (ii) a warning device showing that the pumps had failed. We seek to discourage pumped systems because the resident will suffer from localised flooding or backed up drains whenever the pumps break down or the power fails.

An updated foul drainage strategy should be provided.

Further comment provided 5 November 2019:

I can only advise that if the current proposals are implemented then there is a likelihood of pollution on third party land. I would consider that any decision regarding approving the development without an EA permit should be taken by the planning officer.

4.6 Conservation Manager (Landscape) – no objection:

I have reviewed the outline application for 3 dwellings on land at Allensmore, given that this is a small scheme which seeks to retain the pastoral land and sense of openness in which the PROW is situated to the north of the site, the proposal is therefore considered compliant with policy.

I do however consider that a robust landscape buffer should be put in place along the northern site boundary, this should consist of both native hedgerow and hedgerow trees in order to minimise adverse visual effects and assimilate the development into its rural surroundings.

5. Representations

5.1 Allensmore Parish Council – object

(Commented as follows on 11 December 2018)

Allensmore Parish Council objects to this proposal for development primarily due to its location and also due to drainage and access concerns.

Location

The Parish Council feels strongly that the location of this site is not appropriate for development. Other than an access driveway, the site has no road frontage but borders the back gardens of neighbouring residents on three sides and an arable field on the fourth side. There is a clear settlement pattern in Allensmore of linear, single depth developments fronting onto the lanes. A development behind existing properties would be substantially at odds with the existing pattern and character of the area.

The emerging Neighbourhood development plan (see Allensmore.org.uk) has identified that the single depth settlement pattern is an important characteristic of the area that should be preserved. Whilst recognising that the plan is still in early draft form, this site is outside the proposed settlement boundary. Furthermore, it appears at this stage that the 14% housing growth target can comfortably be achieved whilst preserving this important characteristic. The independently produced site assessment report by Aecom also recommended that this site not be allocated due to the conflict with the existing linear settlement pattern

As described in the application, the three houses proposed add to the two existing houses developed recently on the site. It is noted that when dismissing the appeal against the refusal for five houses to be developed on this site in Jan 1990 the planning inspectorate stated "In my view the erection of 5 houses on the appeal site would seriously harm the established linear character of the village...".

Drainage

This area is well known for drainage difficulties, with no mains drainage available and poorly draining ground. The area of Church Road where access is proposed is identified by the Environment Agency as at high risk of surface water flooding. There is therefore a concern that disposal of surface and foul water might be problematic and that the existing properties and any new properties might be at increased risk of surface water flooding and pollution.

Access

With a long and narrow access track, there will inevitably be cars and delivery vehicles meeting and one needing to give way to the other. This will lead to the need to reverse back onto the narrow Church Road which, in addition to cars and vans, is used by cyclists, pedestrians and horses, with the risk that creates, especially after dark in this area with no street lighting. It was also noted that due to close proximity of a neighbour's hedge, visibility is very restricted in one direction when exiting from the track.

(Commented further on 6 September 2019):

Following the amendment to this application to provide further details on the drainage strategy, the Parish Council wishes to reiterate its continued opposition to this proposal for the following reasons.

- 1) The drainage strategy proposes that the outflow from the three package treatment plants is discharged into a soak-away, close to an existing watercourse. The end of the soak-away then discharges into that watercourse, so that any outflow not absorbed into the ground – for example at times of peak demand, and/or when the soak-away becomes silted up over the years, will discharge into that watercourse. The ill-defined watercourse, not on the applicant's

land, is dry for much of the year (including at the time of writing) and is also proposed to be used in a similar manner by the 6 additional dwellings being sought by application number 190650. There is also a concern that the attenuation pond will create unpleasant odours, particularly since the outflow from the 3 treatment plants is likely to reach the pond from time to time. This would be very unpleasant for the neighbouring houses.

- 2) The proposal is strongly at odds with the Neighbourhood Development Plan which is now at the Regulation 16 stage subject to Parish Council approval anticipated in September. The site was not recommended for development during the call for sites and it is outside the proposed settlement area. The fact that the site has no road frontage and is behind existing properties on three sides is against the linear development pattern of the parish and contravenes Policy A4, which recognises this feature as an important feature of the area. It also contravenes Policy RA2 of the Core Strategy which requires that developments in settlements such as Allensmore “particular attention be given to ensure that housing developments respect the scale, form, layout, character and setting of the settlement”. It was recognised by the planning inspector when a previous declined application for 5 dwellings on this site was rejected (The front two of which were on the road frontage and subsequently approved) that “the erection of 5 houses on the appeal site would seriously harm the established linear character of the village...”. It should also be noted that the housing target for the area as set out in the Core Strategy has already been exceeded.
- 3) This application needs to take into account application no 190650 which abuts the front corner of this site and proposes a further 6 additional dwellings. Together these would lead to a mini estate of 9 houses, about a third of the number in the existing settlement area and add further serious challenge to the already extremely challenging drainage and flooding issues.

This is a greenfield site, outside the proposed settlement area, set behind the gardens of existing properties on three sides, with no road frontage other than an access track, and in an area characterised by a linear pattern of development. This proposal is totally out of character with the village. Not only does it contravene the requirements of Policy RA2 to respect the neighbouring settlement, permitting it would constitute a total disregard for the requirement the Core Strategy (para 3.2) that development should “... protect and enhance the attractive and distinctive character of the different areas of the county...”. Permitting this proposal would also be contrary to the specific wishes of residents of the parish as expressed in the Allensmore NDP document about to be submitted for regulation 16.

Following an amended block plan to indicate the red application site line being taken to the adopted highway the response below was received on 24 January 2020:

At the Allensmore Parish Council Meeting, held on the 23rd January 2020, local residents made a number of comments opposing the application.

These included the concern that the Ecological Appraisal in the application made reference to the Conservation of Species and Habitats regulations 2010 which is out of date and was been superseded in 2017.

There was also concern that local people should feel it necessary to engage and fund the services of a transport consultant because they did not have the confidence that this aspect had been sufficiently scrutinised by Herefordshire Council’s specialists.

Following the new consultation on this application, the Allensmore Parish Council wishes to emphasise and expand its previously made objections.

Location:

The Parish Council feels strongly that the location of this site is not appropriate for development. Other than an access driveway, this greenfield site has no road frontage but borders the back

gardens of neighbouring residents on three sides and an arable field on the fourth side. The three proposed dwellings are entirely situated behind existing housing. There is a clear settlement pattern in the village of Allensmore of linear, single depth developments fronting onto the lanes as was recently acknowledged by the planning officer in the report to the planning committee on an application (190650) for a row of houses along Church Road in front of but adjacent to this proposed site. The officer stated "The linear layout proposed [by application 190650] will continue the pattern of the surrounding development."

There have been several other rejected applications in the past for three houses on this site, initially including two along the road frontage (which have subsequently been approved) plus three behind. On appeal following the rejection by Herefordshire Council, the planning inspector appointed by the Secretary of State for the Environment dismissed the appeal stating "In my view the erection of 5 houses on the appeal site would seriously harm the established linear character of the village...".

Whilst that was some considerable time ago, the facts remain the same and the Core Strategy has a similar provision in the form of policy RA2 to protect settlements from inappropriate development. The policy recognises and values the character and uniqueness of small settlements across the county and seeks to ensure this is protected. Specifically, "particular attention be given to ensure that housing developments should respect the scale, form, layout, character and setting of the settlement concerned." We believe it is clear that this proposal does not.

The location is also clearly contrary to the Allensmore NDP which has completed regulation 16 stage and is now in the examination phase. It is in contravention of policy A4 of the NDP, which requires that developments should maintain the linear characteristic of Allensmore and not be behind existing properties. The site, which is outside the settlement boundary, was specifically assessed by independent assessors, Aecom and recommended not to be allocated due to the conflict with the existing linear settlement pattern.

Drainage

This area is well known for drainage difficulties, with no mains drainage available and poorly draining ground. The area of Church Road where access is proposed is identified by the Environment Agency as at high risk of surface water flooding. The Parish Council notes that while efforts are ongoing by the applicant to develop a workable and compliant drainage strategy, the drainage experts working for Herefordshire Council continue to oppose the application based on the current proposals. It is also surprising that the drainage proposals could be considered acceptable when they depend on building a headwall on third party owned land and discharging into a frequently dry ditch.

Access

The site is accessed by a long, narrow track off Church Road, the junction with which provides very limited visibility. Indeed, Herefordshire Council's own assessment of this site published in the March 2019 Strategic Housing Land Availability Assessment concludes that this site is not suitable for development without access to third party land to resolve these difficulties with access. It states that there are major issues with the site due to the difficult access and that current visibility cannot be improved without third party private gardens. The site is considered low potential for development due to the need for third party land to provide suitable access. The current proposal does not make use of any third party land to address the access difficulties which therefore remain unacceptable.

As proposed, with the long and narrow access track with no passing places, there will inevitably be cars and delivery vehicles meeting and one needing to give way to the other. This will lead to the need to reverse back onto the narrow Church Road which, in addition to cars and vans, is used by cyclists, pedestrians and horses, with the consequent risk that creates, especially after dark in this area with no street lighting. It appears that for an access track of this length, passing

places should be provided, however with the existing two properties either side of the track, it does not seem possible to meet this requirement.

The Parish Council shares the concerns about the visibility and safety of this access as identified in the SHLAA and following closer inspection it does not appear that the required visibility splays can be achieved. Indeed the measurements shown on the application do not appear to correctly reflect those required by the design guidelines.

Summary

The Parish Council considers this is not an appropriate site for development for the reasons outlined above.

Policy RA2 of the Core Strategy makes clear that settlements such as Allensmore are to be protected from this form of inappropriate development which is not in keeping with the surrounding settlement. The Neighbourhood Development plan clearly and strongly opposes this site based on its location and its being out of character with the settlement.

Herefordshire Council's own assessment of the site identifies that it is not suitable for development without access to third party land. The access appears to be dangerous and does not and cannot meet the appropriate design requirements.

With 41 net new dwellings already built or approved since the beginning of the plan period, Allensmore has already significantly exceeded the minimum target growth of 32 new dwellings by 2031 as set by the Core Strategy. Furthermore the NDP identifies further sites which are considered appropriate for further new dwellings.

For these reasons the Parish Council strongly believes that this application should again be rejected.

5.2 To date a total of 33 letters of objection from 11 properties have been received (this includes a letter from the Allensmore Residents Group). The comments therein are summarised below:

- Development would be out of character with the existing settlement where properties are set alongside Church Road and of single depth. To allow the application, which is in effect a small estate, would be to completely change the character of the village
- The site was rejected within the AECOM report for the Allensmore NDP
- Site is outside of settlement boundary within NDP and is not infill
- While it is often said 'there is no right to a view' the enjoyment from the housing backing onto this site and the listed building is an important part of Allensmore
- Understood that the Parish has already exceeded the requirement for housing up to 2032. Concerned by the total number of houses proposed and the adjoining application ref: 190650 (approved at Planning Committee November 2019)
- Hope the previous 6 planning application refusals on the site are taken into consideration
- Appeal decision (under ref: SH882172PO) stated 'the erection of 5 houses on the appeal site would seriously harm the established linear character of the village...' (two which fronted on to the road were approved by a later application)
- Little Village Farm, a Grade II Listed timber framed cottage is directly opposite the access point. Modern properties opposite and alongside respect the established linear setting but this would be a mini estate, thereby creating an urbanising effect in a rural setting
- To approve the application would be in breach of the Core Strategy and against the wishes of residents as expressed by the close to final, Allensmore NDP
- Church Lane is single track with few places for vehicles to pass
- Since 1985 the number of residences down Church Lane has almost doubled increasing from 16 to 28. This has had a substantial impact on the condition of the lane
- There is limited visibility in one direction of the access and totally blind in the other

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

- Entrance is only capable of allowing one vehicle at a time
- Three new houses on the site would suggest a minimum of 6 vehicles using this blind junction
- The large vehicles required during construction would greatly increase the danger
- Safety of local horses and riders would also be increased and village tranquillity and charm threatened
- Ask that the Transport Department provide clear evidence that this entrance meets the legal and safety requirements and an explanation of the codes used (*Officer comment: this information has since been supplied*)
- With a high water table what effect would additional houses with similar treatment plants have on drainage. Object to the additional proposed drainage strategy. Concerned additional dwellings would put existing sewage plants at risk
- High water table and risks of possible outbreaks of pollution and flooding as identified within refusal on this site ref: SS990251PF
- The ditch proposed for discharge is dry for the majority of the year. Note that this is not in accordance with the Binding Rules
- Treatment plant allows for 6 people per dwelling but what is the effect if there are more than 6
- What measures are put in place to stop treatment plants to rise to the surface?
- Spreaders from package treatment plants for Bramble Cottage and New House travel over the application site. Area of pipework and spreader would need to be cordoned off. These are not noted and suggest that the proposed houses and roadway would cause serious damage to the drainage systems in place
- Because of trees, scrub and high water table makes it an exceptional environment for wildlife
- Up to date ecological study of the site is required. 300m away there are Great Crested Newts in our pond as identified by Hereford Wildlife Trust
- Great Crested Newts have been recorded within 500m and there are ponds within 500m
- Council Highways Design states that roads in excess of 25m in length should have passing places. The road before the commencement of development is 50m in length with no passing places
- Suggest development for 6 dwellings on Church Road, access to 183792 would be easily achievable with cooperation of the two developers
- Application form filled in incorrectly
- The applicant does not own the southern boundary and Ditch of Three Ashes
- There is a lack of services as well as internet provision

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=183792

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

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

6. Officer's Appraisal

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 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 Allensmore Neighbourhood Area, which published a draft Neighbourhood Development Plan (NDP) for Regulation 16 consultation

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

on 7 October 2019 running until 18 November 2019. At this stage the NDP has been sent to examination and at the time of writing the NDP is considered to attract moderate weight. This is in conformity with paragraph 48 of the NPPF.

- 6.3 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. This 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.’*

- 6.4 It is acknowledged at this moment in time, the Council is unable to demonstrate a five year housing land supply (this has recently been reduced to 4.05 years). Paragraph 11d of the Framework echoes the above in that it advises the following in respect of decision making:

‘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; 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.*

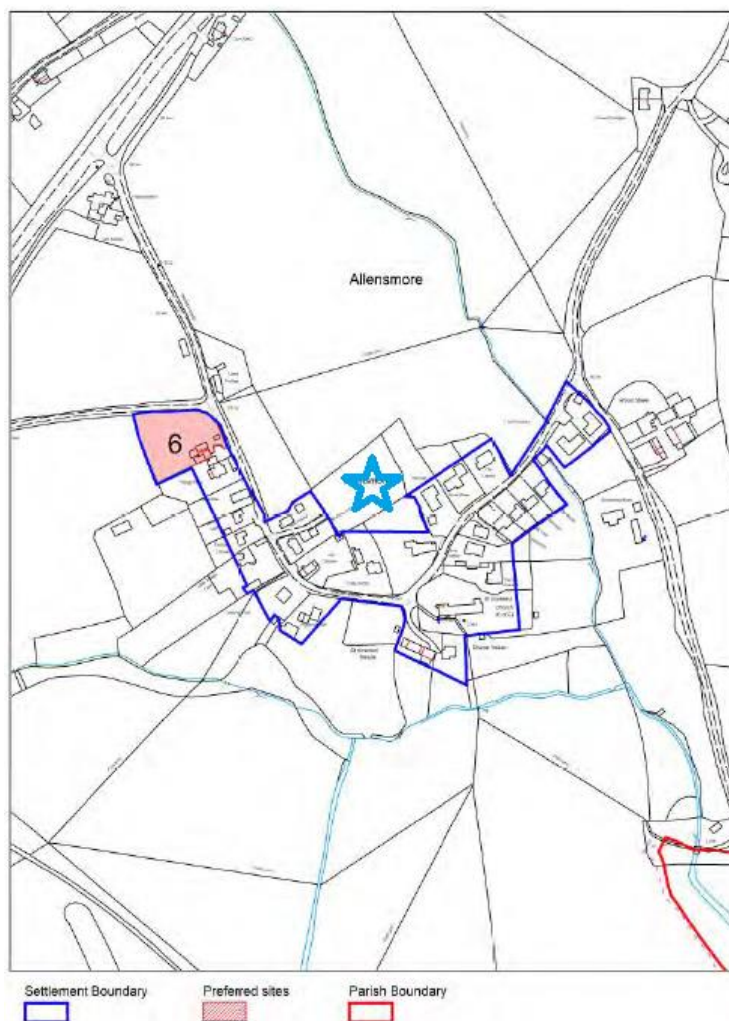
Principle of development

- 6.5 In locational terms, paragraph 79 of the Framework seeks to restrict development in isolated locations, but does acknowledge in rural locations it may be the case that development in one village supports the services in another village nearby. That said, the adoption of the Core Strategy represents a shift in policy that recognises proportionate growth is required in rural areas for social and economic purposes. It is with this in mind that the proposal is assessed under the CS policies alongside the Framework, notwithstanding the out of date nature of the policies.
- 6.6 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.

- 6.7 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). Allensmore is within the Ross-on-Wye HMA, which is earmarked for an indicative 14% housing growth, and is listed in Figure 4.15 under policy RA2 as an other settlement where proportionate housing is appropriate. The indicative housing growth translates to 32 dwellings being required across the plan period within the Parish.
- 6.8 Notwithstanding the above, the preamble to Core Strategy Policy RA2 states that NDPs will be the principal mechanism by which new rural housing will be allocated. As stated above, the Plan has been sent for examination and is currently considered to be afforded moderate weight. The Allensmore NDP includes boundaries for three settlements; Cobhall Common, Winnal and Allensmore. In terms of the site at the centre of this application, the boundary for Allensmore is most relevant. For ease, the map below depicts this boundary along with the site indicated by the blue star:

Map 3 Allensmore Settlement Boundary and Site 6



- 6.9 Policy A4 of the NDP states that proposals for new housing development within the identified Settlement Boundaries will be supported where they meet a list of criteria. From the above, it is clear that the site lies outside of the boundary but does propose 3 dwellings which is the type of small scale development the policy supports.

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

- 6.10 It is understood that the site came forward under the 'call for sites' for the NDP and was subsequently assessed by the independent body, AECOM. AECOM produced a report on these and the site at the centre of this application was considered to be inappropriate to allocate within the NDP stating that:

Site 11 has no significant landscape or environmental constraints on site. Whilst it is outside the settlement boundary it has a strong relationship with the existing built area, particularly given its location within a curve in Church Road meaning it is enclosed on two sides by existing development. However, the presence of this existing development also means that the site adds depth to the settlement in two directions. Development at Site 11 could therefore represent a significant departure from the established settlement pattern evident in Allensmore and result in harm to the settlement's character. Site 11 is not recommended as appropriate for allocation in the Neighbourhood Development Plan.

- 6.11 The site was included within the Strategic Housing Land Availability Assessment (SHLAA) in March 2019. It is appreciated that the site was found to have low potential for housing but this largely revolved around major issues with creating a suitable access to the site if developed on its own and the need for third party land for it. The application submitted however proposes the utilisation of the existing access to Bramble Cottage and 1 New House, all within the ownership of the applicant and therefore not relying directly on third party land. In landscape terms there was found to be medium/high capacity for a small cluster of dwellings.
- 6.12 Noting that policy A4 of the NDP is afforded moderate weight at this stage, I still find it appropriate to carry out an assessment under policy RA2 of the Core Strategy. This policy states that residential development will be located within or adjacent to the main built up area(s) of the settlement. It is acknowledged that Allensmore is a settlement identified under figure 4.15 (a smaller settlement) where particular attention should be paid to the form, layout, character and setting of the site and its location in that settlement. From the above map it is clear that the site is adjacent to the main built up part of the settlement and has the potential to round the settlement off the north.
- 6.13 It is acknowledged that policy A4 states that development will be supported on small infill sites of single depth and not behind other houses. Notwithstanding the level of weight attached to this policy at the present time, the form of surrounding development influencing proposed development is something supported through policy RA2 too. The proposal will result in a level of double depth development with the site being located behind those on Church Road. Arguably this is out of keeping with parts of the surrounding development, although there are examples of dwellings being further from the roadside and the settlement is not wayside in its entirety. Furthermore, the site is not readily visible from public viewpoints and is well contained. The Council's Landscape Officer does not object to the principle of residential development, subject to robust landscape boundaries, which would come forward as part of any reserved matters application. The previous appeal decisions on the site are noted, as are the comments relating particularly to the form of the surrounding development. However, the appeals are over 20 years old and the proposal needs to be assessed in line with planning policy in place at the time of determination and the aims of the NPPF. This conflict will be weighed up in the planning balance.
- 6.14 It is appreciated that the NDP includes the average densities for the three settlements and Allensmore works out at 8.8 dwellings per hectare. Noting that the proposal is for 3 dwellings across 0.3 hectares it results in approximately 9 dwellings per hectare and therefore similar to the average density within the settlement boundary for Allensmore (which has formed the 8.8 figure).
- 6.15 With the application being made in outline and all matters reserved, the house types and sizes are not included at this stage. Noting that within the Ross-on-Wye HMA the most required

dwellings are 3 bedrooms, this is something that should be considered by the applicant under any reserved matters application. This also tallies with policy A5 of the NDP which comments on family houses of 3 bedrooms coming forward.

- 6.16 In light of the above, while the conflict with the NDP is recognised, noting the level of weight attached to this at the present time it is not found to automatically direct the decision maker to refuse the application. There is clearly some difference of opinion on the landscape impacts of erecting dwellings on the site between the AECOM report and SHLAA, and this will be weighed up in the planning balance at the end of this report.
- 6.17 The following sections will go on to consider whether there are any other material considerations of such weight and magnitude that might lead to a conclusion that the proposal represents an unsustainable form of development.

Highways safety

- 6.18 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.'(NPPF para. 109).
- 6.19 The proposal looks to utilise the existing access into the site over which it is understood Bramble Cottage and 1 New House have rights of access. With the access being existing, the achievable visibility splays are detailed on the block plan. The Transportation Manager has viewed the plan and in light of the nature of the road and scale of the development finds this to be acceptable. While the splays are not wholly within land owned by the applicant, these being within highway land is not unacceptable or unusual. Concerns within the representations are noted in this regard, including the letter from two neighbouring dwellings specifically on highways matters. However, this does not fully detail the survey work that it is stated has been undertaken. Notwithstanding this, and having spoken with the Transportation Manager again since this was received, given the environment coming into the bend reduces speed the vehicles will be in the middle of the lane. With this in mind, a 1m running lane could be incorporated moving the splay further into the road.
- 6.20 While the junction with the access road and Church Road does not accommodate the width of two cars, noting the scale of the proposal for three dwellings this is not found to amount to a detrimental impact that would justify refusing the application as a whole. Construction vehicles using the access would also not represent a reason to refuse the application – this is a fairly short period of time in terms of the lifetime of the development. Furthermore, site operative parking would be conditioned on any approval to ensure they are not parked on the road itself.
- 6.21 Noting that the size of the dwellings is undetermined under this outline application, the exact level of car parking required to meet the design guide is as yet unknown. This notwithstanding, there is considered to be adequate space for turning and parking to be accommodated and the details will come forward as part of the layout within a reserved matters application.
- 6.22 Given the foregoing, the provision of three additional dwellings at this point in the settlement, utilising an existing access, is not found to amount to severe highways implications. The comment received from the Council's Transportation Manager endorses this view and raises no objections to the scheme subject to recommended conditions being attached to any approval. On this basis, the proposal accords with policy MT1 of the Core Strategy.

Drainage

- 6.23 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, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.24 The methods proposed for the disposal of foul water are individual package treatment plants for each dwelling disposing into a field drain with final disposal into a dry ditch. Surface water will be disposed of into an attenuation pond with final disposal into the same dry ditch. As can be seen from the comments of the Land Drainage Consultant they object to the proposed method due to it not meeting the General Binding Rules. For the avoidance of doubt, where a scheme does not meet the General Binding Rules a bespoke permit from the Environment Agency is required.
- 6.25 Paragraph 183 of the NPPF makes the distinction between the role of a planning decision and other controls and states the following:
- The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.*
- 6.26 In light of the foregoing, while the comments of the Land Drainage Consultant are noted, the inability (or not) to gain a drainage permit is not a reason to refuse a planning application. This process is separate from the planning one. In this instance, and given the objection from the Land Drainage Consultant, I find it appropriate and reasonable to attach a Grampian condition to any approval ensuring that this permit is in place prior to the implementation of the planning permission. For the avoidance of doubt, a Grampian condition *prohibits development authorised by the planning permission or other aspects linked to the planning permission (eg occupation of premises) until a specified action has been taken (such as the provision of supporting infrastructure).*
- 6.27 Subject to the imposition of a Grampian condition on any approval the proposal will meet the aims of policies SD3 and SD4 of the Core Strategy. The proposal will ensure a permit is gained for an acceptable method of drainage prior to the implementation of the permission. If one cannot be gained, the permission cannot be commenced. It is reiterated that an application is to be determined against the policies in place at the time of determination and while pollution was a reason to refuse an application in 1988, the NPPF makes it clear that there is a distinction between the control of the planning process and other permitting regimes.

Ecology

- 6.28 Policies LD2 and LD3 of the CS 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.

- 6.29 The proposal is accompanied by an ecology report with accompanying Habitat Enhancement Strategy and Management Plan. The Council's Ecologist has had sight of the assessment and does not object to its conclusions and recommendations. Noting the lack of objection, the proposal is found to comply with the aims of policies LD2 and LD3 of the Core Strategy subject to recommended conditions being attached to any approval.

Other matters

- 6.30 The ecology report was carried out by a licensed Ecologist and the Council's Ecologist is happy that as works will be licensed as required to avoid any breach of Wildlife Legislation (above planning regs/requirements) and fully monitored by a Licence holding specialist that all considerations have been made. It is considered that all reasonable and responsible measures such as to ensure the LPA have fulfilled our legal duty of care have been undertaken.
- 6.31 With regard to the Grade II listed Little Village Farm located to the east, the setting is not found to be affected by the proposal. This is as a result of the intervening features (dwellings and Church road) as well as the modern dwellings directly adjacent to it. The designated heritage asset and proposal site are arguably divorced from one another and development on the site is not found to have an impact on the way the asset is experienced.
- 6.32 The loss of a private view is not a material consideration that any weight can be attached to. However, issues of overlooking or loss of light that impact upon amenity are. With the current application being in outline details of design and form would come forward as part of a reserved matters application. Amenity impacts would be a consideration under that application but I do not have overriding concerns that an acceptable scheme could not be achieved that respects both the amenity of existing and future occupants and conforms with policy SD1 of the Core Strategy and the NDP.
- 6.33 It is acknowledged that Allensmore as a parish has exceeded its housing target by 3 as of April 2019 (and schemes have been permitted latterly including one for 6 dwellings approved at Planning Committee in November 2019). However, this target is a minimum and if an application is found to be acceptable in all other regards, this would not represent a justified reason to refuse an application, particularly noting the lack of a five year housing land supply across the County as a whole.
- 6.34 In terms of spreaders from package treatment plants for Bramble Cottage and New House, this may have an impact on the layout of any scheme. This is a matter that is reserved and therefore not for consideration under this application. The outline application only seeks a decision on the principle of development.
- 6.35 It has come to light fairly late on in the process of the application that the applicant is not the freeholder of the land, rather it is their parents. As such, notice was served on the owners of the land on 29 January 2020. This notice needs to be served for 21 days prior to a decision being made to ensure that no one is prejudiced by the application. Given the relationship between the applicant and freeholders, and the freeholders having been the applicants on previous applications, I am not anticipating any further material planning matters to be forthcoming. Notwithstanding this, I find it appropriate and reasonable to ensure that 21 days are provided before any decision is issued by the LPA. This will be included within the resolution.

Planning balance and conclusion

- 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.
- 6.38 The site is located outside the settlement boundary included within the NDP which undertook Regulation 16 consultation ending on 18 November 2019. Noting that the NDP has been sent for Examination (and the report is awaited) it is considered to attract moderate weight at this point in time. While this conflict with the NDP is recognised, it is appropriate to undertake an assessment against policy RA2 also. The site is located adjacent to the built up part of the settlement which is identified for residential growth. The pattern of Allensmore is largely linear although there are examples of dwellings being set further back from the roadside and it is therefore not wholly wayside. In terms of landscape harm, while the appeal decision from 1988 is noted, the proposal is not found to lead to significant harm that would justify refusal when assessed against the policies that are in place at this time. The development would not be readily visible and the site is closely located to the existing built form. This is reinforced through the lack of objection from the Council's Landscape Officer. A robust landscape boundary would be expected as part of any reserved matters application.
- 6.39 The application is submitted in outline and the detail of design and form would come forward within a reserved matters application but the principle of three dwellings on the site is not found to be out of keeping with the surrounding pattern of development to a degree that evokes a level of harm that justifies refusal.
- 6.40 While the comments of the Land Drainage Consultant are noted, they do remark that it is the decision of the Planning Officer whether or not to approve a development without the Environment Agency permit. With paragraph 183 of the NPPF stating that the planning process should assume other processes will work, subject to a Grampian condition on any approval that a permit will be achieved, a satisfactory drainage scheme can be brought forward on the site. It is not considered necessary, in this case, for this to be provided prior to determination.
- 6.41 In terms of cumulative highways impact, given the level of development proposed and the utilisation of an existing access, it is not found to amount to severe that would direct refusal under the NPPF. The recent permission for 6 dwellings to the north is noted but this does not change the view of the Transportation Manager.
- 6.42 In assessing the three indivisible dimensions of sustainable development as set out in the CS and NPPF, officers are of the opinion that the scheme is representative of sustainable development and that the presumption in favour of approval is engaged. The scheme will bring forward three dwellings adjacent to the built up part of the settlement with the associated economic and social benefits that small developments in rural hamlets support.
- 6.43 Officers are content that there are no other matters of such material weight that would justify withholding planning permission and the application is accordingly recommended for approval.

RECOMMENDATION

That officers named in the scheme of delegation to officers be delegated to determine the application, following expiry of the 21 day consultation period, and subject to the following conditions and any further conditions considered necessary by officers.:

- 1. C02 Time limit for submission of reserved matters (outline permission)**

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

2. **C03 Time limit for commencement (outline permission)**
3. **C04 Approval of reserved matters**
6. **C06 Development in accordance with the approved plans**
7. **CBK Restriction of hours of construction**
8. **The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the Habitat Enhancement Strategy and Management Plan by Janet Lomas 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

9. **Foul water shall be disposed of by individual package treatment plants and drainage field with final outfall into the adjacent watercourse. Surface water shall utilise an attenuation pond with final outfall into the adjacent watercourse.**

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 and the National Planning Policy Framework.

10. **Prior to the commencement of development evidence of an Environment Agency drainage permit will be submitted to the Local Planning Authority.**

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 and the National Planning Policy Framework.

11. **Prior to the commencement of development details relating to the private package treatment plants shall be submitted to the Local Planning Authority and contain the following information:**

- **a minimum 24 hours storage in the event of pump failure and**
- **a warning device should the pumps fail**

The development shall be carried out in accordance with the approved details.

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 and the National Planning Policy Framework.

12. **CAE - Vehicular access construction**
13. **CAH – Driveway gradient**
14. **CAI - Parking – single/shared private drives**

- 15. CAT - Construction Management Plan
- 16. CB2 – Cycle storage

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. I11 – Mud on highway
- 3. I09 - Private apparatus within highway
- 3. I45 - Works within the highway
- 4. I05 - No drainage to discharge to highway
- 5. I47 - Drainage other than via highway system
- 6. I35 - Highways Design Guide and Specification

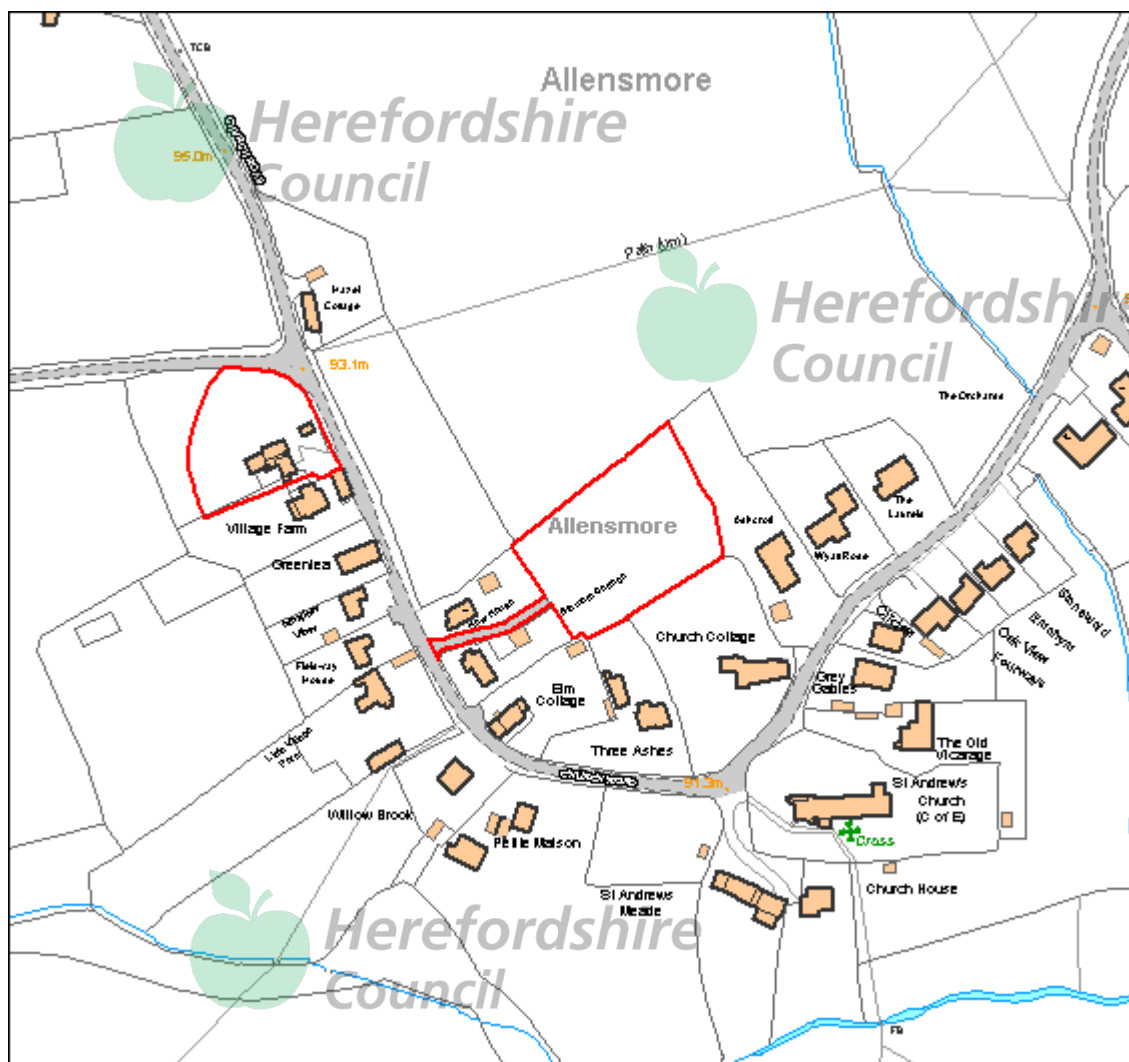
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 183792

SITE ADDRESS : LAND TO THE EAST OF BRAMBLE COTTAGE, ALLENSMORE VILLAGE ROAD, ALLENSMORE, HEREFORDSHIRE, HR2 9AG

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	11 February 2020
TITLE OF REPORT:	<p>191173 - APPLICATION FOR APPROVAL OF RESERVED MATTERS FOLLOWING OUTLINE APPROVAL 163364/O (SITE FOR 3 DETACHED DWELLINGS WITH GARAGES AND ACCESS). AT LAND SOUTH OF LADYWELL LANE, KINGSTHORNE, HEREFORDSHIRE.</p> <p>For: Mr & Mrs Williams per Mr Bryan Thomas, The Malthouse, Shobdon, Leominster, Herefordshire HR6 9NL</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191173&search=191173
Reason Application submitted to Committee – re-direction	

Date Received: 1 April 2019

Ward: Birch

Grid Ref: 350044,231861

Expiry Date: 26 July 2019

Local Member: Councillor Toni Fagan

1. Site Description and Proposal

- 1.1 The application site is an open agricultural field at the southern extent of the village of Kingsthorne, c.400 metres to the east of the A49 and some 6.5km to the south of Hereford. The site is bounded by Ladywell Cottage to the west, Cuckoo Cottage to the east and Ladywell Lane to the north. Dwellings set in a wayside settlement pattern about the northern flank of Ladywell Lane. The wider site setting is characterised by an undulating topography traversed by narrow, warren like lanes off which well spaced dwellings are accessed. Buildings are of a varying age, size and design giving rise to a disparate local vernacular.
- 1.2 The site rises exponentially away from Ladywell Lane in a southerly direction away from the road and towards the open countryside beyond. The site benefits from a native species hedgerow to the roadside boundary punctured at either end for two field accesses. On all other sides, the site benefits from dense vegetative boundaries. There is a permissive right of way to the western edge of the site.
- 1.3 Outline planning permission for the erection of three dwellings on the site was granted in 2017 under application ref: 163364/O. The outline permission considered access with the two existing accesses being modified and a third one wholly new. Appearance, layout, landscaping and scale are matters being considered under this reserved matters application. The application proposes 3 x 4 bedroom dwellings and amendments have been sought in relation to the design. The proposed block plan is found below:

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



2. Policies

2.1 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
RA1	-	Rural Housing Distribution
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
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality

2.2 National Planning Policy Framework (NPPF):

Chapter 2	-	Achieving sustainable development
Chapter 4	-	Decision making
Chapter 5	-	Delivering a sufficient supply of homes
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

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

2.3 Much Birch Neighbourhood Development (undergone Regulation 14 consultation ending 11 February 2020)

Policy MB1:	Promoting Sustainable Development
Policy MB2:	Development Strategy
Policy MB3:	Conserving the Landscape and the Natural Environment
Policy MB5:	Foul and Storm Water Drainage
Policy MB8:	Housing Development in Much Birch, King's Thorn, Wormelow and The Cleaver.
Policy MB10:	Meeting Housing Needs
Policy MB11:	Affordable, including Intermediate Homes
Policy MB12:	Housing Design and Appearance
Policy MB13:	Sustainable Design for Housing
Policy MB14:	Traffic Measures within the Parish
Policy MB15:	Highway Design Requirements

2.4 The policies within the emerging Plan are afforded limited weight.

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

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

3. Planning History

3.1 163364/O – Site for 3 detached dwellings with garages and access. Approved

4. Consultation Summary

Statutory Consultations

4.1 **Welsh Water** – no objection

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

We have reviewed the information submitted as part of this application with particular focus on drawing number 1867/05 which shows that foul water will drain to private treatment plants and surface water to soakaways. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development.

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.

Internal Council Consultations

4.3 **Conservation Manager (Ecology)** – no objection

Subject to Natural England ‘formally approving’ the required Habitat Regulations Assessment – appropriate assessment submitted to them by this LPA the foul water drainage condition (c6) can be discharged from an ecology perspective.

It appears that condition 16 is now only valid in part as the applicant states there are now no trees on or adjacent to the site to survey or protect; and that as requested existing hedgerows will be protected as details supplied. This appears relevant to discharge this condition.

Condition 17 As specified by the applicant all lighting will be fully compliant with bat Conservation Trust specifications and guidance. This is acceptable to discharge this condition.

4.4 **Transportation Manager** – no objection

No objections to the reserve matters, However in terms of the wheel washing provision the submitted information does not tell HC how/when the hand pump is going to be used and also what the provisions are if mud is deposited on the highway, will a sweeper be used?

4.5 **Land Drainage** – no objection

Initially commented as follows on 20 June 2019:

As the topography of the surrounding area is sloping down towards the north, there may be a risk of surface water flooding from higher land. The Applicant would need to consider the likely flow routes in the vicinity of the proposed development site. It may be necessary to raise the threshold levels slightly to prevent ingress. The management of overland flow should be demonstrated. It must be ensured that no surface water runoff from the proposed development gets onto the adjacent highway (Ladywell Lane).

Surface Water Drainage

Infiltration testing has been undertaken, however it has not been demonstrated how the infiltration rate has been reached. The MicroDrainage calculations use a rate of $1.42 \times 10^{-5} \text{m/s}$ (0.0512m/hr).

There is mention of ‘Pump Outflow Control’ in the MicroDrainage submission. We largely discourage the use of pumps and request that the surface water runoff is disposed of in a gravity fed system.

Two contradicting layout plans have been provided. This is explained below:

- The ‘Site Plan (Ref: 1867/05)’ demonstrates that one surface water soakaway is proposed per property. These are to be located to the north (downhill) of the properties and thus will be gravity fed systems. This configuration is acceptable as pumping is not required.
- The ‘Foul and Surface Water Drainage Strategy (Ref: OPKT03a)’ demonstrates that two soakaways are to be provided per property. One is located uphill which is likely to require pumping – this is not acceptable.

The MicroDrainage calculations demonstrate that the soakaways have been designed for the 1 in 30 year + 30% climate change event. The Applicant should provide a surface water drainage strategy showing how surface water from the proposed development will be managed. The strategy must demonstrate that there is no increased risk of flooding to the site or downstream of the site 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. Note that in February 2016 the EA updated their advice on the 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>. Thus a climate change allowance of 40% should be applied for this development.

It is assumed that the drainage features will be owned (and maintained) by the respective home owners as individual systems are being provided.

Foul Water Drainage

Percolation testing has been undertaken which has generated a Vp value of 21.2. This is suitable for disposal of treated effluent via a drainage field.

Two contradicting layout plans have been provided. This is explained below:

- The 'Site Plan (Ref: 1867/05)' demonstrates that the package treatment plant will be located downhill of the dwelling then pumping of treated effluent up to the drainage field to the south of the dwelling. This configuration is largely discouraged as we do not promote the use of pumps due to the risk of foul flooding.
- The 'Foul and Surface Water Drainage Strategy (Ref: OPKT03a)' demonstrates that the package treatment plant and drainage field are to be located uphill (to the south) of the dwelling. Owing to the topography of the site, this would require the pumping of raw sewage, thus this configuration is also not acceptable.

We request that the foul water is dealt with by a gravity fed system to avoid the pumping foul water.

We appreciate that the drainage field has been calculated to be 25m² using the Vp value of 21.2. This should be converted to a linear meterage using conversion table 4 on page 14 of BS6297. The configuration of the proposed drainage field is acceptable (as the spreaders are connected), however we note that the drainage field serving plot 3 on drawing OPKT03a may be orientated incorrectly. The spreaders should not be steeper than 1 in 200, and thus the spreaders may need to be orientated east west to run parallel with the contours.

Overall Comment

As a highway authority, we object to the proposed drainage layout as this presents the risk that water may drain onto the carriageway in the event of pump failure. The highways act 1980 requires Highways Authorities to ensure that all steps are taken to prevent water getting onto the carriageway.

We request that an updated foul and surface water drainage strategy is provided which addresses our comments as above. This may require the slight re-location of dwellings to allow for space to provide a gravity fed system. We did raise this issue at the outline permission stage.

Following the submission of additional information the following response was received 5 September 2019:

Overview of the Proposal

The Applicant proposes the construction of 3 dwellings with garages. The site covers an area of approx. 0.20ha and is currently a Greenfield site. The Wriggle Brook is located approx. 52m to the north of the site. The topography of the site slopes down towards the south.

Relevant Conditions

Condition 6:

Prior to the commencement 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 occupation of any of the buildings hereby permitted.

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 and the National Planning Policy Framework.

Flood Risk

Surface Water Flood Risk: Review of the EA's Risk of Flooding from Surface Water map (figure 2) indicates that the majority of the site is not at risk of surface water flooding, however there does appear to be a natural flow path of water in the north-western corner of the site which flows to the north. This should be considered in the design of the development.

Other Considerations and Sources of Flood Risk

As the topography of the surrounding area is sloping down towards the north, there may be a risk of surface water flooding from higher land. The Applicant would need to consider the likely flow routes in the vicinity of the proposed development site. It may be necessary to raise the threshold levels slightly to prevent ingress. The management of overland flow should be demonstrated. It must be ensured that no surface water runoff from the proposed development gets onto the adjacent highway (Ladywell Lane).

Surface Water Drainage

Infiltration testing has been undertaken, however it has not been demonstrated how the infiltration rate has been reached. The MicroDrainage calculations use a rate of $1.42 \times 10^{-5} \text{m/s}$ (0.0512m/hr) to demonstrate that the soakaways will accommodate the 1 in 100 year + 40% climate change event (7.2m³ volume required).

The updated site plan demonstrates that 1 soakaway will be provided per dwelling and this will be downhill of the proposed plots.

It is assumed that the drainage features will be owned (and maintained) by the respective home owners as individual systems are being provided.

Foul Water Drainage

Percolation testing has been undertaken which has generated a Vp value of 21.2. This is suitable for disposal of treated effluent via a drainage field.

The updated site plan demonstrates the proposal to install treatment plants downhill of the dwellings with a pump to pump treated effluent up to the south of the dwellings (uphill). The rising main is proposed to be 63mm in diameter. The pump station is stated to have 120litres of storage below the invert level. It is likely that more storage than this is required based on the population of the dwellings. Sewers for Adoption outlines the requirements for storage in the scenario of pump failure.

The receiving drainage fields have been correctly sized to receive the treated effluent from each dwelling.

Overall Comment

As a highway authority, we object to the proposed drainage layout as this presents the risk that water may drain onto the carriageway in the event of pump failure. The highways act 1980 requires Highways Authorities to ensure that all steps are taken to prevent water getting onto the carriageway.

We request that an updated foul water strategy is provided which addresses our comments as above. This may require the slight re-location of dwellings to allow for space to provide a gravity fed system. We did raise this issue at the outline permission stage.

Following the submission of a further amended drainage strategy and details, the following was received 2 October 2019:

Surface Water Drainage

Infiltration testing has been undertaken, however it has not been demonstrated how the infiltration rate has been reached. The MicroDrainage calculations use a rate of $1.42 \times 10^{-5} \text{m/s}$ (0.0512m/hr) to demonstrate that the soakaways will accommodate the 1 in 100 year + 40% climate change event (7.2m³ volume required).

The updated site plan demonstrates that 1 soakaway will be provided per dwelling and this will be downhill of the proposed plots.

It is assumed that the drainage features will be owned (and maintained) by the respective home owners as individual systems are being provided.

Foul Water Drainage

Percolation testing has been undertaken which has generated a Vp value of 21.2. This is suitable for disposal of treated effluent via a drainage field.

The updated site plan demonstrates the proposal to install treatment plants downhill of the dwellings with a pump to pump treated effluent up to the south of the dwellings (uphill). The rising main is proposed to be 32mm in diameter. The package treatment plants are stated to have 900litres of storage above normal operating level. The pump is located in the secondary settlement section with float switches that allow 24 hour additional capacity should the pump stop working. An alarm has been proposed that would highlight the pump failure to the residents. This is compliant with the Building Regulations part H which require 150 litres of storage per person.

The receiving drainage fields have been correctly sized to receive the treated effluent from each dwelling.

Overall Comment

In principle we agree to the foul drainage strategy. However we request that the applicant prepares a Foul Maintenance Plan that will need to be issued to the residents. We await the provision of this document

Following confirmation of the foul maintenance plan, Land Drainage confirmed they do not object to the proposals on 21 October 2019.

5. Representations

5.1 Much Birch Parish Council – object

HISTORY OF EVENTS

Outline planning permission was granted in April 2017 after a Planning Committee Meeting was held.

The majority of the issues covered in the Outline Planning permission were based on the statements made in the Planning Committee report dated April 2017.

The latest application 191173 does not follow the spirit, and intent, of both the Planning Committee report and the Outline Planning.

To illustrate this, it is planned to highlight the concerns and reasons for challenging the application.

The paragraph numbers below have been copied from the Outline Planning report.

A summary of objections is at the end of this response.

PRINCIPLE AREAS OF CONCERN

Planning Committee Report

PARA 1.3

.....The scheme shows three well-spaced dwellings of a dormer cottage design set back from the road on an engineered plateau c. 1.5 metres above the road level.

Comments

- In the original planning the houses were spaced with gaps of 6M - the gap now proposed is approximately half of this.
- The style was dormer cottage style 3-bedroom houses – it is now two storeys with a height of 7M to the ridge. The footprints have increase and the properties now have 4 bedrooms.

PARA 2.6

As per the NPPF, the delivery of sustainable housing development to meet objectively assessed need is a central theme of the Core Strategy.....development will be acceptable “where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community.”

Comment

- The development plan does not favour building more 4-bedroom houses in Kingsthorne.

PARA 4.4.9

We note that the package treatment plant for Plot 3 is located within 7m of the habitable building. This does not comply with BS6297. The Applicant must relocate the package treatment plant to be a minimum of 7m away from any habitable buildings.

Comments

- The plan accompanying the latest application has still got the original non-acceptable layout in the test results but a different layout in the site plan.
- The site plan shows drain fields 7M, 8M and 9M from the dwellings but to comply with regulations drain fields need to be 15M away from dwellings.

PARA 6.12

It is your officer's opinion that there is sufficient space within the site to accommodate three dwellings whilst upholding settlement pattern of the area (described above) as demonstrated by the indicative layout and street scene. Further, the indicative street scene shows three well-spaced dwellings of a dormer cottage design with a low height and modest span which would sit comfortably amongst the varied but fundamentally traditional buildings at this part of the village. Whilst hedgerow would be punctured to provide access to individual plots, in this residential context, a robust landscaping scheme would be sufficient to overcome the very modest harm associated therewith. Therefore, from local vantage points, particularly Ladywell Lane itself, there is potential for a reserved matters submission to uphold the character and distinctiveness of the area so as to have a positive impact on its setting as required by Core Strategy Policies SS6, SD1, LD1 and the environmental dimensions of RA2

Comments

- The properties are no longer well-spaced – in addition they are larger and taller and in an elevated position which means that they will tower over nearby properties.
- The garages are larger and closer to the road which means that they are even more prominent.
- The finished floor levels of the proposed buildings are circa 171M which is level with the eaves of the nearby properties. The ridge of the proposed properties is about 7M higher than this which means that it will be about 5M higher than the roofs of the nearby properties.
- The section for the proposed site shows that the top level of the hedge will be virtually level with the floor level of the new building so the new buildings will NOT blend into the local terrain but dominate and destroy the settlement pattern in the area.
- The hedging is now virtually level with the FFL of the building so visually the buildings will not fit in with the character of the area required by Core Strategy Policies.

PARA 6.30

For the above reasons, it is my view that there is sufficient opportunity for a reserved matters submission to respond to and design out potential overlooking and overshadowing issues such that existing and proposed residential amenity would be safeguarded in accordance with the requirements of CS Policy SD1 and the core planning principle set out at paragraph 17 of the NPPF.

Comment

- The distance to the nearby properties is acceptable. However, the combination of the elevated position of the new properties and a lack of screening from the hedge line it is doubted if the requirements mentioned above can be achieved.
- The selection of finishes proposed will prevent the building blending in with the surroundings.

PARA 7 (recommendations)

Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to each residential

planning unit and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) to the distances specified on drawing no. OPKT02 in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described

Comment

Drawing OPKT02 could not be found however a summary has been included on the proposed site plan. – With the existing hedge the visibility splays will be difficult to achieve.

PARA 8 (recommendations)

Any new access gates/doors shall be set back 5 metres from the adjoining carriageway edge and shall be made to open inwards only.

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.

Comment

- The garages are larger and closer to the road which means that this requirement will not be met.

SUMMARY

The principle objections are: -

- The strategy of applying for smaller houses that will blend to get Outline Planning permission and to then apply for larger houses is unacceptable. The original plan was rejected by Much Birch PC and was only granted after considerable discussion.
- The new application does not embrace the spirit and intent of the Outline planning that was granted.
- The foul water plans are not acceptable.
- The proposed buildings and garages are too large, too close together and due to the elevated position will dominate the surrounding area.
- With the increased size, positioning and elevated position of the proposed properties and garages it is no longer in line with the local plan core strategy.
- The CS Policy SD1 and the core planning principle set out at paragraph 17 of the NPPF will not be met due to the combination of the elevated position of both the houses and garages and very little screening to compensate for this.
- The proposed buildings have 4 bedrooms which is not a requirement in the Development Plan for the area.
- The difficulties with the entrances, the narrow road and the nearby junction have not been addressed in sufficient detail. - No attempt has been made to minimise the use of fossil fuels by utilising solar energy or other means of power generation. The area has a history of flooding due to water run off from the existing site. This problem will be aggravated by the amount of hard standing that is being created by the houses, garages and sloping driveways. No attempts have been made to use harvested water to help minimise water run off from site.
- The Objections and key observations from 16 people covered in paragraph 5.2 of the Planning committee were not answered and that these issues must be covered in the new application before Much Birch PC can agree to support the application.

Following the submission of amended plans the Parish Council provide the following:

The Much Birch Parish Council has looked at the amendments that have been made to the reserved matters application 191173. The Parish Council wish to reiterate the submission made in the original comments sent to you and also as repeated below. The Parish Council wish to

state that insufficient alteration to the proposal, e.g ridge height, has been made to alter the comments made previously.

5.2 To date a total of 12 representations of objection have been received from 7 households. The contents of these are summarised below:

- Work taking place from 7am – 6pm Monday to Friday is unreasonable
- The application shows 3 large 4 bedroom brick-faced houses contrary to the planning officer appraisal of outline saying they are low in height and or dormer bungalow/dormer cottage design. Out of character with area. Dilutes character of the immediate area
- The dwellings proposed are urban, modern which are inappropriate
- The dwellings proposed have amenity impacts
- Size of garages is inappropriate. A storage shed in the garden is less permanent and traditional storage feature
- All new builds of recent years in area have been constructed from stone external walls
- Makes no reference to materials/colour of window frames
- Outline stated two existing field accesses would be utilised with only one new one needed. Application indicates a new additional access to plot 1
- Hedgerow removal as a result of the accesses
- Close boarded fence should not be used as boundaries between properties as this prevents wildlife moving across natural corridor. Also a visual impact of fence across a greenfield site and detrimental to the long view of the village
- Construction management plan does not address concerns prevalent in the objections to the outline permission
- A traffic management plan should be enforced
- Issues of waterlogging locally and lanes being flooded
- Not convinced by the drainage system
- The amended designs have made cosmetic changes but are in no way sympathetic to the natural surroundings and character

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=191173

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

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

6. Officer's Appraisal

Policy context and Principle of Development

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

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

6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration. It is also noted that the site falls within the Much Birch Neighbourhood Area, which published a draft for Regulation 14 consultation on running from 16 December 2019 to 11 February 2020. At this stage the policies within the emerging Plan are afforded limited weight.

6.3 Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development. For decision taking, this means that proposals which accord with an up-to-date development plan should be approved without delay. At 11 d), it states that where

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

there are no development plan policies relevant or the policies which are most important for determining the application are out-of-date, permission should be granted unless policies within the framework (outlined at Footnote 6) provide a clear reason for refusing the proposal or the adverse impacts of approving the scheme would significantly and demonstrably outweigh the benefits.

- 6.4 The application here is for the approval of reserved matters with regards to appearance, layout, landscaping and scale. The policies most important for determining the application are therefore those concerned with design and character matters, and the development plan contains a number of policies of this nature which are considered to be 'up-to-date'. In applying the presumption as set out by Paragraph 11 (c) therefore, the proposal should be approved without delay provided it accords with the development plan.

Appearance

- 6.5 As defined under in article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 appearance means:

the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.

- 6.6 The design of any building is to be assessed against policy SD1 of the Core Strategy. This states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.

- 6.7 Policy SD1 of the Core Strategy is reinforced through policy MB12 of the emerging NDP. This policy states that new housing development will be required to achieve good standards and variety of architecture and design, particularly where there is a need to respect local distinctiveness and the traditional qualities and characteristics of the area within which it is to be located. This will be achieved through the following measures:

1. utilise a range of materials and architectural styles that are sympathetic to the development's surroundings, including other dwellings, and incorporating appropriate locally distinctive features;
2. with regard to new innovative design or features, be of high quality and fit sensitively within the area concerned;
3. to ensure dwellings are of a scale, massing, density, building line and layout compatible with the character, size and form of the part of the settlement within which they are located;
4. where appropriate, be similar to established building heights, frontages and plot sizes;
5. in relation to parking arrangements, maintain the village street scene by ensuring off-street parking is designed as an integral part of the overall scheme;
6. avoid the subdivision of gardens where this would result in an uncharacteristic form of development;
7. protect the amenity and privacy of adjacent existing residential properties and ensure new residential development avoids locations where residents may suffer significant adverse effects from adjacent uses;

8. provide sufficient space for each property to maintain a functioning garden;
 9. avoid consolidation between settlements and also development boundaries;
 10. where appropriate, undertake visual landscape assessments in order to retain important views, vistas and panoramas and inform appropriate landscape schemes.
- 6.8 The three dwellings will all be detached, two storey properties and constructed from natural slates or red clay tiles on the roof. The elevations will all feature elements of facing brick, stone and render with feather edge timber cladding but each front elevation will be different (brickwork on plot 1, render on plot 2 and stonework on plot 3). The agent has confirmed that the windows will be flush timber casements in light grey. Within Much Birch as a whole, as well as within the direct vicinity of the development site, there is a variety of dwelling types, designs and materials used. With this in mind, those proposed are not found to be out of keeping with the character of the settlement and the differentiation acknowledges the ad hoc way in which Much Birch has grown.
- 6.9 While the form of the dwellings will not vary greatly from one another, there are subtle differences including plot 1 being a handed version of plots 2 and 3. With the variety in the application of the proposed materials the character that makes up Much Birch is found to have influenced the proposal. While there are arguably modern elements within the design, this is not unacceptable in principle. Furthermore, this is something encouraged by the NDP where it is appropriate.
- 6.10 Each dwelling is laid out to accommodate a kitchen, dining area, utility, study and living room on the ground floor with four bedrooms, ensuite and bathroom on the first floor. With regard to amenity impacts, the windows located on the front of the dwellings will look towards the parking area and garage associated with each property. While the bungalows to the north of the road are noted, these lie approximately 30m from the facing elevations of the proposed dwellings. As such, issues of overlooking are not anticipated as a result.
- 6.11 Moving onto the windows to the rear of the dwellings, these will look onto the private gardens at the back of each property. Subject to satisfactory boundary treatments between the dwellings, these will not lead to issues impacting upon the amenity of any future occupants.
- 6.12 In assessing the relationship between plot 1 and Ladywell Cottage to the east, I am mindful that there is an intervening private track leading to the property named The Bank. Furthermore, given the offset relationship between the proposed and Ladywell Cottage and the distance of approximately 20m, issues of both overshadowing or overlooking are considered unlikely.
- 6.13 Turning now to Cuckoo Cottage to the south west of plot 3, it is noted that there are a number of windows facing towards the plot with it being sited offset to the road and orientated along an east-west axis. While this is acknowledged, and the private view of the occupants of Cuckoo Cottage will arguably change, a loss or change of a private outlook is not a material planning consideration. In assessing the impacts of the proposal on the amenity of Cuckoo Cottage occupants, owing to the orientation of that dwelling and the lack of windows on the gables at first floor of plot 3, I do not find it likely that issues of overlooking will be experienced to a detrimental degree that would justify refusing the application.
- 6.14 With regard to private amenity space for each dwelling proposed, there will be parking and turning to the front (along with a detached garage/car port) and garden to the rear. Due to the topography of the site the gardens will each have a 1m retaining wall running through them and individual drainage fields on the higher part. While this is not ideal, it is preferred over engineering works to level the sites out which would require cut and fill and would be out of keeping with the natural landscape.

- 6.15 On balance, and given the foregoing, the proposal is found to be acceptable in terms of the appearance of the dwellings noting its location and the surrounding built form.

Layout

- 6.16 As defined under in article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 layout means:

the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.

- 6.17 The above is covered within policy SD1 of the Core Strategy in regards to how a development sits alongside landscape and existing built form but is also included with policy LD1. This states that development proposals should demonstrate that the character of the landscape has positively influenced the protection and enhancement of the setting of settlements. This is reinforced through bullet point 3 of policy MB12 of the NDP.

- 6.18 The three dwellings will be located approximately 14m back from the roadside, each benefitting from a detached garage/car port which have been amended through the application process and reduced in size.

- 6.19 The provision of three individually accessed dwellings is in keeping with the surrounding built form and given the length of the site when measured back from the roadside, the proposal utilises the site in the most efficient way – ensuring adequate parking to the front and private amenity space to the rear.

- 6.20 Comments have been received in relation to the presence of garages at the front of the dwelling, their dominance and out of keeping nature with the character of the settlement. However, it is noted there are several instances of garages located to the front of dwellings within the vicinity meaning that this layout is not a foreign feature. Furthermore, noting that outline permission for 3 dwellings has been granted on the site, the garages being located to the front of the properties would be the only realistic location for their siting. Their removal for sheds would not be encouraged given that garages can provide car parking provision as well as storage.

- 6.21 The layout to the front of the dwellings and providing the parking area is sufficient for the scale of the developments. This is reinforced through the lack of objection to the scheme from the Council's Transportation Manager.

- 6.22 In light of the above, the proposal will result in a wayside layout that is in keeping with surrounding development. This is aided by the individual accesses. The provision of garages to the front of the dwellings is not found to be unacceptable and the dwellings will remain the dominant features given the rise into the site.

Landscaping

- 6.23 As defined under in article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 landscaping means:

the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features

- 6.24 Policy LD1 of the Core Strategy acknowledges that incorporating new landscaping schemes and their management can ensure that development integrates appropriately into its surroundings. This approach is reinforced through bullet point 10 of policy MB12 of the NDP.
- 6.25 The application is accompanied by a plan which indicates both hard and soft landscaping. The area to the front of the dwellings will be surfaced with gravel in order to provide the parking and turning area. This is a material used locally and avoids an overly urban appearance.
- 6.26 Amendments have been made to the landscaping during the course of the application in light of representations received, and in particular with regard to close boarded fencing. This is now only proposed between the plots with post and wire fence demarcating the dwellings to the front. There will be hedge along the boundary with the road and the east and west boundaries of the site as a whole. While the comment within the representation in relation to close boarded fencing preventing wildlife moving across a natural corridor is noted, the level proposed to be used is not unacceptable.
- 6.27 In light of the amendments that have been made and the main landscape feature seen from public viewpoints being hedgerow, this is found to be acceptable.

Scale

- 6.28 As defined under in article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 scale means:

the height, width and length of each building proposed within the development in relation to its surroundings

- 6.29 The three proposed dwellings are all two storey in height but have been reduced during the application process from a ridge height of 7.7m to 7m and an eaves height of 4.6m to 4.1m. Noting the topographical survey included on the site plan, the ridge of Cuckoo Cottage will be approximately 3.4m higher than plot 3 (the plot within the development with the highest finished floor level). The scheme will then gradually step down travelling east across the site through plot 2 and then plot 1. While the bungalows on the north of the road are noted, given the set back from the road in terms of the proposed dwellings and the development directly adjacent being of a higher level, the height of the scheme is not found to be out of keeping to a degree that represents an unacceptable form of development.
- 6.30 The proposal includes 3 x 4 bedroom properties. It is noted that within the Ross Housing Market Area (within which Much Birch is located) the most required size is 3 bedrooms followed by 2 bedrooms. This is reinforced through policy MB10 of the NDP. While there is clearly a conflict with the emerging NDP in this regard, this is only afforded limited weight at this stage and a conflict does not automatically direct a decision maker to refuse a scheme at this point in time. I am mindful that the scheme is relatively small being for three dwellings and that at less than 10 dwellings affordable housing cannot be sought. This conflict will be weighed up in the planning balance.
- 6.31 While the comments within the officer's committee report for the outline application are noted, these were based on indicative plans. The scale of the dwellings proposed is to be assessed in full under this reserved matters application and is found to be compliant.

Other

- 6.32 It is noted that on the outline permission details of foul and surface water strategies were conditioned (no. 6). Rather than submit these as a discharge of condition application (which does not necessitate public consultation) the details have been included with this reserved matters application. The proposal looks to utilise private treatment plants and drainage fields for

foul water and on site infiltration for surface water. While the Council's Land Drainage Consultant had concerns initially in relation to the strategy put forward, additional information has been supplied in terms of both the strategy and maintenance plan. The Consultant has confirmed they are now satisfied with the scheme and condition 6 of the outline permission can be discharged. While the comments received locally are noted in this regard, the principle of 3 dwellings has clearly been established. The application puts forward a technical strategy that is both policy compliant and appropriate for the site and is therefore found to be acceptable.

- 6.33 In terms of hours of working, these are stated on the outline permission and it would not be reasonable to alter these now. Furthermore, the times conditioned are relatively standard and I do not find there to be specific reasons for why they are unacceptable in this location.
- 6.34 With regard to the accesses, these were approved under the outline permission. Under that permission the planning statement touched on the two existing accesses into the field being modified for plots 1 and 3 with a wholly new one for plot 2. During the process of the current application the agent has used the site plan approved under the outline permission to calculate the approved locations of the accesses and to provide the required (and conditioned) visibility splays. While there will be some hedgerow removal to provide these, this was approved under the outline permission.
- 6.35 The submitted Construction Management Plan (conditioned under the outline permission) is noted and has been viewed by the Council's Transportation Manager. Additional details have been sought in relation to the wheel washing provision and what action will be undertaken should mud be deposited onto the highway. In light of the additional details, the Council's Transportation Manager considers this condition to be discharged. It would not be reasonable, as suggested within representations, to condition details such as a traffic management plan at this stage noting that this application is for the approval of appearance, landscaping, layout and scale.
- 6.36 The agent for the application has confirmed that the dwellings will benefit from air source heat pumps and while the properties are orientated to face south, with the inclusion of dormer windows to reduce the ridge height, the area is not practical for the use of solar panels.

Conclusion

- 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 development proposals 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 While the application is for housing, the principle of development has been established through the granting of the outline permission. This application seeks approval of details relating to appearance, landscaping, layout and scale. The policies most important for the determining the application are therefore those concerned with design and character matters, and the development plan contains a number of policies of this nature which are considered to be 'up-to-date'. In applying the presumption as set out by Paragraph 11 (c) therefore, the proposal should be approved without delay provided it accords with the development plan.
- 6.39 As set out above, the dwellings proposed are found to respond positively to their context, resulting in buildings that differ from one another and have some architectural interest. The layout ensures that the amenity of both existing and future occupants is safeguarded and is in keeping with the surrounding pattern of development. Although the scheme puts forwards 3 x 4 bedroom dwellings which conflicts with the aims of the Local Housing Market Assessment for Ross, across a development of 3 dwellings the harm is not found to amount to significant or demonstrable. While the comments within the representations are noted, following the

submission of amended details there is a lack of objection to the scheme proposed from technical consultees.

- 6.40 In assessing the three indivisible dimensions of sustainable development as set out in the CS and NPPF, officers are of the opinion that the scheme is representative of sustainable development. There are not found to be material considerations that render the scheme as put forward to be unacceptable in design and character terms.

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. **C07 - Development in accordance with approved plans and materials**

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. **For the avoidance of doubt, conditions 1, 2, 5, 7, 8 and 18 on outline permission ref: 163664 are all matters of compliance. This reserved matters application approves the details under conditions 6, 9, 10, 11, 12, 13, 14, 15, 16 and 17.**

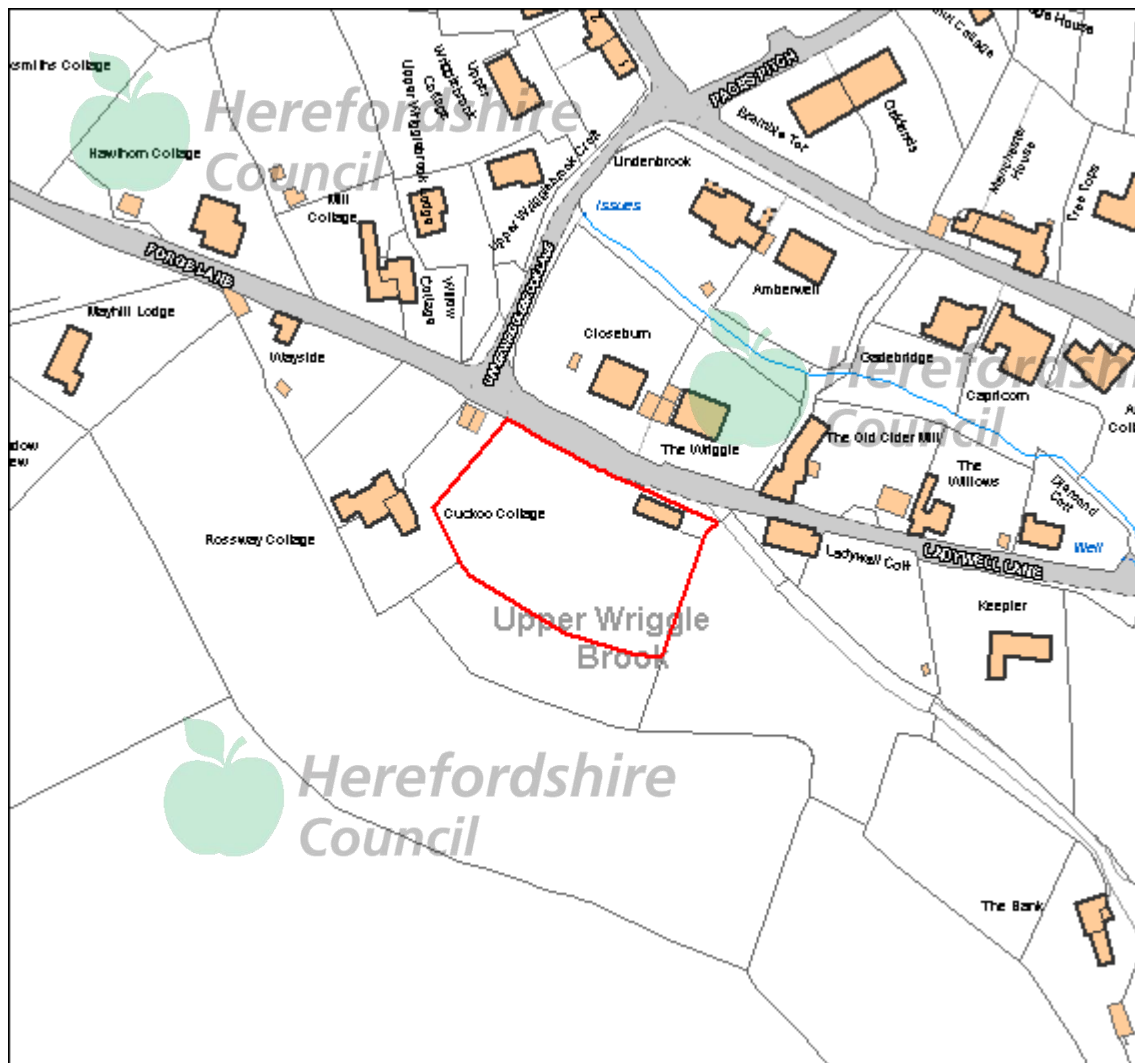
Decision:

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: 191173

SITE ADDRESS : LAND SOUTH OF LADYWELL LANE, KINGSTHORNE, HEREFORDSHIRE

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	11 February 2020
TITLE OF REPORT:	192969 - SITE FOR POULTRY MANAGERS DWELLING. AT BOWLING GREEN FARM, CLEHONGER, HEREFORDSHIRE, HR2 9SJ For: Mr Whittal per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192969&search=bowling%20green

Reason Application submitted to Committee – Redirection

Date Received: 20 August 2019

Ward: Wormside

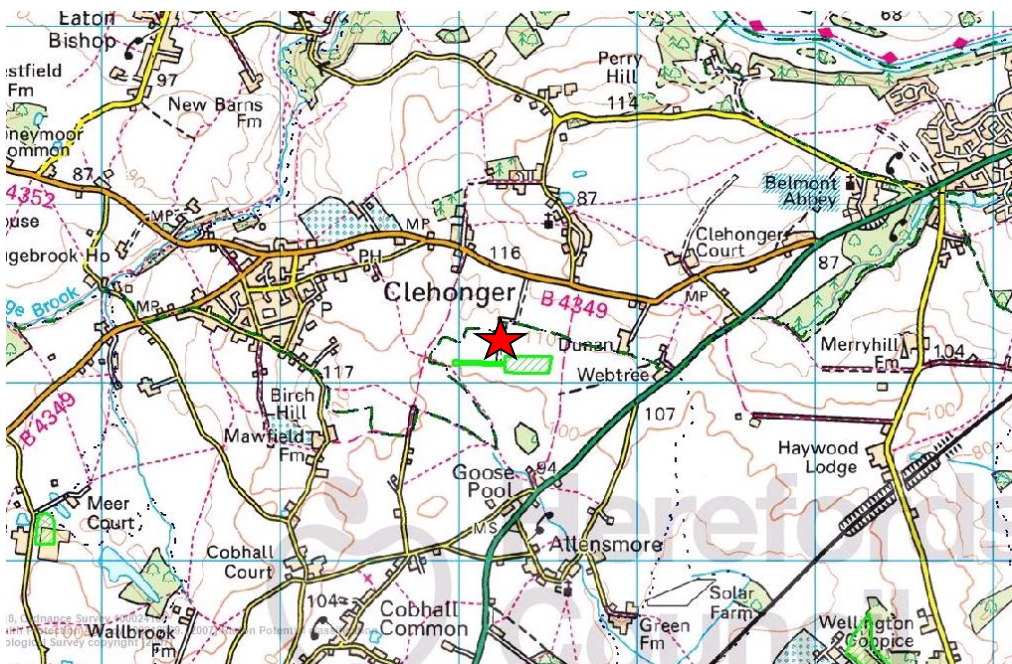
Grid Ref: 346275,237195

Expiry Date: 15 October 2019

Local Member: Councillor Christy Bolderson

1. Site Description and Proposal

1.1 The application site relates to a parcel of land of approximately 0.11 hectares to the immediate north-west of the four recently constructed poultry units associated with Bowling Green Farm. The site is accessed off the B4349 (A465 – Kingstone) and is located circa 0.7 miles to the east of the village of Clehonger and 4 miles to the south-west of Hereford. The application site is denoted by the red star on the map below.



Further information on the subject of this report is available from Mr Ollie Jones on 01432 260612

- 1.2 The site lies at reduced elevation to the B4349 and is accessed via an approximately 400m stoned track derived from the aforementioned highway. The site for the proposed poultry manager's dwelling sits to the immediate north-west of the poultry units and given the topography of the site, would sit at increased elevation on a level platform with extended views towards Allensmore. A mature, native species hedgerow runs along the western boundary of the site. Located within open-countryside, the site is isolated from any adjoining dwellings, the nearest being 'Dunan House' at just over 400m from the application site.
- 1.3 Bowling Green Farm, the host farmhouse, can be found at just over 600m to the north-west of the site. The poultry enterprise consists of the recently constructed poultry units, housing 208,000 birds and is the responsibility of the appointed poultry manager.
- 1.4 Outline planning permission, with all matters reserved save access, is sought for the erection of a dwelling to accommodate the above mentioned poultry manager. The manager is presently living in rented accommodation and is responsible for overseeing the broiler units on the site.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy 2015 (CS)

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
- RA4 - Agricultural, forestry and rural enterprise dwellings
- RA6 - Rural Economy
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- LD3 - Green Infrastructure
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Wastewater Treatment and River Water Quality

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

2.2 National Planning Policy Framework (NPPF)

1. Introduction
2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
9. Promoting sustainable transport
12. Achieving well-designed places
15. Conserving and enhancing the natural environment

2.3 Allensmore Neighbourhood Development Plan (ANDP)

The Allensmore Parish was designated as a Neighbourhood Area on 26 May 2017. The draft plan was sent for independent examination on 27 November 2019. The draft plan is a material consideration and, at its current stage of progression, it is considered to carry moderate weight for the purposes of decision taking.

- A1 - Protecting and Enhancing Local Landscape Character
- A2 - Protecting and Enhancing Local Wildlife
- A3 - Proposed Site Allocations
- A4 - Criteria for Development in Settlement Boundaries
- A7 - Drainage, Flooding and Sewage

https://www.herefordshire.gov.uk/directory_record/5458/allensmore_neighbourhood_development_plan

3. **Planning History**

- 3.1 **P163391/F** - Proposed erection of four poultry units, feed bins, service building, alterations to existing access and associated development – Approved: 4 October 2017

4. **Consultation Summary**

Statutory Consultations

4.1 Welsh Water

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

As the applicant intends utilising a private treatment works we would advise that the applicant contacts The Environment Agency / Herefordshire 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.

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.

Further information on the subject of this report is available from Mr Ollie Jones on 01432 260612

Internal Council Consultations

4.3 Transportation Manager

The proposed additional dwelling will have a negligible impact on the total vehicle movements from the site which benefits from an adequate access arrangement. The layout is acceptable in terms of parking and turning. There would be benefit in detailing a facility for secure cycle parking within the property, although this can be more appropriately resolved at reserved matters stage.

There are no highways objections to the proposal.

4.4 Ecology

The supplied foul water management scheme appears suitable to allow the LPA to complete the legally required Habitat Regulations Assessment process and submit the required Appropriate Assessment to Natural England for their formal consideration. This process has become more detailed and intensive following recent CJEU rulings on implementation of the Conservation of Habitats and Species Regulations (2017 as amended) and Natural England must return a formal 'no objection' response to the supplied Appropriate Assessment PRIOR to any grant of planning consent. The agreed 'mitigation' must then be secured through a condition included on any consent granted.

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 infiltration- soakaway system; 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 SS6, LD2, SD3 and SD4

As identified in the NPPF, NERC Act and Core Strategy LD2 all developments should demonstrate how they are going to practically enhance ("Net 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 evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least TWO bat roosting features, TWO bird nesting boxes, TWO insect 'hotels' and ONE Hedgehog home 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 habitat enhancement or 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 2018, Core Strategy LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.

From information supplied and images available there are no immediate ecology related concerns with this proposal. There are no ecological records of important or Protected Species immediately on or adjacent to the site. The applicant and their contractors have their own legal duty of care towards wildlife protection under UK Legislation that applies throughout any demolition and 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 further information as part of the planning application or include a specific ecology protection condition. However a relevant information note is requested:.

Wildlife Protection Informative

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained. Any external lighting shouldn't illuminate any 'natural' boundary feature or increase night time sky illumination (DEFRA/NPPF Dark Skies Guidance 2019/2013).

4.5 Drainage Engineer

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 less than 1ha and is located within Flood Zone 1, in accordance with Environment Agency standing advice, the planning application does not need to be 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 surface water runoff generated by this proposed dwelling is proposed to be managed via disposal to 2 concrete ring soakaways (1.8m diameter each). These have been designed to accommodate the 1 in 100 year + 40% climate change event using an infiltration rate of $1.03 \times 10^{-6} \text{m/s}$.

Foul Water Drainage

The generated foul water from the dwelling is to be disposed of into a package treatment plant, followed by treatment in a reed bed and final disposal into a drainage field. It has been stated that the Vp value is 98.6s/m. This has generated a drainage field of 98.6m², however we request that this is converted into a linear meterage based on trench width using table 4 from BS6297.

Overall Comment

In principle we do not object to the proposals, however we recommend that the treated effluent drainage field is converted into a linear meterage using table 4 from BS6297. The layout plan should be updated to reflect this and demonstrate the configuration of the spreaders (they should be connected to prevent build up of debris).

4.6 Agricultural Business Consultant – Objection – No essential need. An extract of the consultation response is found below. The full response can be viewed on the Council's website.

As way of background, Clause 83 of the National Planning Policy Framework (NPPF) states that local planning policies and decisions should enable the development and diversification of agricultural and other land-based rural businesses;

In accordance with Clause 79 of the NPPF, planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more circumstances apply including where

a) “there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside”

The reference to the essential need for a rural worker.....to live permanently at or near their place of work, originated from clause 10 of PPS7, which went on to recommend that planning authorities should follow the guidance in Annex A to PPS7.

Despite the status of the NPPF, Annex A of PPS7 provided clear criteria to assess the ‘essential need’ for a dwelling. This guidance is tried and trusted and continues to be used by professionals and accepted as a process for assessing essential need by planning inspectors, and one which I continue to use.

Importantly Policy RA4 of the Core Strategy - Agricultural, forestry and rural enterprise dwellings, clearly reflects the criteria of justification as set out in Annex A. In July 2019, further guidance was added to the Planning Practice Guidance (PPG) under the Rural Housing section of Housing Needs of Different Groups, with regard to considerations that might be relevant to take into account, when applying paragraph 79(a) of the NPPF. These are:

- *evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products;*
- *the degree to which there is confidence that the enterprise will remain viable for the foreseeable future;*
- *whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process;*
- *whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and the local context; and*
- *in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.*

In summary, the discontinued Annex A of PPS7, paragraph 79(a) of the NPPF, now read in conjunction with the recent PPG guidance, plus CS Policy RA4, all reflect similar areas of requirement in making a case for there being an essential need, all of which I shall cover.

Functional Need

The most frequent reason for a functional need for a rural worker to be permanently based on a site is so that there is somebody experienced to be able to deal quickly with emergency animal welfare issues that are likely to arise throughout the year and during the middle of the night.

Aside from emergencies, the day to day management of a broiler unit has to be meticulously planned for, with routines varying with each stage of flock development. When birds are 'in', this will involve checking the birds a few times a day and sometimes late, depending at what stage, plus monitoring the automated systems.

During normal working hours, and during the periods when birds are in, there would be a worker in and around the poultry buildings. The need for a worker to be based nearby therefore arises during the night time hours when there could conceivably be breakdown in the automated system

As previously referred to, the unit is fully automated and alarmed and linked to phones, and so if anything seriously became amiss then whomever selected would be immediately aware. The important factor is here that there should be somebody readily available who can make the correct decision and take the right action in the event of a system breakdown. In the case of a power cut, then it would still be important for somebody to get to the site promptly to make sure the automatic generators have kicked in and the system up and running.

Reacting quickly would especially apply to the latter part of the rearing cycle when the body mass of the birds will make them more vulnerable to quick deterioration if there was for instance a break down in the system causing sudden temperature fluctuation. In midsummer this might require somebody getting to the site within minutes.

However unlikely it might be that there is a system failure, there is always the potential for an emergency situation occurring and considering the scale of operation, there is considered to be a functional need for there to be somebody based close enough to be able to get to the site quickly during those periods the houses are occupied, which is a scenario that could occur anytime in the year.

Full Time Labour

It stands to reason that the labour input associated with the enterprise on which one is assessing an essential cannot be a part time occupation. In this case it is clear that the proposed dwelling is for a full-time employee.

Establishment and Viability

A permanent dwelling clearly cannot be considered essential unless the enterprise on which the proposed essential need is based is viable and likely to continue to be so into the foreseeable future.

The sustainability of the proposed enterprise will be reliant on the enterprise being able to survive financially, with a minimum requirement to meet the cost of a full-time worker to justify an on-site presence.

The broiler enterprise is in its infancy and so there will unlikely be any specific accounts available, however I have no doubt that based on the scale of the investment and enterprise that there is no issue here.

Other Dwellings

As way of background it is considered to be important, when employing a specialist manager who may well have a family, to be able to provide accommodation, otherwise it might prove difficult to source the right person.

The approach is to firstly investigate the availability of existing dwellings and ensure that, to quote Paragraph 3 (iv) of Annex A, "the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned".

Taking this into account, one would normally look at the potential availability of any other relevant dwelling(s), in the light of the need of the enterprise. To quote Paragraph 1 of Annex A to PPS7, "Whether this is essential in any particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved".

In other words, one is looking at whether there are any dwellings potentially available to the farming business that would render the proposal of a new worker's dwelling non-essential. There are no available dwellings in the immediate vicinity, however Clehonger is close by and according to Rightmove there a number of houses for sale for under £300,000, for example from the Pembridge Court development. This is just along the B4349 at under a mile away by road to the broiler unit, which translates to a journey of c2 minutes at 30mph.

Mr Whittal is based at the main farmhouse from which quick access could conceivably be made to the new broiler unit in the event of an alarm being triggered out of hours. However, considering the night-time responsibility for the 12,000 free range unit currently rests with Mr Whittal already, and he is away at times out of hours in connection with the seed business and working machinery often late into the day, little weight can be given to the proximity of the farmhouse.

An important factor is that a dwelling away from the poultry unit is going to be a more desirable environment for a manager who might have a family and the proximity of Clehonger offers that opportunity. A common reason for it being desirable for a poultry manager to be sited close to a broiler site is for security, however, this does not justify such a requirement as essential.

Conclusion

There is no essential need for the proposed dwelling due to there being other available dwellings nearby that could satisfy the functional need in respect of the broiler enterprise.

Further comments made following additional information from applicant and representations received: -

Many of the poultry units I have looked at over the years, eg for egg production or broilers, are often in remote locations well away from any settlement.

The case cited by the agents (191221 – Land at Bleathwood) was a good example. The nearest 'potentially' available dwelling was over 2 miles away along narrow lanes which was considered too far to enable somebody to get to the site quickly enough.

It is my opinion that it is not essential for the poultry manager to be in the immediate vicinity of the buildings, but it is essential for there to be somebody based nearby, who could in the event of a breakdown in the system or security breach, get to the site quickly.

The Pembridge Court housing development is close by, and on the eastern edge of Clehonger, and in my opinion a dwelling here comes within that criterion.

No onsite dwelling

A good local example that springs to mind would be Herefordshire Council Application P162556/F which was an involved application for the erection of two broiler units and associated development on a green field site.

Due to the flood plain there would be nil chance of a future rural worker's dwelling yet the application went ahead and was permitted. The intention was for this unit to be managed remotely.

Inclement Weather

Of course, this is a factor. However in the same way, due to health and safety, a worker living 'on site' would need access to the outside world at all times, the farm would surely make sure that the access road would be unobstructed for a worker to get to the site if for instance he or she was living close by and of course for feed lorries etc.

5. Representations

5.1 Clehonger Parish Council – Support

The Clehonger Parish Council has discussed the planning application 192969 and are in support of the outline proposal for a poultry manager's dwelling at the location.

Clehonger Parish Council made the following additional comments; -

I understand comments about the above application for a dwelling on site for the poultry manager of the poultry unit on this site. At our last meeting Clehonger Parish Council indicated that they supported this application. It has now been further discussed at our Parish Council meeting on 14th November and all were agreed that in view of comments on the planning website from Mr Fox, the land agent, we should make a further response. Mr Fox maintains that there is no essential need for this dwelling as other accommodation is readily available within the nearby village of Clehonger and within reasonable reach of the unit in an emergency. In view of local knowledge of recent extreme weather events we have to refute this, as the route from Clehonger to Bowling Green Farm and the poultry unit is very susceptible to blockage as a result of heavy snowfall and flooding, causing traffic chaos and risk which potentially takes days to resolve, in exactly the conditions which would be a crisis for management of the welfare of the poultry involved. We would be grateful if this could be taken into account in your decisions

5.2 Allensmore Parish Council – support.

The Allensmore Parish Council has discussed the planning application 192969 and have no objections to the outline proposal for a poultry manager's dwelling at the location.

5.3 **23 Letters of Support** have been received, which include those from veterinary professionals and the National Farming Union (NFU) and Avara Foods. The content of the letters can be summarised as follows; -

- Flooding and heavy snowfall between the application site and Clehonger means that commuting to the site from the village (Clehonger) is inappropriate given that the road can become impassable.
- The report from the Land Agent does not take into account local knowledge.
- System failures at poultry units are more common during adverse weather.

- Dwelling would be situated to provide around the clock care for the health of the birds, prevention of disease and for site security.
- Under the Animal Health Act, somebody needs to be on site to respond should an emergency occur.
- Common for managers to be onsite with poultry units at Madley and Kingstone having two managers' homes on site.
- A manager living on site would limit the reliance on technology systems
- Dwelling would have no impact on the community
- Residents of Pembridge Court would not welcome comings and goings during the night pertaining to the response to emergencies at poultry units.
- Defra code states that birds must be checked twice a day.
- In the event of a breakdown, a qualified member of staff would need to respond rapidly.
- The house needs to be large enough to accommodate a family and would require space for a farm office – these needs are not met by off-the-shelf houses.
- Application similar to 181925 (rural workers dwelling – Sherrington Manor) which was approved.
- A manager may be required to attend several alarm calls in a single night and must respond to each given that build ups of CO2 can lead to suffocation.
- Theft and vandalism have implications with regards to bio-security and health and safety.
- Present levels of performance in broiler production are as a result of the very highest levels of husbandry.

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=192969&search=bowling%20green%20farm

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 Allensmore Neighbourhood Area where the Allensmore Neighbourhood Development Plan (ANDP) is presently at the examination stage. At this time the policies in the ANDP can be afforded moderate weight as set out in paragraph 48 of the National Planning Policy Framework 2019, which itself is a significant material consideration.

6.3 Despite the relatively recent adoption of the CS, the Council is unable to demonstrate a 5-year housing land supply. As set out in paragraph 11 of the NPPF, in such circumstances the relevant policies in the Development Plan for the supply of housing should not be considered to be up to date. Paragraph 11 of the NPPF states that there is a presumption in favour of sustainable development and for decision takers, this means approving development proposals that accord with the development plan without delay. Where there are no relevant development plan policies or the policies which are most important for determining the application are out of

date, permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.

- 6.4 This goes back to the weight to be afforded to policies relevant for the supply of housing with an absent 5 year supply. With this in mind, the spatial strategy is sound and consistent with the NPPF; which itself seeks to avoid isolated development as set out at Paragraph 79. It is therefore considered that Policies RA1, RA2, RA3 and RA4 of the Core Strategy continue to attract significant weight and in any case, it is a matter for the decision-maker to ascertain the degree of weight to be attributed to these policies, taking into account the specific context of the case.
- 6.5 In the context of this case, it is noted that the ANDP, which only attracts moderate weight at present, is silent on the provision of residential development for rural workers and instead focusses attention to residential development within the identified settlement boundaries of Allensmore, Cobhall Common and Winnal. It is therefore considered appropriate to assess the proposal against the relevant policies of the CS, namely Policy RA2, RA3 and Policy RA4.
- 6.6 With the above in mind, it is acknowledged that the application site is found within open-countryside, that is, it is not found within or adjacent to any identified settlements as listed at Policy RA2 of the CS. Therefore, it is in a location where residential development is restricted to certain exceptions and is thus in conflict with Policy RA2. Where conflict with Policy RA2 is established, Policy RA3 of the CS is engaged, setting out a list of exceptions. One excepted criteria is stated under criterion 1 of this policy and is where a proposal meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4.
- 6.7 Noting that the application is for a poultry manager's dwelling on the site of the recently constructed poultry units, Policy RA4 is thus engaged. It states that proposals for dwellings associated with agriculture, forestry and rural enterprises will be permitted where it can be demonstrated there is a sustained essential functional need for the dwelling and it forms an essential part of a financially sustainable business and that such need cannot be met in existing accommodation. This is a policy objective which aligns with aims and objectives of paragraph 79 criterion 1 of the NPPF.
- 6.8 Policy RA4 states that such dwellings should:
1. demonstrate that the accommodation could not be provided in an existing building(s);
 2. be sited so as to meet the identified functional need within the unit or in relation to other dwellings and;
 3. be of a high quality, sustainable design which is appropriate to the context and makes a positive contribution to the surrounding environment and rural landscape.
- 6.9 As this application is made in outline, matters relating to scale, appearance, layout and landscaping are reserved for future consideration under any forthcoming reserved matters application subject to the approval of this outline application. As such, criterion 3 of Policy RA4 is not of pertinence to this application and instead the main consideration is whether the principle of a dwelling on site is acceptable.
- 6.10 Applying RA4 to the case, whilst the poultry enterprise is fledgling in nature, the financial stability of the wider business is by no means contested given the scale of the investment undertaken, also having regard to the fact that the poultry enterprise forms part of the wider enterprise owned and operated by the applicant.

- 6.11 RA4 states that proposals for new agricultural workers dwellings will be supported where it can be demonstrated that there would be a sustained functional need, and the supporting text to the policy at 4.8.27 outlines that such needs typically relate to providing essential supervision and management. In the case of this application, it is considered that in the context of the poultry units, the essential need for a worker to live on site arises from the need to respond quickly to any alarms or systems failures. This is mostly during the night, as during the day there would be a worker on the site given that the day-to-day operation of the enterprise is followed to a strict routine (i.e undertaking requisite checks and scheduling and taking feed deliveries).
- 6.12 Therefore, outside of 'normal working hours' it is fully accepted that it is vital that such issues are dealt with expediently; both for the welfare of the birds and to prevent harm occurring to the business if a crop is lost. Acknowledgement is had to the fact that the poultry units are fully automated with links to named contacts; in the first instance this would be the appointed poultry manager. As such, for any emergency at the poultry unit (i.e. heating systems failure), the manager would be alarmed immediately in the first instance. With this in mind, it is recognised that there is a functional need for a suitably qualified worker to be based close enough to be able to respond to any emergency in time, whatever the probability of such scenario arising. However, the alarm systems are designed to reduce the burden on the responsible worker, therefore reducing the requirement for them to be on site around the clock. With this at the forefront of one's mind, whilst the benefit of being within 'sight and sound' of the units as to listen out for any mechanical failures before the sounding of the alarm is appreciated, this is arguably not essential.
- 6.13 With the functional need of having a key worker located within close proximity to the site having been established, Policy RA4 sets out that proposals for new dwellings will only be supported where the identified functional need cannot be met in any existing accommodation. It is recognised that there are no other dwellings within the immediate vicinity. However, the site's close proximity to Clehonger at just over 1 mile to the west of the application site (by road) is pertinent. The Pembridge Court development comprises a range of new build dwellings located to the eastern side of the village and close to the Seven Stars Public House. The proximity of these dwellings to the application site is less than 1 mile distant, with journey times often taking under 2 minutes.
- 6.14 According to Rightmove, there are a number of three and four bedroom dwellings available at Pembridge Court and other locations within the village. A dwelling 'off-site' could be considered to provide for a more desirable environment and living standard, especially for a manager who may have a family, with these views concurring with those of the Agricultural Business Consultant. It is appreciated however that the application is predicated on the need for quick access to the units and not the desirability of the dwelling or its setting and it is noted that this assessment should not take into account the personal preferences of those involved.
- 6.15 Journey times to the site from the eastern portion of Clehonger are less than 2 minutes. In cases of an alarm being sounded during the night, the view is held that one, in the case of an emergency, would unlikely invest considerable amounts of time on unnecessary procedures such as getting washed, or closing the gates behind oneself. As such, the comparative response time from residing on site or in a dwelling in Clehonger, given its very close proximity, is likely to be negligible. Moreover, it is noted that no prescribed emergency response times have been provided and therefore whilst it is entirely accepted that the sooner such incidents are dealt with the better (i.e in the interests of health and crop yield), the nominal times and distances involved in this case are not deemed unacceptable.
- 6.16 Following on from the above paragraph, it is acknowledged that it is a requirement for decision-making to be consistent. However, it is also necessary to advise that this application is assessed on its own merits, taking into account the geographical setting of the site. The applicant has provided a number of instances whereby agricultural workers dwellings have been approved. Noting that the nature and characteristics of these cited cases are all inherently

different, the one generalisation that can be drawn is their comparative isolation which when viewed alongside this application site are entirely absent of any other dwellings which could be argued to provide accommodation to fulfil a functional need of an agricultural enterprise.

- 6.17 Noting representations relating to the impact vehicular movements would have on residential amenity of neighbours within Pembridge Court, it is considered that such an arrangement is not dissimilar to residents who work night-shifts and therefore are regularly traversing through the estate during hours which could be considered unsociable. Further to this, the received representations raise concerns with regards to the suitability of an off-site dwelling (i.e one within the village of Clehonger). As with any other profession where one is 'on-call', provision is arranged to handle such instances accordingly.
- 6.18 Noting further supporting representations and submitted information, the issues relating to inclement weather and the implications this could have on a dwelling off site have been considered. Whilst it is accepted that inclement weather may result in increased journey times to the site from alternative accommodation, this argument can be run for a plethora of other dependent enterprises and the service sector alike. In terms of inclement weather by way of snow and ice, it is noted that the B4349 is a Herefordshire Council maintained highway whereby it is salted during freezing temperatures. However, it is acknowledged that there are, albeit rare occasions whereby the road becomes impassable, namely as a result of drifting snow or through flooding, especially over the past year and as cited by the representations received from those living in the locality. Notwithstanding this, the site's location is considered to be rather well positioned in the event of adverse weather events compared to communities in more remote parts of the county, especially with regards to snow and ice.
- 6.19 However, in cases where inclement weather is forecast and thereafter results in the B4349 becoming impassable, precautionary measures would be implemented. It is understood that a worker living 'on-site' would in any case need access to the outside world during periods of adverse weather (i.e to access shops and services) and access to the units would need to be maintained for regular feed lorry arrivals. Therefore, appropriate precautions to tackle such issues could include the stationing of a static caravan on site as it is noted this is lawful for up to 28 days per 12 month period. Further, the benefit of weather forecasting and weather warnings would allow for the poultry manager to be adequately aware and prepared for the likelihood of adverse weather and implement contingency plans in order to be adequately equipped and capable to deal with any emergencies, reducing the risks of not being able to access the units in the event of an emergency during poor weather.
- 6.20 Security of the site is a matter raised by both the applicant and in the received representations in support of the application. It is understood that rural crime is a growing concern at present. The applicant has stated that there is a record of some intrusion to the applicants land although the intent of such incident has not been proven. Moreover, updates from the applicant regarding increases in animal activism as documented by the Police are noted.
- 6.21 Taking the above concerns into account, it is understood that the units are fully alarmed and contain up-to-date security systems. It is appreciated that such systems can be, and unfortunately have been, destroyed by criminals and this concern is not discounted. However, despite the understanding that the applicant who resides at Bowling Green Farm to the north of the units is already involved in other parts of the business, there is an established presence close to the access to the site of the B4349. Moreover, the site is not visible from the B4349 and therefore would not be seen as an easy target to passing criminals, especially given the long single entrance and exit road. Noting the presence of the poultry manager in the village of Clehonger together with surveillance technology, it is considered that any such criminal activity could be responded to within an acceptable time frame. As such, the level of threat is not considered to be so substantial that it would warrant a dwelling on-site for this reason alone. With any agricultural complex, there will always remain an element of risk and maximum

security can never be guaranteed and as in the above instance of inclement weather, adequate provision can be made to reduce such risks.

Highways and Access

- 6.22 CS Policy MT1 relates to the highways impacts of new development, requiring development proposals to demonstrate that the strategic and local highway network can absorb the traffic impacts 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 sets out under criterion 4 that developments should be designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space, having regard to the standards of the Council's Highways Development Design Guide. This approach accords with the principles outlined in Chapter 9 of the NPPF, in particular Paragraphs 108-9 which advise that it should ensure that safe and suitable access can be achieved for all users and that development should only be refused on highways grounds if there would be an unacceptable impact on highways safety.
- 6.23 The proposed dwelling would be served by the existing access track which is taken from the B4349 some 400 metres to the north. It is considered that the provision of a single new dwelling would lead to negligible intensification in the use of the access relative to the current, given the existing use. Whilst the details regarding the layout are reserved for future consideration and the submitted drawings are only indicative, it is clear that an appropriate layout could be accommodated given the size of the site, allow for sufficient parking and turning. The Council's Transportation Manager does not object to the proposal, and no conflict with policy MT1 is identified.

Ecology and Habitat Regulations Assessment

- 6.24 The site in this instance also lies within the 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.
- 6.25 The proposal has been assessed by the Council's Ecologist and a Habitats Regulations Assessment – Screening and Appropriate Assessment has been undertaken. This concludes that due to the mitigation included with the proposal and secured via planning conditions, it is considered to mitigate against any 'Likely Significant Effect' on the River Wye Special Area of Conservation. This document has been sent to Natural England for consultation, who concur with the Council's HRA conclusions and so have no objection to the proposal. Therefore in this aspect, the proposal is considered to accord with Policies LD2 and SD4 as it will not detrimentally impact on the biodiversity or ecological significance of the River Wye.

Drainage

- 6.26 Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where

evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).

- 6.27 The scheme in this instance proposes the use of a package treatment plant to manage foul water with treatment via a reed bed and then outfall to a drainage field. In the absence of a mains sewer proximal to the site, this would be an acceptable solution which would accord with the hierarchal approach set out in CS policy SD4. The Drainage Engineer considers the foul water strategy to be acceptable. However, it is required that the stated generated drainage field is converted to linear meterage based on trench width. It is considered that such details could be requested and secured by way of condition to any approval. Surface water from the development will be managed through disposal to two concrete ring soakaways (1.8m diameter each). This is an acceptable method in principle which would accord with CS policy RA3.

Conclusion

- 6.28 Both Core Strategy 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.
- 6.29 The proposal in this instance is for housing, and in the context of a deficit in the housing land supply the application must be considered in accordance with the tests prescribed at Paragraph 11 of the NPPF and policy SS1 of the CS. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole or specific policies in the framework protecting areas of assets if particular importance provide a clear reason for refusing the development.
- 6.30 In this case, the application site is divorced from the nearest settlement (Clehonger) which has been identified as an appropriate location for new housing growth by CS Policy RA2. The site is therefore considered as being unsustainable in a locational sense for open market housing, and the application consequently falls to be considered against the exceptional circumstances set out by CS Policies RA3 and RA4 and at Paragraph 79 of the NPPF. The application has been made on the premise that the new dwelling is required to satisfy sustained essential functional need to have a worker live permanently on the site to manage the existing broiler units. However, there is demonstrated availability of other dwellings within relative close proximity to the site which could adequately accommodate the identified functional need.
- 6.31 In applying the overall planning balance, the proposal for a new residential dwelling in this rural location is found to be without justification and would lead to significant harm in terms of its conflict with the Development Plan by way of promoting unsustainable patterns of development. The scheme would hence not be representative of sustainable development, and as a consequence it does not benefit from the positive presumption set out in in the NPPF and CS. The application is therefore recommended for refusal for the reasons below.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. Having regard to the information provided and taking into account the nature of the existing enterprise, it is considered that the identified functional need of an essential, full-time worker residing near to the site can be met by suitable and appropriate alternative accommodation readily available within 2 miles of the application site and therefore, there is no demonstrated need for a poultry**

managers dwelling to be provided at the site known as Bowling Green Farm Poultry Units.

As such, the proposal would allow new residential development in the open-countryside which would be representative of an unsustainable pattern of residential development, wholly contrary to Policy RA3 and RA4 of the Herefordshire Local Plan – Core Strategy and Paragraph 79 of the National Planning Policy Framework

INFORMATIVES:

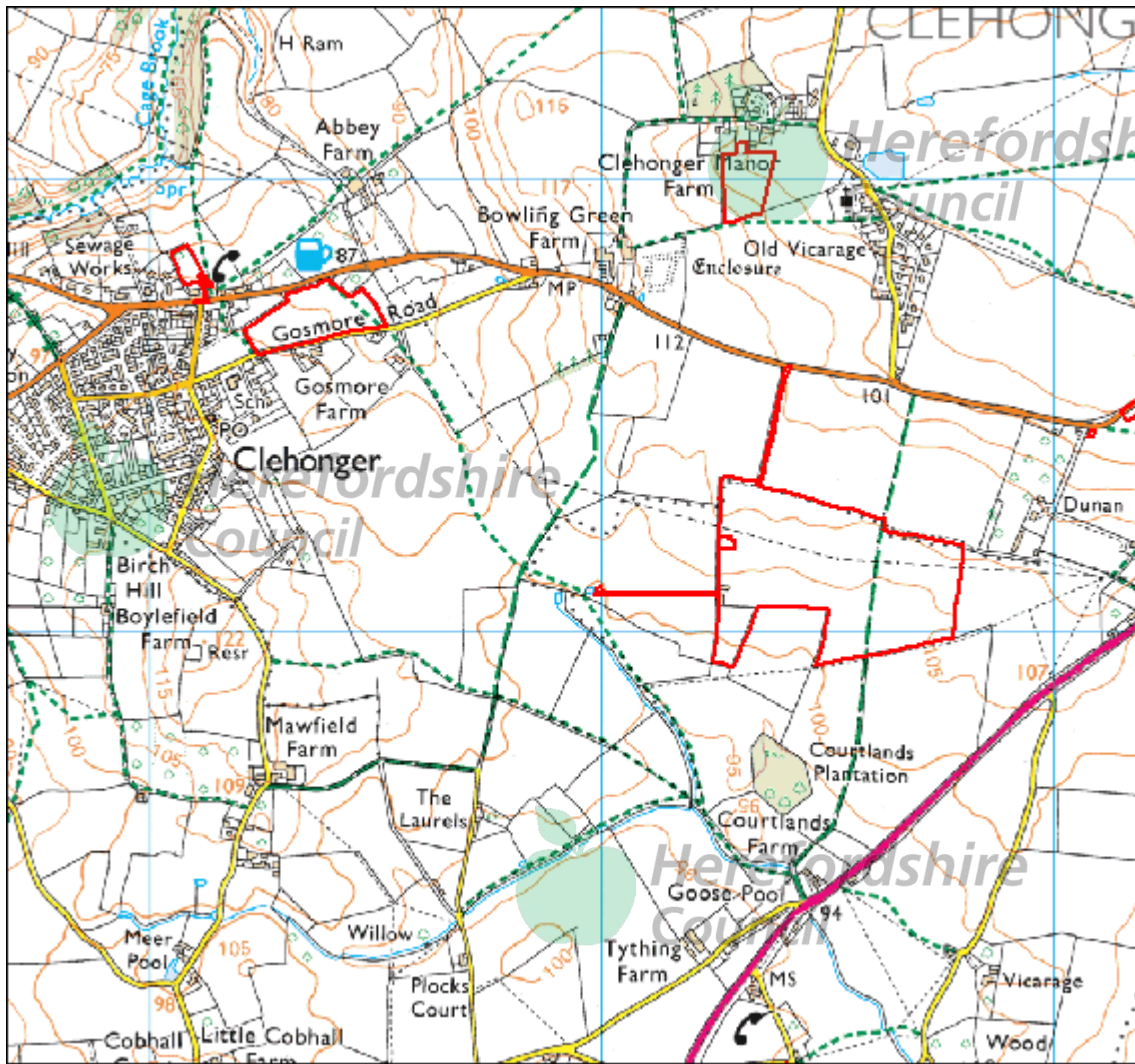
1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues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

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 192969

SITE ADDRESS : BOWLING GREEN FARM, CLEHONGER, HEREFORDSHIRE, HR2 9SJ

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Further information on the subject of this report is available from Mr Ollie Jones on 01432 260612

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	11 February 2020
TITLE OF REPORT:	<p>193682 - VARIATION OF CONDITION 2 OF 171321/F (PROPOSED RESIDENTIAL DEVELOPMENT OF 2 NEW DWELLINGS). TO ALLOW REVISED DRAWINGS, WITH NEW ACCESS WITH DRIVES AND GARAGES RE-POSITIONED AT DEV 1 LAND ADJACENT BRAMPTON ABBOTTS VILLAGE HALL, BRAMPTON ABBOTTS, HEREFORDSHIRE, HR9 7JD</p> <p>For: Hampton Kirk Developments Ltd per Mr David Kirk, 100 Chase Road, Ross-On-Wye, Herefordshire, HR9 5JH</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=193682&search=193682
Reason Application submitted to Committee – Re-direction	

Date Received: 22 October 2019

Ward: Old Gore

Grid Ref: 360271,226649

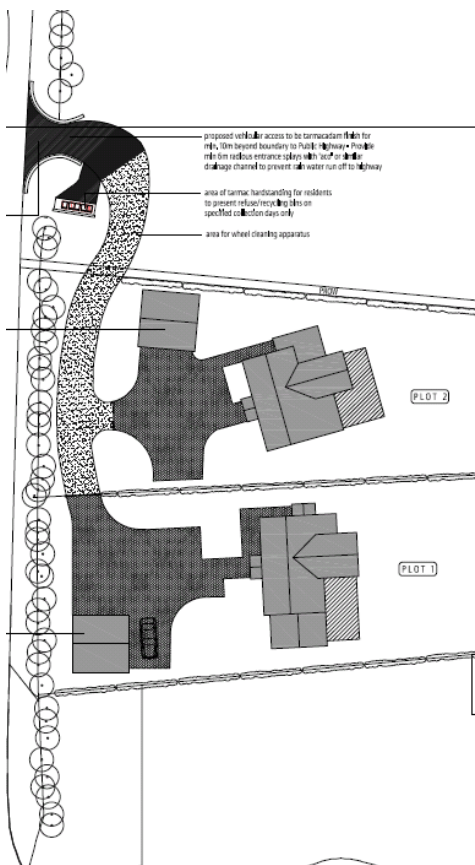
Expiry Date: 17 December 2019

Local Member: Councillor Barry Durkin

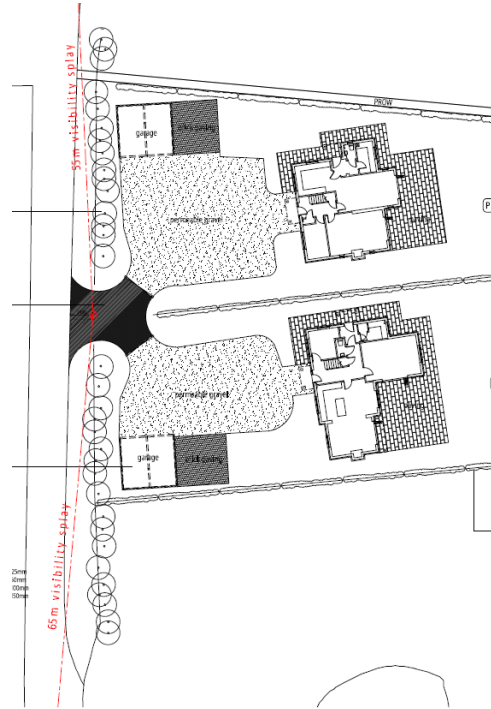
1. Site Description and Proposal

- 1.1 The proposal site comprises two detached dwellings approved under application ref: 171321/F. The dwellings are nearing completion and currently utilise an access located to the north. This access was permitted under application ref: 172040/F which was allowed at appeal and granted permission for 4 detached dwellings located to the north of the application site. Currently the permission allows for a shared access point between all 6 dwellings.
- 1.2 The site currently benefits from hedgerows along the boundary with Turners Lane (which runs along a north-south axis to the west of the site). Public Right of Way (BA18) runs to the north of the site and is crossed by the permitted access.
- 1.3 This application seeks to vary condition 2 on planning permission ref: 171321/F in order to create a new access to be shared between the two dwellings on the site and leave the northern access for the separately permitted 4 dwellings. As part of this there will be some alterations to the proposed layout with the relocation of the garage building associated with plot 2.
- 1.4 The block plan below and on the left shows the development as permitted (with the access to the north). The plan on the right shows it as now proposed with the access centrally located between the two dwellings.

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



As permitted



As proposed

2. Policies

2.1 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
- RA1 - Rural Housing Distribution
- 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
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Waste Water Treatment and River Water Quality

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

2.2 National Planning Policy Framework (NPPF):

- Chapter 2 - Achieving sustainable development
- Chapter 4 - Decision making
- Chapter 5 - Delivering a sufficient supply of homes
- Chapter 6 - Building a strong, competitive economy
- Chapter 8 - Promoting healthy and safe communities

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

- 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

2.3 Brampton Abbots Neighbourhood Development Plan (NDP)

- POLICY BAF1 - New housing development in Brampton Abbots
- POLICY BAF2 - Good quality design
- POLICY BAF3 - Protecting local non designated heritage assets
- POLICY BAF4 - Landscape and scenic beauty
- POLICY BAF5 - To support the growth of small-scale rural businesses
- POLICY BAF6 - Polytunnels
- POLICY BAF7 - Community facilities and open spaces
- POLICY BAF8 - The management of traffic safety around the neighbourhood development plan area
- POLICY BAF9 - Public sewerage network and wastewater treatment works (WWtw)
- POLICY BAF10 - High speed internet and communications

2.4 The site falls within the Brampton Abbots & Foy Group Neighbourhood Area, which published a draft Neighbourhood Development Plan (NDP) for Regulation 16 consultation running from 25 November 2019 until 20 January 2020. The Plan was sent for examination on 24 January 2020 and at this stage is considered to attract limited weight.

3. **Planning History**

- 3.1 171321/F – Proposed residential development of 2 new dwellings. Approved
- 3.2 172040/F – Residential development of 4 new dwellings. Allowed on appeal (located to the north of the site but the scheme approved under ref: 171321/F utilised a shared access with this development).

4. **Consultation Summary**

Statutory Consultations

4.1 **Welsh Water** – no objection

We have no further comments to make on the variation of condition 2, however we respectfully request that any drainage related conditions are maintained on any new consent granted for the development.

4.2 **Natural England** – commented that a HRA was required.

Internal Council Consultations

4.3 **Transportation Manager** – no objection

No objections

Please condition the access to be built to road standard construction to provide a passing bay.

CAB - Visibility Splays - see submitted plan

CAD - Access gates

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

CAE - Vehicular access construction
CAH - Driveway gradient
CAI -- Parking – single/shared private drives
CAT - Construction Management Plan
CB2 - Secure covered cycle parking provision

4.4 **Conservation Manager (Ecology) – object**

There would appear to be no evidenced ‘overriding public interest’ in allowing this additional loss and impacts on existing hedgerow (Priority Habitat) in this location in order just to create a new ‘private’ access for two of the six previously approved properties. The new hedgerow planting on the site is already approved and should not be considered a mitigation to this additional approval.

By the time the actual access is installed with surfacing, edging, drainage and associated groundworks and foundations it is likely that significantly more hedgerow than the stated 3m will be removed, damaged or impacted.

The scheme was approved and ecology comments based on retention of the hedge line along the road to provide retention of wildlife corridor and visual amenity within the area that is part of the Wye valley Area of Outstanding Natural Beauty. Recent appeal decisions have recognised the importance of visual amenity within, from and to AONB areas as identified in July 2019 planning guidance notes.

With no reasons of overriding public interest and potential effects on local ecology (wildlife corridor and priority habitat) this application would appear to be contrary to Conservation of Habitats and Species Regulations (national priority habitat), NPPF para 170, 174-175, 180 (ecology and habitat) and 184 and 192 (Historical heritage), NERC Act, and Core Strategy SS6, LD1, LD2, LD3 and LD4 (historic).

With regard to the HRA request from Natural England the Council’s Ecologist comments:

Just to confirm that as this application only relates to access and as the River Wye SAC is not currently failing its conservation objectives this application can be screened out from requiring any further assessment under the Habitat Regulations (2017). There are no identified Likely Significant Effects.

4.5 **Public Right of Way Officer – no objection**

5. **Representations**

5.1 **Brampton Abbots and Foy Parish Council – object**

At the meeting of Brampton Abbots and Foy Parish Council held on Tuesday 26th November, it was resolved to object to this application, as the Council recognises the level of public objection and feels that the application does not improve the local situation.

5.2 To date a total of 36 objections have been received from 24 households. The comments therein are summarised below:

- Previous discussions were held to avoid having series of accesses on that side of the lane
- Many of the objections at the time related to how the development and its access point would compromise the integrity and rural aspect of Turners Lane
- The Wye Valley AONB should be protected
- Hedgerow and verge will be lost to form access and visibility splays. Removing hedgerow will destroy more wildlife habitat

- Precedent will be set for the other four properties being built
- To put forward this variation at this late stage demonstrates poor judgement in the original project planning by the developers
- If there's more accesses they'll ask for more houses
- With 2 entrances to the whole site this will double the potential safety issues on this single track road
- Nothing in the application warrants the change
- Surely there was a reason to condition that no trees/hedgerows will be removed
- It was clear from the original application that the footpath would be compromised
- The developer has actually made safety worse for pedestrians by all the extensive earth-moving and landscaping
- Idea that 3m wide entrance will act as passing place is ridiculous
- Turners Lane does not have the infrastructure to support yet another junction
- The variation will increase the value of the northern-most house
- The changes will be of great benefit to the developer and no-one else
- Suggest the reason for the application is that the sloping site drains south to the pond in the field to the south. As this is no longer possible, the site floods hence why temporary piping was used to divert water to the road, again in breach of the planning
- Proposed hedging between the two houses will not lessen the negative impact on the rural nature of the lane. The current hedge screens the houses and provides privacy to the development
- Was permission given to the other alterations (*Officer comment: these have been passed on to enforcement and are not for consideration under the current application*)
- Users of the footpath may not have to cross the driveway but if coming from the village hall they would have to cross the proposed new driveway

5.3 **Ramblers Association** – comment

Many thanks for the notification of this planning application which has been sent to me to respond to on behalf of the Ramblers' Association.

The proposed variation will improve use of public footpath Brampton Abbots 18 (BA18) as vehicles will no longer be driven across it to access the two dwellings as envisaged in approval P171321/F.

However, the Ramblers' Association recognises local concern about two entrances/exits to the road, rather than one in the original application. Multiple entrances could increase hazards to pedestrians walking along the road. Local lanes are important links in the public right of way network, and this application would appear to potentially increase the risk to the safety of pedestrians walking along the public highway.

The Ramblers' Association therefore neither support or object to this application.

- 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=193682

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:

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

“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 Brampton Abbots & Foy Group Neighbourhood Area, which published a draft Neighbourhood Development Plan (NDP) for Regulation 16 consultation running from 25 November 2019 until 20 January 2020. The Plan was sent for examination on 24 January 2020 and at this stage is considered to attract limited weight.
- 6.3 Noting the nature of the proposal, to vary a condition on an existing permission that has been implemented, I do not find it necessary to re-visit the principle of the development. Rather, the amendments between the two schemes are to be assessed. As stated above, the application looks to amend the access arrangements and rather than share the one permitted under permission ref: 172040/F, would create a wholly new one utilised by the two dwellings on the site directly onto Turners Lane. It will also amend the approved layout in terms of the siting of the garage building associated with plot 2.

Highways

- 6.4 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.’(NPPF para.109).
- 6.5 The proposal will create a new access to the east of Turners Lane. On this side of the road the access will be in addition to the permitted (and created) one to the north granted under application ref: 172040/F and an access to the south which serves a dwelling permitted under ref: 190819/F (this was previously an existing field access). The access will be located centrally between the two dwellings and lead to the parking and turning areas for each plot.
- 6.6 The plan submitted with the application indicates a set back of 2.4m from the nearside edge of the carriageway with visibility splays of 55m to the north and 65m to the south. While it is appreciated the Council’s Transportation Manager has no objections to the scheme as proposed, noting the nature of the lane and that the Traffic Regulation Order made in December 2019 reduced the speed of the road to 30mph, the splays are in excess of what is required. Having spoken with the Transportation Manager, based on Manual for Streets these can be reduced to 44m in each direction with a 1m running lane. This reduces the level of hedgerow removal as a result.
- 6.7 Policy MT1 of the Core Strategy also comments on protecting existing local and long distance footways. The proposed access will avoid the need for vehicular traffic to travel over footpath BA18 and increase the pedestrian safety in this respect. While it is acceptable for the approved arrangement to occur, there is a clear benefit in avoiding this situation which is touched on within the comments provided by the Ramblers Association and endorsed by the no objection from the Public Right of Way Officer.
- 6.8 With regard to the highway safety implications as a result of the proposed access, an additional access at this point in the lane is not found to be unacceptable. It will be visible to drivers travelling both north and south and will serve two dwellings. In relation to the proposal, there will

be no uplift in traffic movements and no highway safety dis-benefit of one additional access point - it will be neutral in this regard. In light of this, the proposal is not found to amount to severe cumulative highway impacts.

- 6.9 In terms of the internal layout, the proposed accesses will still ensure adequate parking and turning areas so that any vehicle can enter the highway in a forward gear. The parking provision will still meet the standards contained within the Highways Design Guide.
- 6.10 In light of the foregoing, while the comments contained within the representations relating to highways impacts are noted, the proposal is not found to result in cumulative impacts of development that are severe and would direct the decision maker to refuse the application.

Ecology

- 6.11 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 assets of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure.
- 6.12 The proposal will require the removal of hedgerow along the shared boundary with the road in order to accommodate the new access point and the objection from the Council's Ecologist in this regard is noted. It is appreciated that this removal was not assessed under the original application given that the shared access that had already been permitted was to be utilised.
- 6.13 In terms of public benefits of the proposal, this will be weighed up against the ecology objection within the planning balance section of this report.

Landscape

- 6.14 Appreciating that the site is located in a rural area and within the Wye Valley Area of Outstanding Natural Beauty (AONB), policy LD1 of the Core Strategy is engaged. This policy states that development proposals should demonstrate that character of the landscape has positively influenced the design, scale, nature and site selection, protection and enhancement of settlement and designated areas. Proposals should also conserve and enhance the natural, historic and scenic beauty of important landscapes and features such as AONBs. This is reinforced through policy BAF4 of the NDP, which also touches on the conservation and management of hedgerows and mature trees.
- 6.15 In terms of the NPPF, paragraph 172 states that *great weight should be given to conserving and enhancing landscape and scenic beauty in...Areas of Outstanding Natural Beauty. The scale and extent of development within these designated areas should be limited.*
- 6.16 As stated above, the proposal will result in hedgerow removal along the boundary with Turners Lane. There will be additional planting where the existing access will be closed up. The changes in terms of the acceptable level of visibility splays and a running lane will ensure more hedgerow being retained than indicated on the proposed block plan submitted with the proposal. Notwithstanding this, it is appreciated there will be at least 3m for the access itself. This level of harm is to be assessed within the planning balance.
- 6.17 While the designation of the AONB is fully appreciated, the level of hedgerow removal is not found to alter the character of the landscape to a detrimental degree at this stage along the lane. The dwellings are visible from the lane and while the existing hedgerow provides some screening, the site is within the main built up part of Brampton Abbots, hence why the principle of residential development was found to be acceptable under the previous application. It is not found to be uncharacteristic or of demonstrable harm to view the dwellings at this point through

an access. It could be argued than an access shared between two dwellings is more in keeping with the surrounding pattern of development than one between six.

- 6.18 Noting the nature and scale of the proposal, I do not find the impact on the character of the wider AONB or landscape to be detrimental as a result of the proposed shared access.

Other matters

- 6.19 Within the planning process there is no such thing as a precedent, rather each application is assessed on its own merits. With regard to any future applications for additional dwellings or accesses, this is not relevant to the assessment of the current application.
- 6.20 The financial implications of the proposal, on the dwellings or on the developer are not material planning considerations.
- 6.21 While the plan containing the details relating to wheel washing facilities and site operative parking has not been publically consulted on, ordinarily these details would come forward as part of a discharge of condition application which is not open to public consultation. As such, it is not considered that anyone has been prejudiced by not having the opportunity to comment on this aspect.

Planning balance

- 6.22 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.
- 6.23 Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development. For decision taking, this means that proposals which accord with an up-to-date development plan should be approved without delay. At 11 d), it states that where there are no development plan policies relevant or the policies which are most important for determining the application are out-of-date, permission should be granted unless policies within the framework (outlined at Footnote 6) provide a clear reason for refusing the proposal or the adverse impacts of approving the scheme would significantly and demonstrably outweigh the benefits.
- 6.24 The application here is for variation to a permitted scheme where the principle of residential development has already been established and does not need to be re-assessed, noting that the permission has been implemented and the dwellings almost completed. Given the nature of the proposed changes the policies most important for determining the application are concerned with highways safety, ecology and landscape character matters, and the development plan contains a number of policies of this nature which are considered to be 'up-to-date'. In applying the presumption as set out by Paragraph 11 (c) of the NPPF therefore, the proposal should be approved without delay provided it accords with the development plan.
- 6.25 The proposal seeks permission for an alternative access to two dwellings already permitted. The proposed access will avoid the need for vehicular access to cross a public right of way in order to arrive at the dwellings and the proposed access point is not found to amount to severe highways implications in itself. The creation of a shared access between two dwellings is not out of keeping with surrounding development and the character of the area and the wider AONB would not be detrimentally affected, being mindful of the relatively low level of hedgerow removal and additional planting when the existing access is closed up. While it is appreciated there is a policy conflict in ecological terms due to this removal, the benefits of avoiding the

public right of way and creating a development arguably more in keeping with the surrounding built form is found to outweigh this level of harm.

- 6.26 In assessing the three indivisible dimensions of sustainable development as set out in the CS and NPPF, officers are of the opinion that the scheme is representative of sustainable development and that the presumption in favour of approval is engaged. The scheme will avoid the need to travel over a public right of way and leave this unobstructed. The environmental level of harm identified is not found to amount to severe noting the nature and scale of the proposal. The application is therefore recommended for approval. Noting that this is a new permission, the conditions on the previous permission will be re-attached. Given that the permission has been implemented, re-attaching the time limit for this is not necessary.

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. C07 - Development in accordance with approved plans and materials**
- 2. CBK - Restriction of hours during construction**
- 3. CE6 – Efficient use of water**
- 4. The recommendations set out in the ecologist's report from Betts Ecology dated April 2015 and the scheme indicated within the Ecological Management Plan dated January 2017 should be followed unless otherwise agreed 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.

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

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

- 5. Notwithstanding the visibility splays indicated on drawing number 683-PL10, these shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 44 metres in each direction with a 1m running lane into the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.**

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

- 6. Prior to the first occupation of the dwellings hereby approved, and in accordance with drawing number 683-PL10, the driveway and/or vehicular turning area shall be**

consolidated and surfaced at a gradient not steeper than 1 in 8. Private drainage arrangements must be made to prevent run-off from the driveway discharging onto the highway.

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.

7. Prior to the first occupation of any dwelling to which this permission relates an area for car parking shall be laid out within the curtilage of that property, in accordance with drawing number 683-PL10, shall be properly consolidated, surfaced and drained and shall not thereafter be used for any other purpose than the parking of vehicles.

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

8. Development shall not begin until the wheel cleaning apparatus, as detailed on drawing number 683-PL05, is provided on site and shall be operated and maintained during construction of the development hereby approved.

Reason: To ensure, with immediate effect, that the wheels of vehicles are cleaned before leaving the site in the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

9. Development shall not begin until parking for site operatives and visitors has been provided within the application site, in accordance with drawing number 683-PL05, and shall be retained and kept available during construction of the development.

Reason: To prevent indiscriminate parking, with immediate effect, 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.

10. The cycle parking, indicated on drawing numbers 683-PL10 shall be installed and made available for use on first occupation of the dwellings.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

11. The development hereby approved shall not be brought into use until the the access, turning area and parking facilities shown drawing number 683-PL10 have been properly consolidated, surfaced, drained and otherwise constructed and these areas shall thereafter be retained and kept available for those uses at all times.

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

12. **None of the existing trees or hedgerows on the site (other than those specifically shown to be removed on the approved drawings) shall be removed, destroyed or felled without the prior approval in writing of the Local Planning Authority.**

Reason: To safeguard the amenity of the area and to ensure that the development conforms with Policies SD1 and LD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

13. **Notwithstanding the new access hereby permitted, the works to the boundary treatments shall be carried out in accordance with the drawing number 16/431/03 contained within the Peter Quinn Landscape and Visual Amenity Study and completed before the dwellings are occupied.**

Reason: In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policy SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

14. **Notwithstanding the new access hereby permitted, the soft landscaping scheme indicated on drawing number 16/431/03 contained within the Peter Quinn Landscape and Visual Amenity Study shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. The hard landscaping shall be completed prior to the first occupation of the development hereby permitted.**

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

15. **Notwithstanding the new access hereby permitted, all hedge planting shall be carried out in accordance with drawing number 16/431/03 contained within the Peter Quinn Landscape and Visual Amenity Study and planted in the first planting season following removal of the existing hedgerow.**

The hedges shall be maintained for a period of 5 years. During this time, any shrubs that are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period.

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework. The hedge planting scheme contained within drawing number 16/431/03 contained within the Peter Quinn Landscape and Visual Amenity Study

16. **Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, B, C, D, E and H**

of Part 1 and of Schedule 2, shall be carried out.

Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining property and to comply with Policy SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed in any elevation of the property and no dormer windows other than those expressly authorised by this permission shall be constructed in any facing roof slope of the property.

Reason: In order to protect the residential amenity of adjacent properties and to comply with Policy SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

18. The garages hereby permitted shall be used solely for the garaging of private vehicles and for purposes incidental to the enjoyment of the dwelling house as such and not for the carrying out of any trade or business.

Reason: To ensure that the garage is used only for the purposes ancillary to the dwelling and to comply with Policy SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

19. The garage and access thereto must be reserved for the garaging or parking of private motor vehicles and the garage shall at no time be converted to habitable accommodation.

Reason: To ensure adequate off street parking arrangements remain available at all times and to comply with Policy MT1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

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

Decision:

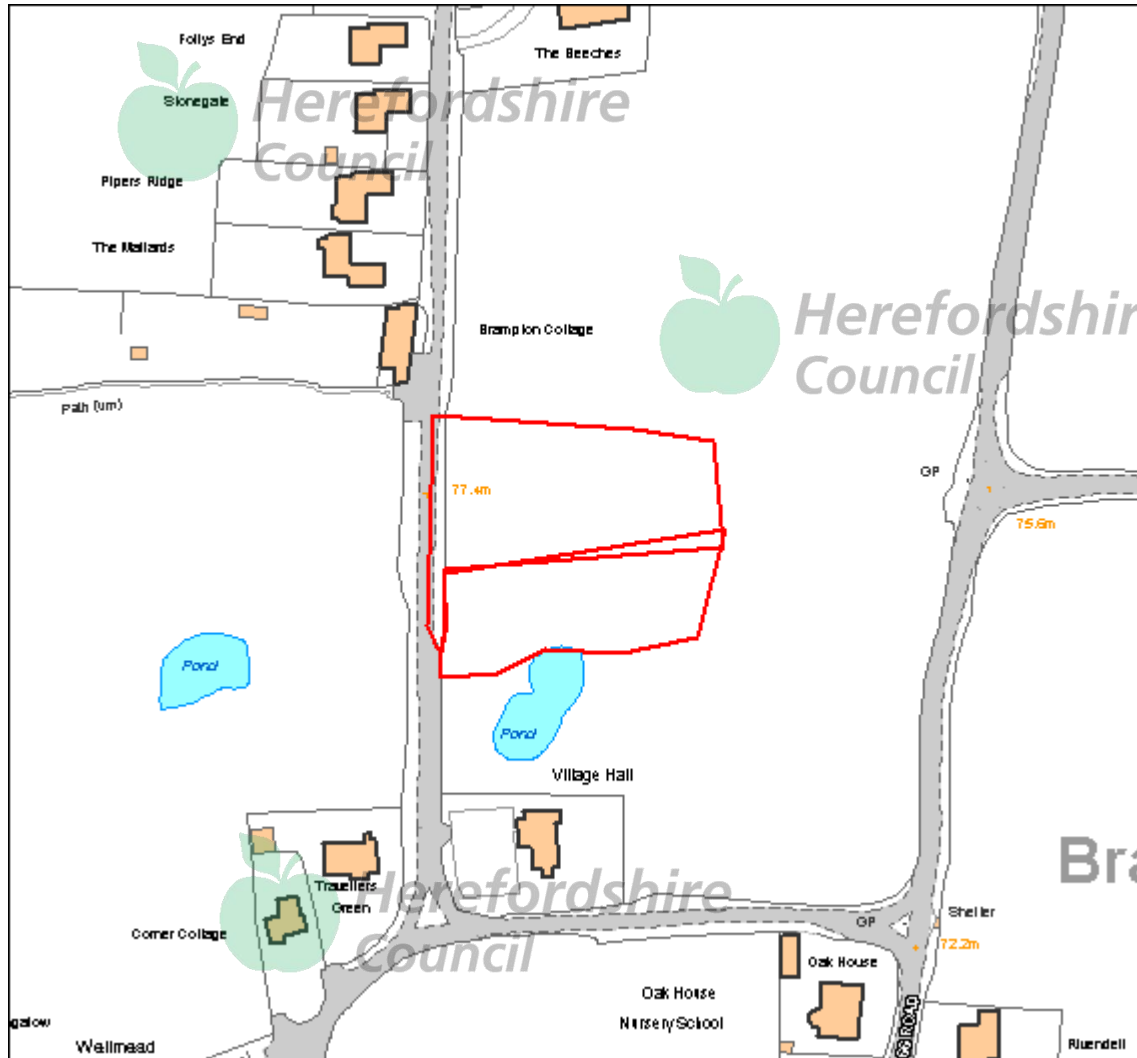
Notes:

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Background Papers

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

Internal departmental consultation replies.



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APPLICATION NO: 193682

SITE ADDRESS : DEV 1 LAND ADJACENT BRAMPTON ABBOTTS VILLAGE HALL, BRAMPTON ABBOTTS, HEREFORDSHIRE, HR9 7JD

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	11 February 2020
TITLE OF REPORT:	<p>184520 - REPLACE THE DEMOUNTABLE FLOOD DEFENCES WITH PERMANENT GLASS PANEL FLOOD WALLS AND FLOOD GATES. THIS AIMS TO REDUCE THE WHOLE LIFE COSTS OF THE DEFENCES AND REDUCE THE RISK OF FAILURE TO DEPLOY DURING FLOODING. THE NEW PASSIVE DEFENCES WILL BE LOCATED ENTIRELY ALONG THE WITHIN THE FOOTPRINT OF THE EXISTING DEFENCES, AND WILL BE DESIGNED TO FIT INTO THE EXISTING SUPPORTS. WHEN OPEN THE FLOODGATES WILL MAINTAIN CURRENT ACCESS ROUTES FOR PEDESTRIANS AND MAINTENANCE. AT LAND AT GREYFRIARS BRIDGE, HEREFORD.</p> <p>For: Mr Barker per Miss Eva Van Maren, Rightwell House, Bretton, Peterborough, PE38DW</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=184520&search=184520
Reason Application submitted to Committee – Redirection	

Date Received: 12 December 2018

Ward: Hinton &
Hunderton

Grid Ref: 350859,239534

Expiry Date: 14 February 2020

Local Member: Councillor Kevin Tillett

1. Site Description and Proposal

- 1.1 The application site comprises the existing flood defences located on the south side of the River Wye between Greyfriars Bridge and the tennis courts located at the north-west corner of the Bishops Meadow Playing Field.
- 1.2 The site lies within the Central Conservation Area and the Hereford Area of Archaeological Importance. There are a number of individual designated assets in close proximity to the flood defence. The Wye Bridge (Grade I and a Schedule Ancient Monument (SAM)), Riverside Court (Grade II), Tara House and the associated former barn and warehouse (Grade II) are located in close proximity. To the north and visible from the footpath that runs alongside the flood defences are Hereford Cathedral (Grade I), the Bishops Palace (Grade II*) and Gwynne House and associated barn (both Grade II).

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

- 1.3 The River Wye is designated as a Special Area of Conservation (SAC), Site of Special Scientific Interest (SSSI) and Special Wildlife Site (SWS).
- 1.4 Planning permission was granted for the flood defences (The Hereford (Belmont) Flood Alleviation Scheme) in its current form pursuant to Application DCCE2006/2037/F and incorporated the provision of demountable panels and flood gates. The proposal (entitled Hereford Invest to Save by the applicant) seeks to replace the demountable panels with permanent glass panels. The permanent stainless steel framed panels would sit within the existing channel recesses (which are exposed when the demountable panels are not deployed) and between the existing brick piers that particularly characterise the design approach adopted for the original scheme. The existing horizontal cross-rail between the brick piers would be removed. The proposal also entails the introduction of 3 hinged flood gates (at the existing metal stepped river access and adjacent to the tennis courts) and 1 “flip up” gate atop the existing stepped embankment adjacent to The Warehouse (currently vacant offices). In addition the demountable section of the defence under the Greyfriars Bridge would be replaced by a low wall with glass panel.
- 1.5 The project was the subject of a Screening Opinion pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 which concluded that it did not amount to development requiring an Environmental Statement (5 December 2017)

2. Policies

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

SS1 – Presumption in favour of sustainable development
 SS6 – Environmental quality and local distinctiveness
 SS7 – Addressing climate change
 MT1 – Traffic management, highway safety and promoting active travel
 LD1 – Landscape and townscape
 LD2 – Biodiversity and geodiversity
 LD4 – Historic environment and heritage assets
 SD1 – Sustainable design and energy efficiency
 SD3 – Sustainable water management and water resources

- 2.2 National Planning Policy Framework (NPPF)

The following sections are considered relevant to this proposal

Promoting healthy and safe communities
 Achieving well designed places
 Meeting the challenge of climate change, flooding and coastal change
 Conserving and enhancing the historic environment

- 2.3 National Planning Policy Guidance (NPPG)
- 2.4 Hereford Area Plan is at the drafting stage and accordingly cannot be given any weight in the decision making process
- 2.5 The Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council’s website by using the following link:-

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

3. Planning History

- 3.1 DCCE2006/2037/F – Construction of flood defence walls and embankments together with strengthening existing walls between Greyfriars Bridge and Wyelands Close. Approved.

4. Consultation Summary

Statutory Consultations

4.1 Historic England – No Objection

The proposed replacement of the demountable flood defences with permanent glass panel flood walls and flood gates is within the Central Hereford Conservation Area, Hereford Area of Archaeological Importance, adjacent to the Scheduled Wye Bridge and in the setting of a number of listed buildings. A site meeting (May 2018) and pre-application advice (June 2018) was provided to the applicant and is reflected in the current application.

It is considered that the proposals will have a limited impact on the significance of the heritage assets.

If not required for safety reasons, Historic England would prefer to see crossrails removed from the scheme, as these inhibit views into and across the river and City Centre, which is a key feature of the Conservation Area. We would also advise that the gates and rails around the steps and ramp should be of one colour and complement the surround colour palate to help them visually diminish into the landscape.

Recommendation

Historic England has no objection to the application on heritage grounds. Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

4.2 Natural England – No objection

NO OBJECTION

Based on the plans submitted. Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. Natural England's advice on other natural environment issues is set out below.

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 (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 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 the HRA has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

The assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of information provided. Natural England concurs with this view.

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.

4.3 Highways England offer no objection

Internal Council Consultations

4.4 Conservation Manager (Building Conservation) – No objection

We would not have any objections to the proposals as they would not harm the setting of heritage assets or the character and appearance of the Conservation Area.

4.5 Conservation Manager (Ecology) – No objection

Based on available information I can see no ecology concerns with the proposed works. There is no reason or available evidence to consider that these works will have any effects on, or disturbance to, protected species or local biodiversity.

The application is subject to Habitats Regulation Assessment – Natural England have indicated in their response that they have “No Objection” to the Appropriate Assessment provided by the applicant and this LPA has no reason not to adopt, and so does formally adopt, this existing HRA to discharge our legal duties.

4.6 Conservation Manager (Archaeology) – No objection

In principle, I have no objection to this proposal, which in itself would not in my view occasion harm to the historic environment.

However, if this application is approved, I think it essential that an effective long term programme of maintenance cleaning etc. is insisted upon and complied with. The transparency and general condition of the panelling must be assured.

4.7 Transportation Manager - No objection

Having reviewed the information provided the local highway authority has no objection to the proposals

4.8 Public Rights of Way Manager – No objection

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

The proposed work is to take place in close proximity to public bridleways HER32A and HER32B. If work is likely to endanger bridleway users, a temporary closure must be applied for.

4.9 Land Drainage – No objection

We do not object to this planning application

4.10 Herefordshire Council Health, Safety and Resilience Team – No objection

No objection to this application; there is benefit to having permanent barriers as opposed to demountable defences that need to be fitted in periods of adverse weather.

5. Representations

5.1 Hereford City Council - Objection

Hereford City Council Planning Committee objected to Planning Application 184520, on the basis that the new flood defences are not in keeping with the areas aesthetics and would also draw attention from those with a proclivity to daubing graffiti on such surfaces. The area already suffers from high levels of graffiti due to the low amount of lighting and pedestrian traffic at night, and glass surfaces such as this would only serve as ideal space for more graffiti. The glass nature of the new defences is also out of touch with the local atmosphere; while the Left Bank is a modern structure, the riverside itself is of a quaint and rustic aesthetic, and is a quintessential 'Hereford' location, which would not be well served by clashing modern glass decoration. Councillors also expressed concern over how the glass would be cleaned, as it would likely be prone to algae growth.

5.2 10 objections have been received (2 from the same local resident). The concerns can be summarised as follows:

- Cost saving justification for the permanent glass panels is not convincing
- Permanent glass panels would be distracting and reflective adversely affecting views to and from the Old Bridge and the north bank of the river
- Permanent glass panels would reduce enjoyment of/connection with the river
- Current structure was subject of extensive public consultation and provides a good balance between flood control and maintaining visibility of the river
- Glass surfaces will require frequent cleaning/maintenance and will be subject to algae build up and other deposits
- Will be a target for vandalism and graffiti
- Replacement of damaged glass panels will be far more expensive than current arrangements
- Adverse impact on views to the Cathedral and Bishops Palace
- Self cleaning glass requires regular flow of water to activate - will not function in more sheltered locations and will be susceptible to mould growth
- No wind survey undertaken
- Technically flawed proposal with no discernible public benefit
- Proposal will not enhance the setting of listed buildings or the conservation area and should be refused

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=184520&search=184520

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>

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

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) whilst the National Planning Policy Framework 2019 and associated National Planning Policy Guidance represent relevant material considerations.

6.3 Prior to assessing the acceptability of the proposal, and since there is reference made to the justification for this permanent panel arrangement in both the applicants submission and a number of the objections received, it is worth setting out why it has been brought forward. The following extract sets out the applicants rationale for the proposal which in broad terms is based upon maintaining the same level of protection whilst reducing the risks associated with a failure to deploy the demountable panels; reducing the costs associated with deploying or making ready to deploy the panels and enabling any savings to be directed towards flood protection and responding to other incident in Herefordshire:

The Environment Agency is a public body sponsored by the Department for Environment, Food and rural affairs (DEFRA). The Environment Agency has the powers (but not a legal obligation) to manage flood risk from main rivers and the sea. The EA is also a Category 1 responder under the civil contingency's act.

Any savings in cost and manpower from these scheme improvements will enable the Environment Agency to further improve our operational response to the wider communities at risk to flooding in Herefordshire. The installation of a passive system will enable the Environment Agency to aid and assist in the operational response to flooding within Herefordshire.

The area defended by the scheme will benefit from the upgraded flood defences by providing a permanent and more resilient level of flood protection, thereby reducing the risk of flooding to the area defended by this scheme.

With both the demountable components and operatives being located off site there is always a risk of them not being deployed or operative being unable to attend site before a flood. The construction of the scheme improvements will eliminate these risks providing an in situ scheme.

Finally we always look to reduce the potential health and safety risks to both our operatives and members of the public during the deployment of the existing defences.

The Environment Agency has in place robust operational procedures for the deployment of the demountable defences. Through these scheme improvements we are striving to reduce those risks and continually improve how we deliver flood resilience to the community.

I hope this clarifies the Environment Agency's rationale for providing these scheme improvements which will provide a more resilient scheme to the 69 residential properties and 27 commercial properties already protected by the Hereford (Belmont) Flood Alleviation scheme. The improvements will provide substantial whole life cost saving to public expenditure for the remaining life of the scheme and release a substantial operational resource to respond to other

flooding incidents within Herefordshire and better manage both the publics and our operatives safety during times of flood.

Heritage/Townscape Considerations

- 6.4 Whilst understanding the context for the application, this is not in itself under consideration but rather the environmental implications of replacing the demountable panels with a combination of permanent glass panels and flood gates. In this regard it is the sensitivity of the site in terms of heritage constraints that requires the closest scrutiny. The principle focus of concern relates to the section of the defence alongside the well-used footpath between the Wye Bridge and The Warehouse (currently closed)
- 6.5 Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Area) Act 1990 establish a legal obligation for any development that may affect a listed building or its setting or affect the character of a Conservation Area, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and the character and appearance or the designated area.
- 6.6 These principles are effectively addressed within CS policy LD4 which requires development proposals to protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance.
- 6.7 Additionally, paragraphs 193-197 of the NPPF establish a heritage impact test to be applied where harm to the relevant heritage asset is identified.
- 6.8 A number of the objections have referred to the sensitivity of the location in terms of its visual relationship with listed buildings (in particular the Wye Bridge, also a SAM) and the impact of permanent panels upon views towards the Cathedral and the Bishops Palace. This sensitivity cannot be underestimated and has been given careful consideration in my assessment of the proposal. Counter to the concerns raised by the City Council and residents, it is noteworthy that Historic England and the Conservation Manager have not raised any objections with regard to the impact of this proposal. Historic England attribute only a limited impact on the significance of the heritage assets in the locality and the Conservation Manager considers that there would be no harm. With specific regard to the comments made by Historic England, it is confirmed that the existing cross rail between the brick piers of the defence wall would be removed with the permanent glass panels slotting into the exposed recessed channels designed to receive and support the demountable panels.
- 6.9 The permanent panels would have a height of 600 mm but importantly would not result in any increased height to the structure, sitting below the level of the existing brick piers. The stainless steel frame of the panel would be a combined height of 80 mm leaving a total of 520 mm of glass.
- 6.10 It is considered that the introduction of the permanent glass panels would enable the removal of the cross rail and the visible elements of the exposed recessed channels, which are not particularly aesthetically pleasing elements of the existing structure. This is reflected in the comments from Historic England and it is considered that this aspect of the proposal is a residual enhancement.
- 6.11 The presence of glazing alongside the River Wye is already noticeable at the Left Bank and in this regard further glazing is not considered to be especially alien or out of keeping. Notwithstanding this, the majority of the concerns raised in relation to the adverse impact of the permanent glass panels relate to the deterioration of the glazing overtime and/or the risk of graffiti and other acts of anti-social behaviour (scratching and the like). This concern is appreciated, but attention is drawn to NPPF paragraph 183 which advises that the focus of planning decisions should relate to whether the proposed development is an acceptable use of

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

land, rather than the control of separate control regimes. In this regard it is not considered that weight should be afforded to the reservations expressed about future maintenance arrangements; the feasibility of self-cleaning glass; criticisms of the financial justification or the risk assessment undertaken by the applicant. This cannot form part of the assessment of the impact of the development on the historic environment.

- 6.12 Assuming an appropriate maintenance regime is put in place, it is not considered that the glazed panels would impair the appreciation of the Wye Bridge, the Cathedral and Bishops Palace nor the River Wye. In this regard, and on balance, I conclude that the proposal would not result in harm to the setting or significance of the individual designated assets that in turn contribute to the character and appearance of the Conservation Area. By extension, it would therefore preserve the historic environment, obviating the requirement to consider the public benefits of the proposal; satisfying the legal obligation to have special regard to the identified assets and according with CS policy LD4.
- 6.13 The provision of a part brick/part glazed wall under the section of the Greyfriars Bridge is not contentious in my view and similarly the combination of swing gates and flip up flood gate occupy less sensitive locations and will not have any noticeable visual impact.
- 6.14 In order to mitigate some of the concerns, a condition requiring details of the long term maintenance regime for the glass panels is recommended together with a requirement to agree the finish of the flood gates to ensure that they harmonise with their respective visual backdrops.

Biodiversity

- 6.15 The River Wye is designated as a Special Area of Conservation (SAC), Site of Special Scientific Interest (SSSI) and Special Wildlife Site (SWS). This combination of European, national and local designation requires due consideration although the potential impacts associated with these works is limited. This is reflected in the advice received from the Conservation Manager (Ecology) and Natural England.
- 6.16 The required Habitat Regulations Assessment has been undertaken by the Council (as the competent authority) and Natural England raises no objection.
- 6.17 In this regard no conflict with CS policies LD2 and SD4 is identified

Other Matters

- 6.18 Residents living alongside the river and with an outlook towards to the city centre have raised concerns about the potential impact upon their residential amenity associated with a permanent barrier. This appears to link to the concerns expressed about future maintenance since if the glass panels were kept in good condition, there would be no adverse impact. I find no basis upon which to require a wind analysis to be carried out for a structure of this relatively modest height.
- 6.19 No highway safety matters arise in the context of this proposal.

Conclusion and Planning Balance

- 6.20 The proposed development will maintain the existing level of flood protection to properties and businesses in the locality and having regard to the applicant submission will in the long term result in cost savings that can be targetted to other flooding incidents since it will not be necessary to deploy the same number of operatives to install the demountable barriers. Furthermore, it is submitted that there will be a reduced risk of flooding associated with any future failure to deploy the current defences. Counter to this, a number of objections shed doubt upon the savings/benefits associated with the proposal and express concern that the permanent

glass panels will adversely affect the character and enjoyment of the area and have a detrimental impact upon the setting of listed buildings.

- 6.21 On balance, the proper maintenance of the permanent glass panels would not in your officers opinion result in any adverse visual impact and would enable users of the footpath and residents to maintain a visual connection with the river and the views towards the City Centre. The Conservation Manager (Building Conservation) does not consider there to be any harm to the setting or significance of nearby heritage assets and whilst Historic England's comments might be regarded as attributing less than significant harm, no objection is raised and the benefits of removing the cross rail are recognised in their comments.
- 6.22 It is concluded that whilst there may be limited economic benefits associated with the proposal, the social benefits of maintaining the current levels of flood protection and reducing the risks associated with a failure to deploy the demountable barriers are noted. Whether the decision-maker agrees or not with these limited benefits, it is not considered that there is any environmental harm or harm to the character and setting of nearby heritage assets and certainly none that would outweigh the identified benefits. As such, the proposal can be characterised as sustainable development and accordingly recommended for approval

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**
2. **C07 (drawing nos. ENV0000220C-TVO-MS-XX-DR-C-1400, 1401, 1402, 1403, 1404, 1405 and 1406)**
3. **Prior to the installation of the permanent glass panels, full details of their specification and a long term maintenance plan together with details relating to the deployment of the flood gates shall be submitted to and approved in writing by the local planning authority. The maintenance and deployment plan shall be strictly adhered to thereafter.**

Reason: To ensure a satisfactory appearance and maintain flood protection in accordance with policies LD1, LD4, SD1 and SD3 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

4. **Prior to the installation of any of the flood gates hereby approved details of the materials and external appearance to be used in their construction shall be submitted to an approved in writing by the local planning authority.**

Reason: To ensure a satisfactory appearance in accordance with policies LD1, LD4 and SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

5. **CBK -Restriction of hours during construction**
6. **CAT - Construction Management Plan**

INFORMATIVE:

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

has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

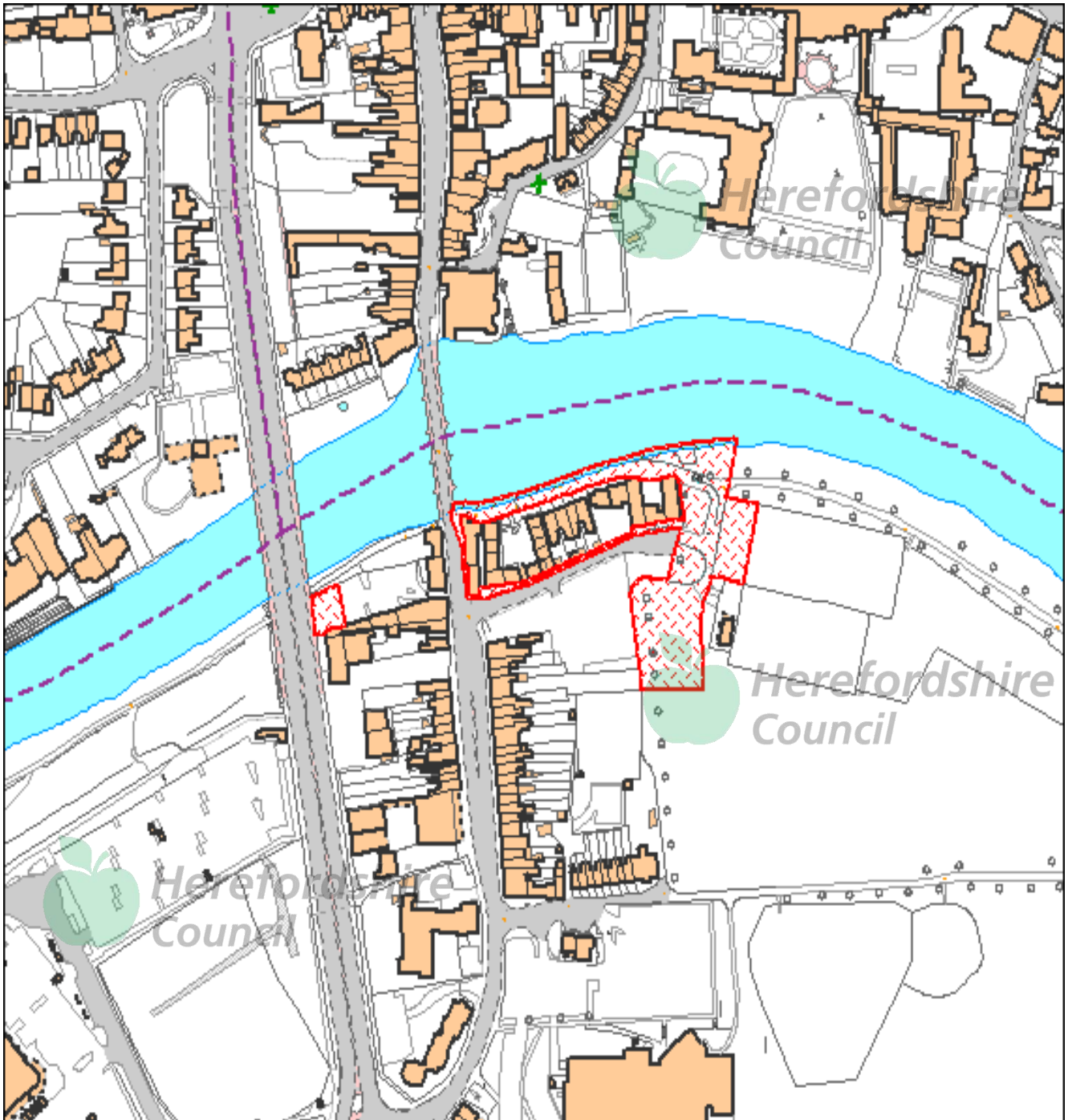
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 184520

SITE ADDRESS : LAND AT GREYFRIARS BRIDGE, HEREFORD

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