

# Agenda

## Planning and regulatory committee

Date: **Wednesday 24 July 2019**

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Time: **10.00 am**

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

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

For any further information please contact:

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

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

## **Membership**

**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 Jeremy Milln**  
**Councillor Paul Rone**  
**Councillor John Stone**  
**Councillor Yolande Watson**  
**(1 vacancy)**

## Agenda

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1.	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
2.	<p><b>NAMED SUBSTITUTES (IF ANY)</b></p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p><b>DECLARATIONS OF INTEREST</b></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><b>MINUTES</b></p> <p>To approve and sign the minutes of the meeting held on 19 June 2019.</p>	11 - 46
5.	<p><b>CHAIRPERSON'S ANNOUNCEMENTS</b></p> <p>To receive any announcements from the Chairperson.</p>	
6.	<p><b>182628 - LAND TO THE SOUTH OF LEADON WAY, LEDBURY</b></p> <p>Application for approval of 1st phase reserved matters for the erection of 275 dwellings with appearance, landscaping, layout and scale to be considered only.</p>	47 - 106
7.	<p><b>190416 - LAND ADJACENT TO PLOUGHFIELDS, PRESTON-ON-WYE, HEREFORDSHIRE</b></p> <p>Site for a proposed development for the erection of 10 dwellings.</p>	107 - 138
8.	<p><b>182938 - LAND TO THE REAR OF MURRAYFIELD, ALLENSMORE, HEREFORDSHIRE, HR2 9BN</b></p> <p>Development of 2 dwellings with garages.</p>	139 - 156
9.	<p><b>183661 - OAKFIELD, NASH END LANE, BOSBURY, LEDBURY.</b></p> <p>Proposed extension to an existing gypsy/travellers site comprising 5no. Residential pitches, 1 no. Extended dayroom, 2 no. Utility blocks, 1 no. Access, hardstanding and associated works.</p>	157 - 182
10.	<p><b>DATE OF NEXT MEETING</b></p> <p>Date of next site inspection – 13 August 2019</p> <p>Date of next meeting – 14 August 2019</p>	



## **The Public's Rights to Information and Attendance at Meetings**

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- 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).
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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.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.

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

## Guide to Planning and Regulatory Committee

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

Councillor 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 Jeremy Milln	The Green Party
Councillor Paul Rone	Conservative
Councillor John Stone	Conservative
Councillor Yolande Watson	Herefordshire Independents
Vacancy	Conservative

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

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

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

### **Who attends planning and regulatory committee meetings?**

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

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

### **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.



HEREFORDSHIRE COUNCIL

**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 19 June 2019 at 10.00 am**

**Present:** Councillor John Hardwick (Chairman)  
Councillor Alan Seldon (Vice Chairman)

**Councillors:** Paul Andrews, Polly Andrews, Christy Bolderson, Toni Fagan, Elizabeth Foxton, John Harrington, Terry James, Tony Johnson, Jim Kenyon, Mark Millmore, Jeremy Milln and Yolande Watson

**In attendance:** Councillors Kema Guthrie, Liz Harvey, Helen I'Anson, Louis Stark and Kevin Tillett

**1. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors G Andrews, Rone, Seldon and Stone.

It was noted that since the publication of the agenda papers it had been confirmed that Councillor Foxton had been appointed to the Committee, filling one of the two vacancies.

**2. NAMED SUBSTITUTES**

Councillor Bolderson substituted for Councillor Rone, Councillor Harrington for Councillor Seldon and Councillor Millmore for Councillor Stone.

**3. DECLARATIONS OF INTEREST**

**Agenda item 6: 174269 – Brook Farm, Marden**

Councillor Hardwick declared an other declarable interest because he knew the owner of the farm.

**Agenda item 8: 182617 – Land adjacent to Cawdor Gardens, Ross-on-Wye**

Councillor Hardwick declared an other declarable interest because he was a former member of the Wye Valley AONB Joint Advisory Committee.

**Agenda item 9: 191229 – 25 Quarry Road, Hereford**

Councillor Kenyon declared an other declarable interest because he knew the applicant's agent and left the room during discussion of this item.

Councillor Millmore declared an other declarable interest because he had served on a Parish Council with the applicant's agent for some years.

It was noted that the agent was a councillor on Herefordshire Council and as such was known to all other councillors.

Mr Bishop, Lead Development Manager, declared an other declarable interest because the applicant's agent had at one time worked for the Planning department.

#### 4. MINUTES

**RESOLVED: That the minutes of the meetings held on 10 April 2019 be approved as a correct record and signed by the Chairman.**

#### 5. CHAIRPERSON'S ANNOUNCEMENTS

The Chairperson outlined some procedural points, welcomed members to the committee's first meeting since the elections and wished them well in their role.

#### 6. 174269 - BROOK FARM, MARDEN, HEREFORDSHIRE, HR1 3ET

*(Proposed modification to existing agricultural building to accommodate a biomass boiler, including flue.)*

The Principal Planning Officer (PPO) 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 R Brook, of Marden Parish Council spoke in opposition to the scheme.

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

She made the following principal comments:

- Marden was a rural village served by a small road network of unclassified and C class roads. The applicant's business had expanded and become industrialised rather than agricultural. There was concern about the cumulative impact of more heavy goods vehicles on the road network.
- The infrastructure in and around Marden could not cope. Residents were fed up with noise and traffic problems.
- Leystone Bridge, grade 2\* listed, had regularly been damaged by HGVs. When flooding closed one access route, Moreton on Lugg Bridge also grade 2\* listed had to carry the traffic suffering the same risks.
- The Parish Council did not consider the site to be appropriate for an industrial biomass boiler. This would increase the industrialisation of the site.
- She was concerned about the cumulative effect of emissions on air quality referring to the existing boilers and heat and power unit described in paragraph 1.2 of the report. The Parish Council (PC) had highlighted in its representation that no data was available on the effect of emissions on local residents in adverse weather or wind directions. There must also be concern for the health of the workforce in and around the site.
- It was unclear how emissions would be reduced. She questioned how transporting the woodchip into the site could be considered sustainable.
- The PC had also noted that the applicant had stated that the deliveries would occur in the winter months. However, there was concern that heating could be used at other times in the event of poor weather, exacerbating traffic, noise and pollution problems.
- Residents of a nearby property, Woodbine House had been affected by noise.

- Noise from the boiler and heavy goods vehicles would also affect the three rivers bridleway presenting a particular danger to horse riders.
- There were a number of grounds for refusing the application: the cumulative effect of increased traffic including damage to roads and the grade 2\* bridges, the boiler stack being significantly higher than the other buildings, increased noise levels from machinery and traffic and potential harmful emissions having an adverse effect on nearby residents and workforce. The proposal was contrary to Marden Neighbourhood Development Plan (NDP) policies M7 M10 and core strategy policies MT1 and RA6. The development did not represent sustainable growth and was contrary to the environmental objective of the National Planning Policy Framework. It did not protect and enhance the environment, improve biodiversity, or help to minimise waste and pollution. It did not help climate change. Residents and the environment should be protected.

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

- Concern was expressed about the impact on local residents. Expansion of what had initially been small businesses in a rural area did put pressure on residents and the road network.
- Clarification was sought on the noise and particulate measurement process and what data was available. It was noted that the noise level at Ditton Green had been considered unacceptable.
- The Environmental Health Officer commented on the noise assessment process, which had been conducted in accordance with the nationally prescribed methodology. The assessment had concluded that the noise level experienced by residents to the east of the site and at Marden would be less than the overall background level. There may be an impact at Ditton Green. However, that was in a context of background noise levels being very low and the noise attenuation would be achieved by the structure of the residences. The BS833 internal day and night time standards of noise should continue to be achieved with the Biomass plant in place.
- A concern was expressed about the sustainability of the wood supply and its source and the impact of a biomass boiler on emissions and air quality.
- Consideration had to be given to the impact of increased numbers of heavy goods vehicles through the village.
- Despite some reservations about the use of biomass boilers a Member suggested that there were no planning grounds upon which to refuse the application.

In response to questions the PPO commented:

- It was proposed to install filtration equipment to process exhaust gases from the boiler prior to them reaching the flue.
- In terms of concern about noise generated by the method of delivering fuel to the boiler and the automatic activation meaning it would come on at various times of the night she commented that the fuel would be delivered by conveyer belt. The process was contained within the building. The noise assessment concluded that the construction of the building would ensure that local residents would not be harmed by loud noise.
- The wood for the boiler would be virgin wood. The council could not exercise control over the source. It was added that the wood would come from sustainable forests in Wales.

- The gas boilers were fed from the mains. Neither of the two gas boilers required planning permission. The biomass boiler was to be an alternative to those boilers providing the main source of heat. The gas boilers would remain to provide reserve capacity in the event of severe weather. A biomass boiler was considered to be more efficient. If the application were to be refused the applicant could install an additional gas boiler to achieve the required capacity.
- There was no current application to expand the site itself.
- The proposal would create some jobs in haulage, and forestry.
- The Transportation Manager had advised that the highway network had sufficient capacity and there was no reason to refuse the application on highway grounds.
- The application had been supported by a detailed air quality assessment. Officers had been content with the proposal and that it would not lead to additional emissions.
- If the application were to be refused the applicant could install another gas, diesel or electric boiler without planning permission.

The Lead Development Manager commented that the professional opinions presented to the committee concluded that the noise levels and emission levels associated with the proposal were acceptable and that there was capacity within the highway network. If the application were to be refused the applicant could install another gas boiler but could also consider an appeal. He cautioned that given the technical information that had been provided he considered an appeal would be difficult to defend.

The local ward member was given the opportunity to close the debate. She reiterated that HGVs and noise currently generated from the site had a significant detrimental impact on residential amenity. The additional impact of the proposed development would be substantial. Priority should be given to the residents and protection of the environment. The application should be refused on policies M7, RA6 and the NPPF as it was not sustainable development.

A motion that the application be approved in accordance with the case officer's recommendation was lost.

Councillor Kenyon proposed and Councillor Harrington seconded a motion that the application be refused on the grounds that the application was contrary to core strategy policies RA6 and MT1, and NDP policy M7 and relevant paragraphs of the NPPF in particular paragraph 109 relating to highway safety and capacity.

The motion was carried with 8 votes in favour, 3 against and 2 abstentions.

**RESOLVED: That planning permission be refused on the grounds that the application was contrary to core strategy policies RA6 and MT1, and NDP policy M7 and relevant paragraphs of the NPPF in particular paragraph 109 relating to highway safety and capacity and officers named in the scheme of delegation to officers be authorised to detail the reasons for refusal.**

*(The meeting adjourned between 11.10am and 11.20 am.)*

## **7. 1182628 - LAND TO THE SOUTH OF LEADON WAY, LEDBURY, HEREFORDSHIRE**

*(Application for approval of 1st phase reserved matters for the erection of 275 dwellings with appearance, landscaping, layout and scale to be considered only.)*

*(Councillor Bolderson left the meeting during consideration of this item and did not vote on it.)*

The Principal 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.

He added that a further communication from Ledbury Town Council had been received since the publication of the committee update and read that to the meeting. This is included with the updates appended to these minutes.

In accordance with the criteria for public speaking, Mr J Bannister, of Ledbury Town Council spoke in opposition to the scheme. Mr P Kinnaird, a local resident, spoke in objection as did Mr S Humphrey of Oruna Ingredients UK Ltd. Mr S Stanion spoke on behalf of Barratt and David Wilson homes in support of the application.

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

She made the following principal comments:

- A disruptive level of noise was unacceptable.
- There was an onus on the factory to do what it could to ensure noise was not unacceptable for existing properties behind it.
- She had not been approached by residents about noise at the development site.
- The overwhelming wish of residents was that the current eyesore was resolved together with road issues that were presenting an accident risk with no speed restrictions in place as required by a Traffic Regulation Order with effect from 1 May 2019.

An adjoining member, Councillor Harvey, also spoke on the application. She made the following principal comments:

- The site contravened Core Strategy policy LD1. Ledbury had a made Neighbourhood Development Plan (NDP) so there is no presumption in favour of development. All requirements of paragraph 14 of the NPPF were met. Ledbury could more than fulfil its target for housing delivery under the Core Strategy, were the application to be refused.
- There remained an opportunity to bring forward an acceptable development but this required more work.
- She was concerned that there were many instances in the report where statutory and internal consultees stated that their previous concerns had not been addressed, that because of the state of the documentation they could not see clearly what was being proposed or that without their earlier concerns being answered they were unable to make further comment.
- Regarding Policy H3 – ensuring an appropriate range and mix of housing, the Ledbury local housing market assessment (HMA) underpinning the core strategy stated that Ledbury required 2 & 3 bed housing, but the application remained skewed towards the delivery of 4 & 5 bedroom homes which no-one locally would be able to afford, making it likely occupants would be commuters or retirees from outside the county – replicating the demographic issue facing the county as a whole.
- In the detailed consent quashed in the High Court, there was provision for bungalows on site for local families with special accommodation needs and for supported living units for vulnerable adults. It was asked if these remained part of the housing mix.
- The Strategic Housing Manager (SHM) stated in the report that the affordable housing mix complied with policy. However, Councillor Harvey remarked that the

location of this housing seemed to make it a shield to protect the privately owned householders from cheese factory and bypass noise.

- She added that some previous comments of the SHM appeared to have been unanswered including what he saw as a contradiction between amended plans and the Design and Access Statement. He had also previously commented that the open market mix was not in line with the HMA with an over-supply of four plus beds. He had stated this was contrary to policy and had objected to the application.
- She questioned how Policy SS6 – environmental quality and local distinctiveness and Policy SS7 - addressing climate change were evidenced in the application?
- In relation to Policy LD1 - landscape and townscape the landscape officer had commented that it would be helpful to have an overall landscape plan submitted which then linked to the individual detailed drawings to aid understanding of the complex site.
- Officers were clearly struggling to make sense of the application. Members and members of the public faced an impossible task.
- Regarding Policy LD4 – Historic environment and heritage assets the report said that ‘less than significant harm’ was done to the setting of Hazel Farm – a Grade 2 listed building immediately adjacent to the site and the large soil bund and fencing proposed to the Dymock road to mitigate some elements of the noise emissions from the cheese factory. She questioned this.
- She noted that the Building Conservation Officer stated that “The 3m bund and fence would be an alien feature in close proximity to the listed and curtilage listed buildings at Hazel Farm.” ... “the bund would cause less than substantial harm” ... “This harm should be weighed up against any public benefits of the scheme” She referenced paragraph 196 of the NPPF requiring less than substantial harm to the significance of a designated heritage asset to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. She questioned what these public benefits were.
- The Building Conservation Officer had reiterated the requirement for local distinctiveness.
- The Ecologist had commented that the Mitigation and Enhancement Plan omitted detail in relation to the off-site great crested newt population and lighting.
- She questioned whether the development satisfied the requirements of the relevant NDP policies outlined at paragraph 6.11 of the report
- The diagram at paragraph 6.36 of the report showed the loss/lack of amenity numerous homeowners would experience as a consequence of industrial and road noise, being unable to open their windows without suffering substantial noise nuisance – day and night. She questioned whether this was acceptable.
- Housing built to the north of the bypass shown on the same diagram had a proper green buffer and wildlife corridor.
- The owners of the Cheese Factory had submitted a substantial and strong objection reiterated in the schedule of updates.
- The noise reports online detailed the frequency spectrum of the noise emitted from this business – containing both low and high frequency components. Sound at different frequencies behaved very differently and required very different measures to mitigate it.
- The report made clear that although some aspects of the persistent ‘hum’ component of the noise generated had been mitigated at source on the factory roof – the overall noise being emitted from the factory had not changed. So 5.5m high soil bunds with 3m fences on top were now proposed. She asked if this would ‘catch’ the high



frequency sound, or just interfere with the low frequency noise still coming from the site.

- The road noise was all but impossible to mitigate – a 3m fence and double/triple glazing was suggested, but actually what was needed was distance.
- She highlighted the Environmental Health comments on external amenity at page 79 of the agenda papers and questioned what she considered to be their implication that people living in mostly social and affordable housing adjacent to the bypass would need to seek refuge in areas of public open space in order to find some relief from the noise.
- She highlighted the detailed comments of the EHO on internal noise levels (paragraphs 2 and 3 on page 80 of the agenda papers) and the section on factory noise from the Omua Cheese factory also on page 80 of the agenda papers.
- She questioned whether the Committee could make a sound decision – given these and other officer comments and, without plans and reports being brought together in one place to clearly articulate what was being proposed.
- There had been many objections from the public about the development with a view that it would be unsatisfactory and not give a good outcome for Ledbury.
- She suggested that the best course would be to defer consideration of the application to allow officers to continue to work with this applicant – and with the community to address all the outstanding issues. If officers advised that this was not an option she would advance policies that gave grounds for refusal.

In the Committee's discussion of the application a Member expressed reservations about the location of the affordable housing and the housing mix and sought clarification on a number of matters.

It was suggested that there were clearly several issues to be resolved including noise mitigation, the development's layout, housing style and building materials.

Councillor Polly Andrews proposed and Councillor Kenyon seconded a motion that consideration of the application be deferred.

The Lead Development Manager expressed the view that a number of the points that had been raised were covered within the report and questioned some of the assertions that had been made to the meeting about the application.

The motion that the application be deferred was carried with 9 votes in favour, 3 against and no abstentions.

**RESOLVED: That consideration of the application be deferred for further information.**

*(The meeting adjourned between 12.32pm and 12.44pm)*

**8. 182617 - LAND ADJACENT TO CAWDOR GARDENS, ROSS ON WYE, HEREFORDSHIRE.**

*(Proposed residential development of 32 dwellings of which 13 will be affordable homes, ecological corridor, separate public open space and provision of access enhancements together with partial (almost total) demolition of former railway bridge.)*

*(Councillor Bolderson had left the meeting and was not present during consideration of this application.)*

The Principal Planning Officer (PPO) gave a presentation on the application, consideration of which had been deferred at the previous meeting, 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, Mrs A Park, a local resident, had been registered to speak in objection. However, as she had been unable to attend the meeting a statement she had submitted was read out on her behalf. Mrs S Griffiths, the applicant's agent, spoke in support of the application.

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

He made the following principal comments:

- The main issue was weighing the value attached to the retention of the railway arch against the benefits of the development.
- He had explored whether the arch could be retained as a feature of the development. The expert advice contained in the report indicated no real support for retention of the arch and the report concluded that the proposal resulted in less than substantial harm to heritage assets.
- The Fire Authority's response set out at paragraph 5.5 of the report indicated that demolition of the arch was required to provide an acceptable access. The risk to safety otherwise was unacceptable.
- Whilst the expert view was that the arch did not have architectural and historic merit it was a landmark and did have a social value locally. Most of the objections to the development related to the arch demonstrating the value attached to it. However, this had to be weighed against the benefits of the scheme.
- The development would provide 13 affordable houses. There would be a financial contribution from the developer. The Charity owning the site, whose purpose was to provide affordable rental property, would receive funds which it could use in support of this aim to the Town's wider benefit.
- In relation to the developer contribution to Wye Valley NHS Trust he requested that this should be allocated to Ross-on-Wye, and in particular to support the Minor Injuries Unit.
- The report's conclusion was that the benefits of the development outweighed the social value associated with retention of the arch. He sought the Committee's view.

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

- A Member reported that he had received a comment from the Director of the Victorian Society (the statutory amenity body advising on matters of planning affecting heritage assets for the Victorian period) to which weight should be attached accordingly. This stated that: *"The Cawdor Arch is physical evidence of an important - but increasingly invisible - part of Ross-on-Wye's nineteenth century history. It is also, whilst not uncommon in a national context, a structure of quality, built of rock-faced ashlar and of a pleasing arched form that, with its echoes of triumphal arches and Roman aqueducts, shows the noble scale and ambition of Victorian engineering. It would be impossibly expensive to build such a structure today - once it is gone it is gone forever. Cawdor Arch is clearly of local interest, and I hope that the planning committee will give careful thought to the arguments for retaining it, and the alternatives to demolition."*

- The original development of the area of 40 dwellings approved in 1992 had not required demolition of the arch. The next application in 2013 had proposed the arch's demolition. The arch had been recognised as a heritage asset. It was the only surviving railway arch in Ross-on-Wye.
- There had been 30 representations with 20 objections.
- Ross Civic Society had recommended access to the site from the north in order to preserve the arch.
- The Planning Officer's report on the 2013 application had recommended refusal considering that it would represent significant harm with no clear public benefit and without it being necessary to secure optimum use of the land.
- A scheme submitted in 2017 had been withdrawn following objection from Historic England to the design of the houses.
- Weight should be given to the representations in support of the arch's retention.
- In balancing the benefit of retaining the arch against the development regard should be had to the financial benefit to the Charity that would enable it to provide additional affordable accommodation within the Town.
- The PPO confirmed that conditions could be added requiring the reuse of materials and recording of the arch as an historic building.
- In relation to a question about measures to reduce energy usage the Lead Development Manager confirmed that the applicant would be taking a fabric first approach designed to increase energy performance in new homes. In addition the development consisted of terraced housing providing further benefit in this regard. Policies to address climate change were currently limited. However, climate change issues were being discussed with developers. The method of construction of dwellings was, however, dealt with under building regulations and was not a planning matter.
- Condition 21 required cycle parking provision.
- The application before the committee did not propose access from the North. The land to the north an access would need to cross was not in the applicant's ownership, there was a power sub-station on the line of an access in that direction and there were issues relating to different land levels.
- It was suggested that the Fire Service had a range of equipment available to it and questioned whether standard size fire engine needed to be deployed. The Lead Development Manager commented that he understood that the Fire Service's response took account of the views of the local fire station.
- Clarification was provided on the definition of affordable housing and the application of relevant policies within the County. He also referred to paragraph 6.66 of the report which explained how the affordable housing units would be allocated.

The Lead Development Manager commented that in the planning balance the loss of the arch had to be weighed against the Scheme's benefits in terms of affordable housing and Section 106 contributions. Regarding the loss of the arch he acknowledged the comments of the Victorian Society but observed that Historic England considered any harm to be less than substantial. Officers had recommended the Scheme for approval.

The local ward member was given the opportunity to close the debate. Whilst not wanting to lose either the arch or the development Ross Town Council had supported the Scheme as on balance did he.

**RESOLVED: That subject to the completion of a Planning Obligation under Section 106 of the Town & Country Planning Act 1990, officers named in the**

**Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any further conditions or amendments to conditions considered necessary by officers named in the scheme of delegation to officers.**

- 1. Time limit for commencement (full permission)**
- 2. Development in accordance with approved plans and materials**
- 3. Before any work begins, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) shall be supplied to the planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.**

**Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy, National Planning Policy Framework 2018 and NERC Act 2006**

- 4. The Reptile Translocation Plan as recommended by Wessex Ecological Consultancy dated May 2017 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority. Offsite Receptor sites must be subject to appropriate legal agreements and Management Plans such as to ensure the in perpetuity security of tenure and habitat quality of the receptor site. The final legal agreement and site management plan shall be approved by this planning authority.**

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

- 5. The following information and details shall be supplied to the Local Planning Authority for written approval prior to the commencement of development of the development hereby permitted including any groundworks or site clearance –**
  - Assessment of risks to safe access and egress associated with fluvial flooding (with climate change allowances) and demonstration of appropriate provision of safe access and egress;**
  - Results of infiltration testing at the location(s) and proposed depth(s) of any proposed infiltration structure(s), undertaken in accordance with BRE Digest 365 methodology. If the infiltration results are found to not be suitable, an alternative drainage strategy will need to be submitted to the Council;**
  - Confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels;**
  - Detailed drawings that demonstrate the inclusion of SuDS, where appropriate, and location and size of key drainage features;**
  - Drawings showing details of the proposed attenuation ponds and swales, including cross sections;**

- Detailed calculations of proposed infiltration features informed by the results of infiltration testing;
- All drainage calculations, including attenuation storage calculations, should be based on the FEH 2013 rainfall data;
- Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event;
- Calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event;
- Calculations that demonstrates there will be no increased risk of flooding as a result of development up to the 1 in 100 year event and allowing for the potential effects of climate change;
- Details of how natural overland flow paths and overland flows from outside of the site boundary have influenced the development layout and design of the drainage system;
- Detailed drawing demonstrating the management of surface water runoff during events that may exceed the capacity of the drainage system, including: temporary exceedance of inlet features such as gullies; exceedance flow routes and storage up to the 1 in 100 year event; and exceedance in the event of blockage including blockage of attenuation pond outlets;
- Operation and Maintenance Manual for all drainage features to be maintained by a third party management company;
- Detailed drawings of the foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features.

The development shall be carried out in accordance with the approved details and all drainage works shall be installed and ready and available for use prior to the first occupation of the development hereby permitted and thereafter be maintained as such.

Reason: to ensure adequate drainage provision is made, to avoid adverse impact upon adjoining land, buildings and uses and in the interests of public health and safety and to comply with Herefordshire Core Strategy policies RW1, SD3 and SD4.

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

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

7. CAT – Wheel washing
8. In addition to required ecological mitigation and soft landscaping, prior to commencement of the development, a detailed habitat enhancement

**scheme including extensive provisions for bat roosting, bird nesting, pollinating insect houses, hedgehog homes and reptile-amphibian refugia should be submitted to and be approved in writing by the local planning authority, and the scheme shall be hereafter implemented and maintained as approved. No external lighting should illuminate any biodiversity enhancement, or ecological habitat.**

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

9. **C96 – Landscaping**
10. **CA6 – Details of play equipment**
11. **CAB – Visibility**
12. **CAE – Access construction**
13. **CAP – Junction improvements and off site works**
14. **C97 – Landscape scheme implementation**
15. **CA1 – Landscape Management Plan**
16. **CA5 – Provision of play equipment**
17. **CAH – Driveway gradient**
18. **CAJ – Parking estate development**
19. **CAL – Access, parking and turning**
20. **CAR – On site road phasing**
21. **CB2 – Secure covered cycle parking provision**
22. **The ecological protection, mitigation and working methods scheme as recommended in the Ecological Report by HEC August 2015 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.**

**Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy, National Planning Policy Framework 2018 and NERC Act 2006**

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

**Reason: To prevent overloading of the Waste Water Treatment Works and pollution of the environment.**

- 24. 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 Wye Valley AONB and wider locality, maintain and enhance the character and appearance of the conservation area, to maintain the amenities of adjoining property and to comply with Policy SS1, RW1, LD1, LD4 and SD1 of the Herefordshire Local Plan – Core Strategy, Wye Valley AONB Management Plan and the National Planning Policy Framework.**

- 25. CA3 – Landscape Monitoring**
- 26. CAQ – On site roads - submission of details**
- 27. CAX – Direction of proposed lighting**
- 28. CB1 – Public rights of way**
- 29. CBK – Restriction of hours during construction**
- 30. No demolition of Cawdor Arch until contract for construction signed or other alternative stage reached**
- 31. D24 -. Recording of Arch**
- 32. Reuse of arch materials on site**

**INFORMATIVES:**

- 1. Pro active Reason 2**
- 2. I11 – Mud on highway**
- 3. I09 – Private apparatus within highway**
- 4. I06 – Public rights of way affected**
- 5. I45 – Works within the highway**
- 6. I08 – Section 278 Agreement**
- 7. I07 – Section 38 Agreement & Drainage details**
- 8. I05 – No drainage to discharge to highway**
- 9. I57 – Sky glow**
- 10. I49 – Design of street lighting for Section 278**
- 11. I51 – Works adjoining highway**

12. I47 – Drainage other than via highway system
13. I35 – Highways Design Guide and Specification
14. I62 – Adjoining Property Rights
15. I18 – Rights of way
16. NC11 – Wildlife Informative

9. **191229 - 25 QUARRY ROAD, HEREFORD, HR1 1SS**

*(Proposed two storey and lean-to single storey extensions to the side (north) elevation.)*

*(Councillor Bolderson and Councillor Paul Andrews had left the meeting. Councillor Kenyon declared an interest and left the meeting for the duration of this item.) Councillor Foxton fulfilled the role of local ward member and accordingly had no vote on this application.)*

The Principal Planning Officer gave a presentation on the application.

In accordance with the Council's Constitution, the local ward member, Councillor Foxton, spoke on the application. She spoke in support of the application considering it to be in keeping with the area.

Councillor James proposed and Councillor Polly Andrews seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 10 votes in favour, none against and no abstentions.

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

1. **A01 Time limit for commencement (full permission)**
2. **C07 Development in accordance with approved plans**
- 3 **CBK - During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.**

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

- 4 **Within 3 months of completion of the works approved under this planning decision notice evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least one Bat roosting enhancements and two bird nesting boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting 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, Herefordshire Local Plan Core Strategy Policy LD2, National Planning Policy Framework, NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019**

**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.**

**10. DATE OF NEXT MEETING**

The Committee noted the date of the next meeting.

**Appendix - Schedule of Updates**

The meeting ended at 1.45 pm

**CHAIRMAN**



**PLANNING AND REGULATORY COMMITTEE**

**Date: 19 June 2019**

**Schedule of Committee Updates/Additional Representations**

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

***(NB: The published update has been amended to include a late comment received from Ledbury Town Council that was read to the meeting.)***

## SCHEDULE OF COMMITTEE UPDATES

**182628 – APPLICATION FOR APPROVAL OF 1ST PHASE RESERVED MATTERS FOR THE ERECTION OF 275 DWELLINGS WITH APPEARANCE, LANDSCAPING, LAYOUT AND SCALE TO BE CONSIDERED ONLY AT LAND TO THE SOUTH OF LEADON WAY, LEDBURY, HEREFORDSHIRE**

**For: Mr Elliot per Mr Mark Elliot, 60 Whitehall Road, Halesowen, B63 3JS**

### ADDITIONAL REPRESENTATIONS

Ornu have made additional representation following the publication of the Committee Report. Their further objection is as follows –

We write again on behalf of Ornu Ingredients (UK) Limited in respect of the application referred to above. We had intended to submit this objection in respect of the planning condition discharge application ref: 190874 as well, but we understand that this application is not being pursued by the Applicant. The comments in this objection are pertinent to both applications but given that ref: 182628 is being considered by the Council on 19 June then this objection should stand against that application.

#### Layout

We maintain that the Council needs to be satisfied that the current proposed layout of the properties will not lead to complaints from future residents of the properties because of noise emitted from our client's cheese factory, located opposite the development site. Ornu considers that the proposal in its current form is contrary to the NPPF (paragraphs 170(e) and 180) and the development plan (policies SD1 and SS6)

Notwithstanding the removal of the Phase 2 properties from the reserved matters application, it is clear from the information provided by the Applicant that the properties closest to the factory will experience unacceptable noise levels likely to lead to complaints even with the proposed mitigation measures in place. The proposed layout (and suggested future mitigation measures) do not adequately safeguard our clients ongoing operations from complaints i.e. from both private and statutory nuisance. We are, unfortunately, in the exact same position as we were in 2017 when the Council authorised the quashed reserved matters application ref: 164078. The layout will prejudice the effective and successful delivery of any future noise mitigation scheme.

Both the Applicant and the Council's Environmental Health Officers (EHO) acknowledge that the proposed layout of the development, with the outlined mitigation measures in place, could result in complaints from future residents. It is unreasonable for the Council's EHO to state that "we cannot say for certain therefore whether complaints from future occupants may or may not arise in the future". If the Council considers that there are properties which form part of this application which might be adversely affected by noise they should refuse this application and ask the Applicant to revise the

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proposed layout so that the new layout, with mitigation in place, will safeguard the amenity of future residents.

### Proposed Mitigation

The Applicant has submitted outline details of proposed noise mitigation. It has also submitted a noise assessment report. Ornuva has not been consulted on either of these documents directly.

Whilst the noise mitigation measures proposed by the Applicant are not being secured at this stage, they are clearly the Applicant's best attempt to demonstrate that noise levels will be acceptable at all of the properties proposed in Phase 1. As such, it is likely that the mitigation measures outlined will form part of a future noise discharge application if the layout is approved, as these mitigation measures have been considered by the Council to work with the proposed layout.

We do not consider that the proposed mitigation measures are adequate and, as such, the Council should not approve the current proposed layout for Phase 1 due to the borderline significant impacts that will be experienced by future residents at a number of the properties even with the proposed mitigation in place.

We consider that it is unreasonable for the EHO to conclude that desirable bedroom daytime noises can be achieved at the majority of the properties with their windows closed but that "there are a handful of dwellings with facades facing east and west where this cannot be achieved. Although this is not ideal, our department does not object to this proposal as noise mitigation is possible in the majority of the impacted dwellings and satisfactory daytime internal noise levels at ground floor level can be achieved due to the fencing mitigation."

The threshold for acceptability is not "the majority of the properties". If there are properties that will be adversely affected by noise under the proposed development, as the EHO clearly acknowledges, the layout of the scheme needs to be amended to remove the affected properties. Clearly, therefore, sufficient noise mitigation measures have not been proposed by the Applicant and the Council will be authorising the development of properties where residents are likely to complain of noise nuisance.

It is equally unreasonable for the EHO to conclude that noise impacts at night time internally will be acceptable, where these properties will experience greater than 55dB against a recommended standard of 30dB. No conclusion is given by the EHO in this respect but it is clear that this position could lead to complaints.

WA's report states that the properties located closest to our client's factory would be subject to noise above the Lowest Observed Effect Level (as set out in NPPF/Noise Policy Statement for England) and borderline Significant Observed Effect Level. In other words, the noise will be "noticeable and intrusive". The Council's EHO considers that the dwellings closest to the factory "would be categorised by the classification of the noise having an Observed Adverse Effect Level which could lead to small changes in behaviours or attitude and having to keep close windows for some time because of noise." This is the Council's conclusion with the proposed mitigation in place. The impact on amenity to future residents is clear and having to rely on residents keeping their windows closed in order to reduce noise is not a reasonable form of mitigation.

As such, this clearly demonstrates that the requirement that "all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principle of sustainable development" has not been undertaken, as required by the NPSE, because even with the mitigation measures in place there will be properties in the proposed phase that will experience borderline significant impacts from noise.

Our client also has serious concerns about the conclusion of both the Applicant and the Council's EHOs in determining that the tonal quality of the noise being emitted from the factory has now disappeared. Ornuva disagrees with the Applicant and the Council that the noise emitted from the factory is not tonal. Operations at the factory have not changed since the 2014 noise assessment undertaken by the Applicant, which demonstrated a tonal quality to the noise being emitted from the site. Ornuva's own noise experts maintain that the noise from the factory is tonal. Tonal noise requires a penalty of 6dB to be applied to the results of the assessment. In other words, if the noise is tonal

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further mitigation should be secured. No explanation has been provided by the Council's EHO on why or how they consider the tonal quality of the noise has now disappeared nor has any technical detail been published by the Council supporting this assertion and change in situation. Neither the EHO in its response to the consultation or the Applicant have provided evidence justifying the conclusion that the noise emitted from our client's factory is not tonal.

Ornuia and the Applicant had separately agreed that a predicted rating level of 37 dB LAeq would be acceptable on the development site because this noise level will be very unlikely to result in complaints over noise. Ornuia is disappointed that the proposed mitigation will not achieve this level. Ornuia considers that the Council should seek to secure mitigation which results in a rating level of 37 dB LAeq at the site. Whilst the Applicant carried out works to the cheese factory in January, in an attempt to reduce the noise being emitted from the factory, these works were not successful and predicted noise from the factory did not reduce following these works.

As previously mentioned, without a more robust approach to noise mitigation and a change in the proposed layout on the proposed development, Ornuia considers that the Council will be promoting land-use competition contrary to the terms of planning law and the NPPF.

### Further control on noise compliance

As noise is such an important part of the proposed development, Ornuia would expect to see a scheme of mitigation and a layout that ensures that appropriate noise levels can be achieved at all properties proposed as part of this phase of the development. The Council needs to ensure that there are noise limits secured in any future approved noise mitigation scheme so that they are complied with and, where they are not, there is a penalty e.g. the development has to stop until the noise is attenuated to an appropriate level.

It is not clear which document submitted by the Applicant actually proposes the scheme of mitigation required by the outline consent given that the summary document is so brief. There is inconsistency in this document as the "Summary of the Noise Mitigation Measures", dated 22 February, details noise mitigation to be applied to properties (outlined in Figures 2 and 3) but these figures include properties which are not even a part of Phase 1. This document is unclear and does not relate to the same layout proposed in the application. As such, it cannot properly give the Council comfort that the proposed mitigation will work as it is factually inaccurate.

Neither the Summary document nor the "Noise Assessment Report", prepared by the Applicant and dated March 2019, detail when (i.e. give a timeframe) any proposed mitigation will be in place; how the development will be brought forward in terms of which units will be developed first; and how further/future remediation measures will be secured in the event that the proposed noise mitigation does not achieve what is predicated.

We appreciate that the discharge application is not being pursued but these reports were originally submitted in respect of the condition discharge application too and are wholly inadequate. In addition, there are no hard noise targets included in the report, as such, it is unclear how the Council considers at this stage that an estimated upper ended range of predicted noise levels is appropriate when there is no set limit proposed. Given the linkage between the layout and the proposed mitigation the Council needs to be satisfied at this stage that the mitigation will work with the proposed layout. The detail provided by the Applicant is inadequate and cannot reasonably be relied on to be certain that noise issues will not arise from all of the properties as set out in the proposal.

A final point to consider in respect of the noise mitigation measures to be secured is that the current planning condition on the outline consent (condition 19 of ref: 164107) provides: "All works which form part of the approved scheme shall be completed in accordance with the approved details [i.e. those works secured as part of the noise mitigation scheme] prior to first occupation of any dwelling in that phase and such measures shall be retained thereafter."

Ornuia does not consider that this condition adequately secures the successful implementation any proposed mitigation works. It simply requires that the works approved under the proposed mitigation scheme need to be implemented; it specifies nothing about them having to succeed or requiring future remediation in the event that the works do not succeed. It is unclear why the planning inspector

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considered that this planning condition was adequate but the Council will have an opportunity to remedy this and secure more stringent (and appropriate) controls.

As such, Ornuia would urge the Council on any future noise discharge application to not only seek more control (as outlined above) but to ensure that either any revised RMA approval or the discharge approval is conditioned to ensure that an approved noise mitigation scheme is adhered to for the duration of the development otherwise the Council will have no recourse to the Applicant in the event that the mitigation approved through the discharge application fails. Without any additional means of control in place (e.g. appropriately worded planning conditions on the reserved matters approval or a section 106 agreement) the Council is saying, at this stage, that it is confident that the proposed mitigation works, coupled with the layout, will be effective and there is no need for any future control over the development in respect of noise.

On the basis of the information provided above, the Council should take a precautionary approach given the clear uncertainty over the appropriateness and effectiveness of the proposed layout on noise and the mitigation proposed. Ornuia considers that the Applicant should have proposed the phased delivery of the site from east to west i.e. the development should begin at the eastern boundary and move further west. In addition to this, the Council should secure means to undertake noise reporting on a periodic basis, as the houses are developed from east to west, to demonstrate that the mitigation works are working. The Council should also secure set noise levels through conditions or a s.106 so that in the event that the noise levels are exceeded development should cease until further remediation is secured to the satisfaction of the Council. Given that none of this detail has been proposed by the Applicant in its proposed mitigation measures, which have informed the proposed layout design, the Council would be acting unreasonably to accept the proposed measures and the layout in their current form.

### Environmental Health Officer Comments

We are surprised to read that the EHOs are content with Applicant's proposed mitigation given the comments made above on their conclusions about the likely impacts of noise on future residents of the development.

There are also a number of clear inconsistencies between their comments made in respect of the quashed reserved matters application and this application, as detailed below. We have a number of questions for the Council's EHO officers in respect of their comments of 23 May 2019, and would be grateful for a response to them ahead of the Council's planning committee:

1. Can the Council's EHO explain, and provide detail on, how it is content that there is no tonal element of the noise being emitted from Ornuia's factory given that the Applicant has submitted no detail or data justifying its assertion that the tonal content has now been removed? Ornuia has not been provided with any additional information from the Applicant or the Council explaining how they consider this change has occurred, especially given that the operations at the factory have not changed since WA's 2014 assessment (i.e. the assessment mentioned in the planning condition).

The tonality assessment carried out by WA is far from conclusive having been provided with no details of its origin other than the location where it was measured. The Council must explain its position if it is diverging from the position set out in condition 19 and that taken in its advice on 5 July 2017 in respect of the quashed RMA where it stated "Our low-frequency noise assessment and the officers' site observations would support the BS:4142 assessment findings in that the [cheese factory] noise source is likely to have a significant adverse impact on the dwellings closest to the noise source.". For the avoidance of doubt, Ornuia maintains that there is a tonal quality to the noise emitted from the factory which should attract a 6dB penalty and the Council's current consideration and justification of this point is not adequate

2. Can the Council's EHO please provide justification why it considers 55dB ~Aeq for external amenity areas to be acceptable? When considering the quashed application the EHO (and this extract is taken from the High Court judgment, para. 9) "said they did not agree with Wardell Armstrong that the appropriate limit for noise garden areas was 55dB, that the acceptable limit ought to be 50dB". Why is a limit above 50dB now acceptable but in December 2017 it was not?

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3. In WA's assessment under the heading "Real Time Monitoring Assessment Section" (report dated March 2019), WA provides that predicted factory noise is predicted by WA to be 9 to 10 d6 above the average background at night. This means it will be clearly audible under typical conditions. Background noise will be lower than this for 50 % of the night-time period with correspondingly increased audibility. Given this level of noise (especially in the context of BS8233 providing that BS4142 should be applied), is the Council content that this is unlikely to cause future occupiers an issue in terms of nuisance?

4. Does the Council agree with WA's assumptions, including that an open window provides "around 15dB noise attenuation"? The guidance provides that an open window provides between 10 and 15dB attenuation but WA has used 15dD upper limit in its assessment. Is the Council content for WA to put forward the best case scenario given that the usual form of assessment (ensuring a precautionary approach is taken) is a worst case scenario to ensure that mitigation works work properly?

5. Can the Council please confirm how they are satisfied that the mitigation measures proposed are acceptable when no further works to the factory are proposed? Given that the measures implemented to date by the Applicant did not work, Ornuia would expect works to its site to be required, particularly as the Council was so keen to see this secured when it considered the quashed reserved matters application ref: 164078. For example, see the EHO's response of 7 June 2017 to the quashed FiMA application which provides that "At visits to the proposed site both during the day and late evening officers from our department noted the constant humming noise emanating from [the cheese factory]... which was identified as the dominant noise source in the locality and was accompanied by a hissing (pressure relief type) noise every few seconds. Without mitigation, this would seriously impact on the amenity of residential properties in close proximity to the site." As the EHO previously noted, during the daytime noise levels from the cheese factory would be between 5dB and 10dB above background level "thus indicating a likely adverse impact". Again, given that no works have been undertaken to the cheese factory that have worked to reduce noise from the factory, nor have operations at the factory changed since these comments, how is the EHO now content to find the proposed mitigation acceptable?

6. Are the Council's EHO officers content that the Council, acknowledging the likelihood that noise nuisance is likely to occur, can realistically discharge the condition on the outline consent? We do not consider that the Council can lawfully approve this application (setting a layout that will prejudice proposed future mitigation measures) where it has acknowledged that it is likely that what is proposed would constitute a statutory nuisance under the Environmental Protection Act 1990.

7. Is the Council content for there to be no proposal to ameliorate noise experienced at the properties where the levels exceed those predicted by the Applicant, particularly where mitigation measures have been undertaken and do not work?

### Planning Permission for bund

Finally, Ornuia does not agree with the Applicant's assessment that consent for the bund/acoustic fence was authorised by the outline planning permission. No assessment or mention of the bund was mentioned by the planning inspector when granting permission for the outline consent nor is it covered by either the landscaping or noise conditions. The noise bunds are themselves development and require separate planning permission.

The Council should therefore ensure that a Grampian condition is included on any future consent to ensure that the bund is constructed prior to or concurrently with the erection of a number (to be agreed) of dwellings, to ensure that periodic monitoring can be undertaken to assess the effectiveness of any bund—which would tie in with a revised noise mitigation scheme.

On the basis of the information provided above, Ornuia does not consider that the application in its current form adequately ensures that future residents of the development will not complain about noise from the cheese factory. The detail provided to date by the Applicant is inadequate to address the noise that will be experienced at the site and the approval of the layout will prejudice what mitigation is proposed in the future. This is unreasonable given that the mitigation proposed will not work at all properties. It is unclear why the Council thinks it will be acceptable for a small number of properties to be adversely affected by noise. If these properties are adversely affected they should be



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removed from the scheme given what the Council knows in terms of the mitigation that will be proposed in the future by the Applicant.

Ornu maintains its objection to the proposed scheme and given the information above requests that the Council refuses this application.

We look forward to raising these issues in person with the members of the planning committee on 18 June 2019.

Following receipt of the above, the applicants, Barratts have responded as follows –

I propose to take extracts from the specific part of the letter and comment on them accordingly. These extracts will be in **bold italic**.

***We are, unfortunately, in the exact same position as we were in 2017 when the Council authorised the quashed reserved matters application ref: 164078. The layout will prejudice the effective and successful delivery of any future noise mitigation scheme.***

This is simply not the case – that reserved matters approval was quashed on the basis of a procedural error by the Council not (nor could it have been) on the basis of the planning merits. The position we in now, unlike last time, is that all of the relevant information is before the Council.

***Both the Applicant and the Council's Environmental Health Officers (EHO) acknowledge that the proposed layout of the development, with the outlined mitigation measures in place, could result in complaints from future residents. It is unreasonable for the Council's EHO to state that "we cannot say for certain therefore whether complaints from future occupants may or may not arise in the future".***

We support the Council's position in this regard. Rather than being unreasonable the Council are being simply realistic given the entirely subjective nature of the human reaction and tolerance to noise. This is reflected in the Government's decision to remove the requirement for the assessment of the likelihood of complaints from the BS4142 standard in 2014.

***We consider that it is unreasonable for the EHO to conclude that desirable bedroom daytime noises can be achieved at the majority of the properties with their windows closed but that "there are a handful of dwellings with facades facing east and west where this cannot be achieved. Although this is not ideal, our department does not object to this proposal as noise mitigation is possible in the majority of the impacted dwellings and satisfactory daytime internal noise levels at ground floor level can be achieved due to the fencing mitigation."***

We believe this is a carefully selected quote which is misleading and does not provide the full context. In the preceding line it is stated that desirable daytime noise standards in bedrooms can been achieved with windows closed. To clarify, it is only a handful of properties where it is necessary to close windows to both front and rear facing bedrooms in order to achieve the desirable daytime noise standard.

***The impact on amenity to future residents is clear and having to rely on residents keeping their windows closed in order to reduce noise is not a reasonable form of mitigation.***

We agreed with the EHOs conclusions and would like to emphasise that closed windows with suitable alternative ventilation to having to open a window, is a reasonable form of mitigation, and wholly in accordance with technical and planning guidance.

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***Our client also has serious concerns about the conclusion of both the Applicant and the Council's EHOs in determining that the tonal quality of the noise being emitted from the factory has now disappeared. Ornuia disagrees with the Applicant and the Council that the noise emitted from the factory is not tonal. Operations at the factory have not changed since the 2014 noise assessment undertaken by the Applicant, which demonstrated a tonal quality to the noise being emitted from the site. Ornuia's own noise experts maintain that the noise from the factory is tonal.***

Based on our observations and measurements we have noted quite a significant change in operations at the factory since 2014. We stated in our submission we believe the tonal noise has been addressed by the on-site mitigation works and this has been supported by the WA 2019 Noise Assessment. No technical assessment/evidence has been provided to dispute this.

***As noise is such an important part of the proposed development, Ornuia would expect to see a scheme of mitigation and a layout that ensures that appropriate noise levels can be achieved at all properties proposed as part of this phase of the development.***

Our scheme clearly demonstrates that appropriate internal and external noise levels can be achieved at all proposed dwelling with the proposed mitigation measures in place. This has been demonstrated through the noise measurements undertaken within plots 1 & 2.

***It is not clear which document submitted by the Applicant actually proposes the scheme of mitigation required by the outline consent given that the summary document is so brief. There is inconsistency in this document as the "Summary of the Noise Mitigation Measures", dated 22 February, details noise mitigation to be applied to properties (outlined in Figures 2 and 3) but these figures include properties which are not even a part of Phase 1.***

The 'Summary of the Noise Mitigation Measures' document dated 22 February is not applicable to this submission. The noise report prepared by WA dated March 2019 details the works undertaken to date and the mitigation measures required to achieve appropriate noise levels across the development site for phase 1 only.

With regards to the questions put to your EHOs we can provide the following comments

- 1) WA assessment and the Council's own assessment has demonstrated that there is no tonal sound from the Ornuia factory.
- 2) Only a small number of properties, which are located closest to Leadon Way, have a noise level in gardens of between 50 and 55dB(A). The noise in gardens across the remainder of the site is 50dB(A) or less. During pre-application discussions, back in 2016, we were specifically directed to back properties onto Leadon Way by your Highways officer as, from a pedestrian safety perspective, he was keen to avoid the potential for undesired pedestrian routes (coming in and out of the site) all along Leadon Way (not utilising safe crossing areas) which was seen as a pedestrian safety risk. Therefore there is a very strong highway safety reason for this particular layout design.
- 3) It is accepted by both WA, and the EHO, that noise from the Ornuia factory is above the background sound level at night when considered externally. However, the level of sound is low. Additionally, residents will be within dwellings during the night-time, and noise from the Ornuia factory has been shown to be less than the internal guideline noise level for bedrooms during the night-time in Plots 1 and 2, and even without any mitigation measures at the site. The noise from the Ornuia factory will be even less than has been measured in Mar/Apr 2019 Plots 1 & 2 when the proposed bund and barrier, and appropriate glazing and ventilation is fully installed.

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- 4) We believe that 15dB is a well-regarded level of attenuation to use for an open window.
- 5) We disagree that noise mitigation measure did not work as it has been demonstrated that the works have been effective against the tonal noise emitted from the factory. Our observations and readings show that the level and character of noise from the factory has varied over time and therefore reference to observations made in 2017 are no longer relevant.

The Council's Environmental Health Officers have reviewed these subsequent comments and responds as follows –

These comments are subsequent to Burgess Salmon's response dated 14<sup>th</sup> June 2019. With our consultation response of 23<sup>rd</sup> May 2019 in black

### **General comments**

#### **Layout and proposed mitigation**

As far as we are aware Ornuia has been kept informed of all noise reports that have come through the planning process subsequent to the High Court decision in summer 2018 which includes the proposed noise mitigation outlined in the Wardell Armstrong report dated March 2019 so we are not sure why Burgess Salmon contend that they have not been consulted. (Bottom sentence first page).

We have attempted to answer the objector's key concerns regarding the potential for future noise complaints in the body of our response below. We cannot comment on the applicant's potential further application for reserved matters as this is not the subject of this reserved matters application. However we do not think unreasonable to state that further noise mitigation is likely to be required at source and we will scrutinise most carefully any reserved matters application made for the 46 houses currently termed 'Phase 2' omitted from this application.

We do not think para 4 of page 2 of the letter makes much sense. The key issue regarding factory noise is the night time noise levels at an anticipated 43dB LAeq to the outside façade of the closest houses so we are not sure where the quoted 55dB night time noise level comes from. Para 3 page 2 we have not said that no properties will be adversely impacted by road traffic noise. As much as we would aim for no properties to have to rely on closing the windows at the front façade during the day time at some point to block out road traffic noise during the day, and our representations are clear on this, we are of the opinion that if a refusal was granted on this basis it could be successfully challenged by the applicant.

The real time monitoring undertaken in March and April at the properties most likely to be adversely impacted by factory noise would indicate that the projected noise levels presented are not in practice as adverse as anticipated.

Mitigation on site has either contributed to the removal or removed the tonal element of the noise in early 2019. This is not insignificant as the tonal quality of the noise affects the BS4142 assessment and it is the characteristics of the noise which contribute towards its intrusiveness.

We cannot comment on the last paragraph of page 2 regarding the supposed agreement between Ornuia and the applicant that regarding the acceptability or not of a predicted rating of 37dB LAeq at the façade of the closest houses to the factory as we have not had sight of such an agreement. We have a note from Ornuia's noise consultants indicating that this is what was agreed dated 4<sup>th</sup> May 2018. We subsequently sought confirmation from the applicants regarding this but no confirmation was received.

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We are not sure why Burges Salmon suggest that Council is promoting land use competition as the site has outline planning permission granted by the HM Planning Inspectorate for up to 321 houses (with appropriate noise mitigation) and note that Ornuva did not respond to the consultation regarding the outline planning application 150884.

In the objector's letter it is contended that the Council should ensure that noise limits are secured at each stage of development and that hard noise targets be set and achieved at each stage of the development. We do not think that this is a reasonable approach given the removal of the 46 proposed houses closest to the factory from Phase 1 and the real life monitoring results found on site. This approach would be without precedent and impractical, it could be challengeable and furthermore this does not prevent the factory from upping its noise output by for example failing to maintain external plant and equipment.

### Background

With regard to this site and application there has been previous extensive correspondence, meetings and site visits to discuss concerns over environmental noise concerns in the area and the likely impact on the proposed dwellings. The proposed development site is located on the outskirts of Ledbury, on a greenfield site identified as a predominantly rural setting, however, in close proximity to two main noise sources; traffic noise (Leadon Way bypass) to the north and 24/7 Ornuva factory noise to the west. The reserved matters proposal for 275 houses omits 46 houses closest to the factory included in the proposed layout of the outline application.

Our department has been asked to comment on the noise constraints and proposed mitigation. In general terms when examining the impact of noise on residential development, we refer to BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and BS4142:2014 Methods for rating and assessing industrial and commercial sound as well as the associated planning policy framework and guidance including the Noise Policy Statement for England, Planning Practice Guidance – Noise, National Planning Policy Framework (NPPF) and the ProPG Guidance.

### Road traffic noise

Noise monitoring adjacent to Leadon Way gave an arithmetic average of 64.3dB LAeq day and 62.3 LAeq at night in 2014. The applicants noise assessment report dated March 2019 (Wardell Armstrong) proposes road traffic noise mitigation along the northern section of the site to protect proposed dwellings immediately to the south of Leadon Way.

These include:

- a) A reduction in the speed limit on Leadon Way from 60 to 40mph on the approach to the new roundabout (half way along the northern side of the development).
- b) A 3.00m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m<sup>2</sup> to the eastern section of the northern boundary to the site.
- c) A 2.1m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m<sup>2</sup> to the western part of the northern site boundary.
- d) A 1.8m high close boarded fence around all remaining gardens areas.

Figures 2, 3 and 4 of the applicant's March 2019 noise report (Wardell Armstrong) give the results of road traffic noise modelling at the proposed dwellings across the site with the above mitigation in place.

### External amenity Answer to question 2

All the gardens to the northern side of the site after mitigation will be exposed to daytime road traffic noise of between 50 and 55dBLAeq. This is slightly higher than the desirable standard for external amenity areas of 50dB but less than 55dB considered to be the upper guideline value for noisier environments. We are of the opinion that this greenfield site is not a 'noisy environment' and in our response of July 2017 we raised concerns that road traffic noise could be elevated in garden amenity areas closest to the road above 50dB. Our position with regard to this has not changed; we raised concerns in July 2017 but did not object. In June 2017 the ProPG guidance was published. This guidance specifically extends the advice contained in BS8233:2014 regarding external amenity and para 3(v) of the guidance allows for further external noise mitigation if a public amenity area or green space is within 5 minutes walk, hence our qualified next comment 'However it is recognised that the proposal incorporates close by recreational space further away from Leadon Way which is considerable quieter and less than 50dB which provides for some mitigation in accordance with the ProPG guidance.\* So in this context we do not think that the amenity noise levels for the dwellings closest to Leadon Way are unacceptable. '

### Internal noise levels

Daytime road traffic noise at the facades of the first floor of the proposed dwellings closest to the road are, however, predicted to be above 60dB LAeq, These exposure levels are higher than the desirable external standard of 50dB at the façade which would enable the achievement of desirable internal noise levels with the windows open. Therefore the north facing elevations of the proposed dwellings and some of the side elevations would have, without mitigation, internal noise levels with partially open windows above the desirable bedroom daytime standard of 35dB.

The applicant's noise report therefore proposes the following mitigation:

e) Two different higher glazing specifications and acoustic vents in the dwellings shown in Figure 3 of the noise specification report. The applicant has been requested to install the higher of the two glazing specifications in all the identified properties i.e. 10/12/6 glazing with acoustic vents and this has been agreed.

Windows on the impacted elevations will need to be kept closed during the daytime to ensure desirable daytime noise standards in bedrooms. Of the properties impacted, the majority will have south facing elevations where desirable bedroom daytime noises can be achieved with the windows open as facades away from the road will have noise level of less than 50dB. However, there are a handful of dwellings with facades facing east and west where this cannot be achieved. Although this is not ideal, our department does not object to this proposal as noise mitigation is possible in the majority of impacted dwellings and satisfactory daytime internal noise levels at ground floor level can be achieved due to the fencing mitigation.

Figure 4 of the report models road traffic noise impacts at night time where BS8233 specifies a desirable standard of 30dB in bedrooms. Noise levels at the worst impacted facades are predicted to be greater than 55dB with a number of properties with noise exposure levels between 45 and 55dB. The mitigation discussion in e) above equally applies to night time road traffic noise impacts. In other words bedroom windows for some north facing dwellings that about the road will be required to have their windows closed and mitigation proposed in e) above will apply.

NB Day and night time noise monitoring undertaken by Ornua's noise consultant December 2017 to establish background noise levels used the same monitoring location as the

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applicant's location for road traffic noise. This gave readings of 50-55dB and not as high as the applicants' measurements.

### Factory noise from the Ornu cheese factory

The Ornu cheese factory noise runs 24/7 generating an audible constant low frequency sound (hum) in close proximity to the factory. Unlike the passing traffic noise the factory noise source is in a fixed location so creating an audible directional point source at the north west area of the proposed development site. Road traffic noise from Leadon Way and to a degree Dymock Road is dominant during the daytime, however during the night (23:00 – 07:00), at the south western section of the proposed site the factory noise becomes the main dominant audible sound.

### Answer to Question 1

Over the time period of this application from 2014 through to 2019 officers of the council have assessed the factory sound levels using calibrated sound level meters and undertook additional subjective assessments of the noise characteristics as specified in the 'BS:4142:2014 method for rating and assessing industrial and commercial sound'. Over this time our findings are that the specific sound levels (loudness) from the factory have not altered significantly, (Approximately 3dB changes in sound levels.) However officers have noted changes in the character of the factory sound. The BS:4142 subjective method identifies 'certain acoustic features can increase the significance of impact over that expected from a basic comparison between specific sound level and background sound level; identifying 'tonality', 'impulsivity', 'intermittency' and 'other sound characteristics' as sound characteristics that could create a distinguishing sound characteristics that will attract attention. As such the assessment allows for a penalty to be placed on an identified characteristic depending on the subjective assessment of the sound characteristic. E.g. tonality when the sound has a distinctive tone which is audible over the other general sounds a penalty of; +2db just perceptible at receptor, +4dB clearly Perceptible and +6 highly perceptible.

In 2015 officers subjective assessment of the factory noise characteristics identified the sound to contain a general low frequency sound with additional high pitched continuous tone characteristic clearly perceptible over a continuous and slightly cyclical low frequency constant tone at the location of the proposed dwellings. For this tonal characteristic we broadly that concur the tonal penalty awarded to the applicants BS:4142 sound assessment was correct. In 2017 the factory sound characteristics were again assessed as part of our consultation response and it was noted the noise continued to have distinguishing sound characteristics. However we believe that the comment made in question 1 regarding our comments made on the 5<sup>th</sup> July 2017 with reference to the applicants BS:4142 assessment in which we stated, as quoted ' the noise source is likely to have a significant adverse impact on the dwellings closest to the noise source' is misleading as these comments were made in relation to the circumstances where the original applications detailed an additional 46 houses closest to the factory now omitted.

There has been extensive correspondence on this issue and subsequently noise mitigation work at the factory has taken place and further noise mitigation is proposed:

- The noise mitigation works were undertaken in early 2019 on the factory site included the removal of the green box extract, the acoustic enclosure of the pump motor and additional silencer to the yellow extractor. Officers from the local authority have verified subsequently that the low frequency tonal element of the noise was reduced so audibly less intrusive, however measurements of the overall volume of the factory sound was found not to be reduced.

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- The applicant has removed the most adversely impacted proposed dwellings from this site proposal, increasing the distance of the now proposed dwellings from the factory (Phase 1) as the matter to be addressed in this application.

**Question 1 continued** Subsequent to the mitigation works at the factory site officers visited the vicinity at night-time on the 5<sup>th</sup> February 2019. The factory noise was witnessed to be a steady state with no distinctive noise characteristics including the previously witnessed tonal elements. Therefore following this visit we concur that it is inappropriate to award a tonal penalty. No evidence has been supplied by the objectors that a maximum tonal penalty of +6dB is still relevant in the current circumstances.

f) A 3 m high noise barrier sited on top of a physical bund 75m in length maintaining a height of AOD 55m to the north west corner of the site closes to the Ornu cheese factory is proposed.

### Factory noise

It is not disputed by the representatives of the Ornu factory that the noise from the Ornu site is generally continuous and steady during the noise sensitive night-time hours (23:00-07:00), where the local authority's main concerns have been raised with regards to the factory noise at this proposed site.

### Background noise level

Central to the BS4142 assessment of the impact of the factory noise on the proposed dwellings is the establishment of a representative background sound level i.e. what is typical in context to the area. The methodology is not simply to ascertain what the lowest background sound level as is suggested by the Hayes McKenzie report of the 4th April but to identify a general, most frequently occurring representative value.

Ornu's noise consultants (Hayes McKenzie) have argued the quietest background noise levels (between 4-5 am) are lower than the typical background noise levels of 33/34dB for a proportion of the time therefore it is more appropriate to refer to background noise levels of 27dB. With factory noise significantly above the 27dB level at the facades at the closest dwellings they contend that this might lead to complaints. Our department does not disagree that background noise levels will fluctuate and that therefore the steady continuous noise from the factory may be more audible at the lowest background sound level, however the methodology to be used is BS4142 relies on the use of a typical background sound level, in context to the area being assessed.

We would concur with the applicant's noise report (Wardell Armstrong) that given the range of findings of background sound levels found that the selection of a representative background for use in the assessment of 33-34dB (LA90) night time and 41-44dB daytime is appropriate. These levels take into account that traffic movements will be through the night although to a much reduced level than in the day time. Also the presence of the factory needs to be considered as it is a well-established industrial unit in the area. The lowest measured background reading (27dB L90) would be more representative of a fully rural, green site area. The 33-44dB (LA90) background reading is more representative and in context with the development site being on the outskirts of Ledbury town where rural meets a small market town divided by a by-pass road.

### Character correction and tonality

Noise which is tonal, impulsive and /or intermittent can be more intrusive and the BS4142 methodology awards penalties for the character of the noise. The initial noise report undertaken in 2014 found that there was a clearly audible tonal element to the noise and our

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own readings initially found that the noise had a low frequency characteristic. Ornu's noise consultants in December 2017 also identified a tonal element to the factory noise which they concluded would lead to a character correction of the noise by 6dB

The noise mitigation undertaken at the factory site in early 2019 has been found by the applicant's noise consultants not to have led to an overall reduction in the loudness of the factory noise. However, the distinctive tonal element of the noise previously identified has been eliminated and therefore in the March 2019 applicant's noise report no character corrections or penalties have been applied to the BS4142 rating. Local authority officers in spring 2019 subsequent to the mitigation works have been able to verify that the tonal element to the noise is no longer present.

### Answer to question 5.

The mitigation for this proposal Phase 1 provides for a distance barrier between the factory and the proposed dwellings which was not there in the quashed reserved matters application 164078. Please note that our comments quoted in question 5 relate to the amenity of residential properties *in close proximity to the site*. These properties have been removed under the reserved matters proposal in question.

The measures implemented in early 2019 did work in the sense that the tonal element of the factory noise was removed so we do not think true to say that the measures 'implemented to date by the Applicant did not work' as suggested. Our subsequent comments in our response of May 2019 has been to say that road traffic noise is dominant during the day time not the factory noise. See below comment (bottom para page 4 of response 23<sup>rd</sup> May) 'These sites have been visited twice by Officers from the local authority during the daytime subsequent to the Ornu site mitigation. On both occasions road traffic noise was found to be dominant as expected for this time of day

The predicted factory noise has been modelled in the applicant's report such that it is expected that the rating level i.e. the specific noise level at the façade of the closest proposed dwelling will now be 43dB LAeq at first floor bedroom window height. Ornu's noise consultants in their response of 5th April 2019 argue that this is worse than what was initially predicted by Barrett's consultants of 37dB LAeq in their earlier modelling in 2018 but this is addressed in Barrett's noise consultant's response to EHO questions on 25th April.

The BS4142 assessment however also requires the assessment of the industrial noise in a context. The absolute background sound levels are low and there would be noise mitigation through the structure of the proposed dwelling allowing for a 10-15dB reduction through an open window.

### Answer to question 4

Ornu have queried EHO acceptance of the assumption by Wardell Armstrong that an open window would mitigate noise by 15dB (not 10dB). (All the guidance suggests a sound reduction of 10-15dB). EHOs confirm that we have accepted this 15dB sound reduction because the bedrooms and the top hung casement windows at the development are small, a higher glazing specification has been agreed which would provide some mitigation with windows open and the on-site monitoring undertaken by Wardell Armstrong found at Plot 1 at 5.00am found 28dB inside the rooms against measured 43dB at the front façade which would support this approach.

The outcome of the Wardell Armstrong report is that predicted noise levels across the site from the cheese factory is shown in figure 5. Their BS4142 initial assessment finds that at night time when background noise levels are lower there will be at the very closest houses a moderate adverse impact although we would advise that a difference of 9 or 10dB. The BS4142 methodology advises 'a difference of +5dB is likely to be an indication of an



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adverse' and 'a difference of +10 dB or more is likely to be an indication of a significant adverse impact depending on the context'.

Factors that the local authority has taken into consideration when considering the assessments findings in the context include a judgement that a night-time background noise level of 33-34dB is relatively low, there is still the bund and acoustic fence as mitigation to be undertaken and real-time overnight noise monitoring inside the worst impacted dwellings which are constructed show houses has been found to have desirable (BS8233) internal noise levels.

g) The March 2019 report proposes enhanced glazing and acoustic vents to the properties as set out in Figure 3 and Figure 4 to address road traffic noise impacts from Dymock Road. These will provide mitigation also for the factory noise.

### Real time noise monitoring assessment

Two dwellings have been constructed in early 2018 as show houses for the site. (These are nos 1 SH and 2 SH shown on the amended site layout plans drawings 5000B and 5001B Feb 2019 which are the same plots 1 and 2 as shown on the drawings 1000AM and 1001AM submitted in September 2016 164078). This has enabled the concerns regarding the adverse impacts at the properties closest to the factory presented in the Wardell Armstrong report which anticipated moderate adverse impacts to be verified in practice.

These sites have been visited twice by Officers from the local authority during the daytime subsequent to the Ornuia site mitigation. On both occasions road traffic noise was found to be dominant as expected for this time of day.

Wardell Armstrong have undertaken overnight noise monitoring to verify the impact of the mitigation at the factory. The findings of overnight monitoring undertaken on 29th March 2019 find that without the proposed mitigation bund and fence in place, factory noise levels dropped to below the BS8233 desirable internal noise level of 30dB inside the factory facing bedrooms. On 4th April 2019 Wardell Armstrong set up further night time noise monitoring in plots 1 and 2 closest to the factory with partially open windows (approximately 10 - 12cm) witnessed by local authority officers when overnight noise monitoring set up was taking place. These measurements were undertaken in rooms without soft furnishings and curtains.

The BS4142:2014 guidance no longer addresses the likelihood of complaints referred to in the Hayes McKenzie report. Whilst our findings are that within the most sensitive dwellings there may be occasions where at night time in the bedrooms facing the factory the factory noise is audible (due to fluctuations in background noise levels) with the windows open, it is unlikely to be intrusive.

**Answer to question 3** The predicted 9-10dB above background noise levels at night-time outlined in the Wardell Armstrong report of March 2019 have not been evidenced in practice despite the lack of a bund as proposed mitigation. Noise levels in the bedrooms were below 30dB at night time with windows open (thus complying with the desirable standards set out in BS8233) and as outlined above, the BS4142 findings are always set in a context.

Ornuia's noise consultants Hayes McKenzie contend that complaints may also occur regarding factory noise in gardens leading to complaints (there will be no attenuation through the fabric of a building). Whilst factory noise may be audible in gardens (again due to fluctuating background noise levels), the dominant noise during daytime and early evening when gardens may be in use will be road traffic noise.

### Conclusion

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Ornua's representative's argue that the revised NPPF (the relevant section published 24th July 2018) (reserved matters application received 18th July 2018) places an onus on the developer (the 'agent of change') such that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. This application eliminates a substantial number of proposed dwellings in close proximity to the factory and creates a distance buffer between the factory and the proposed dwellings. There are no planning controls on the factory to ensure that factory noise is not increased by for example additional plant, more intensive use of equipment or plant maintenance failure and we cannot say for certain therefore whether complaints from future occupants may or may not arise in the future.

### Answer to question 6

In our response above we do not acknowledge nor contend as quoted in question 6 that nuisance is likely to occur. We acknowledge that we cannot say for certain whether or not complaints may arise that is all. We do not suggest at all in our response that the proposal would lead to Statutory Nuisance under the Environmental Protection Act 1990 as suggested. (This is also the answer to last sentence in question 3).

### Question 7

We are sorry but we do not understand this question.

### Conclusion

We are of the view that substantial mitigation has been proposed by the applicant which renders the majority of the site to fall below the Lowest Observable Adverse Effect Level (LOAEL) as set out in the Noise Policy Statement for England (NPSE) and the perimeter to the north and factory facing as being above the LOAEL but below the SOAEL (Significant Observed Adverse Effect Level). The proposed dwellings in these localities would be categorised by the classification of the noise having an Observed Adverse Effect Level which could lead to small changes in behaviour or attitude and having to keep close windows for some of the time because of noise. The objective to which would be to mitigate and reduce to a minimum. The Noise Policy Statement for England (NPSE) concludes that where the noise impacts fall between the LOAEL and SOAEL 'all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development.' The second objective of the NPSE (after the avoidance of significant adverse effects).

Our department therefore takes the view that it does not object to the details of the reserved matters scheme as it relates to the noise constraints and challenges on the site providing that the noise mitigation specified in a) to g) above is conditioned.

\*Pro PG Planning & Noise: Professional Practice Guidance on Planning & Noise (Acoustics and Noise Consultants, Institute of Acoustics, Chartered Institute of Environmental Health)

The Council's Service Manager Built and Natural Environment (Building Conservation Officer) has comment following receipt of a Heritage Statement on 12 June 2019 as follows

*Having looked at the proposals and the submission by the heritage consultant, my view would be that the bund and fence would cause a low level of harm to the setting of the buildings at Hazle Farm. This harm would be at the lower end of less than substantial harm and I would leave the weighing up of public benefit to you in this instance.*

### OFFICER COMMENTS

Further to the additional submissions made by Ornu, these have been assessed by both the Council's Environmental Health Officers and the applicants, and the points raised have been assessed and covered. As such the conclusions at 6.48-6.50 of the Report stand.

### CHANGE TO RECOMMENDATION

Minor changes to the list of recommended conditions to fully reflect the associated report.

Condition 8 has duplicated Condition 2 and should relate to the agreed glazing standards contained within the supporting documents and proposed plans. Condition 8 should read –

*Development shall be carried out in accordance with the glazing specification details submitted within Figure 3 of the Noise Assessment Report by Wardell Armstrong dated March 2019.*

*Reason: To ensure adequate levels of amenity are maintained with those dwellings and to Comply with Herefordshire Core Strategy policies SS6 and SD1 and paragraphs 127 and 180 of the National Planning Policy Framework.*

A referenced pre occupation condition regarding provision of waste facilities has been omitted in error. A Condition 9 is recommended stating –

*Prior to the first occupation of the development hereby permitted, details of waste and refuge facilities serving plots 116-118 and 156-158 as shown on the drawings listed under Condition 1 of this Reserved Matters permission shall be submitted to the Local Planning Authority for written approval and made available for use prior to occupation.*

*Reason: To ensure suitable waste and refuge facilities are available and to comply with Herefordshire Core Strategy policy SD1.*

**(NB: The published update has been amended to include the following late comment received from Ledbury Town Council that was read to the meeting.)**

Ledbury Town Council would like to make the following comments in respect of the above planning application

1. The Town Council wishes for their previous objections to be taking into account, whilst also taking into account the following:-
  - i. The developers have not taken local vernacular context into account in a meaningful way in so far as the dwelling designs are of a generic design proposal.
  - ii. The various house-types and designs are distinct for each of the categories (private, intermediate and rented) which does not comply with the design guide with insufficient integration with private ownership properties.
  - iii. There does not appear to be any evidence of Ledbury's rural environment having been taken into account as the boundary edge appear to be a hard edge rather than a tapering off of the density.
  - iv. This Council consider that the large "bund" is unnatural in its design and whilst we appreciate it is being used to reduce the view of the Cheese Factory it has a negative impact on the view towards the AONB from the Dymock Road.

**182617 - PROPOSED RESIDENTIAL DEVELOPMENT OF 32 DWELLINGS OF WHICH 13 WILL BE AFFORDABLE HOMES, ECOLOGICAL CORRIDOR, SEPARATE PUBLIC OPEN SPACE AND PROVISION OF ACCESS ENHANCEMENTS TOGETHER WITH PARTIAL (ALMOST TOTAL) DEMOLITION OF FORMER RAILWAY BRIDGE AT LAND ADJACENT TO CAWDOR GARDENS, ROSS ON WYE, HEREFORDSHIRE,**

**For: Mr Jones per Mrs Caroline Reeve, 6 De Salis Court, Hampton Lovett Industrial Estate, Droitwich Spa, WR9 0QE**

### **ADDITIONAL REPRESENTATIONS**

The applicants' agent has provided a supporting statement to the proposals as follows –

Policy SS1 of the Core Strategy reflects that of the Framework, where a positive approach will be taken to development proposals, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or b) specific elements of national policy indicate that development should be restricted. Clearly, the site does not fall within any of the 'closed list' elements which restrict development. The applicants consider that the proposals are fully aligned to policy SS1. Moreover, and in light of the lack of 5 year housing land supply, SS1 is brought into sharper focus and the 'tilted balance' is fully engaged. The applicants have always maintained that there are no adverse impacts associated with the development that are so significant that they would indicate a refusal – either alone or cumulatively. The site is well-located within the town and offers sustainable travel options for new residents. There would be attendant social and economic benefits already set out in the planning statement – highlighting how uncontroversial the scheme is. It has been subject to numerous revisions and iterations over a significant period of time, in order to address officer's concerns and the applicants consider that the scheme should be approved without delay.

In respect of Policy SS7 of the Core Strategy, the position of the site relative to services and facilities of the town already means that travel behaviours are likely to be far more sustainable, with the option of walking and cycling being genuinely available - reducing the need to use cars. The site is not located on the best and most versatile agricultural land. The proposals incorporate significant ecology buffers and landscaping, contributing positively to biodiversity gain over time. The gardens associated with the dwellings are generally much larger than the industry standard, offering residents the opportunity to grow some of their own food. Each of the properties will have an excellent level of energy efficiency, with the adoption of the 'fabric-first' approach to insulation, thereby reducing the need for as much energy in the first place. The applicants consider they are very much aligned to policy SS7.

The Council's Planning Obligations Manager has provided clarification and background on an aspect of the commuted sums –

*The contribution towards Hereford Hospital is included in the draft heads of terms as a response to a request from Shakespeare Martineau Solicitors who act on behalf of the Wye*

## Appendix

*Valley Trust. The Wye Valley Trust run Hereford Hospital and this is where the contribution will be directed.*

*The doctors surgeries are operated by the Clinical Commissioning Group who have not commented on the application.*

### **OFFICER COMMENTS**

With regards to the applicants' comments on Core Strategy policies SS1 and SS7, Officers agree the proposal is policy compliant when assessment is made in respect of SS1 and SS7 as detailed within the Report. The detailed comments provide further outline on how and why the proposals satisfy these policies and represent both sustainable development and help contribute to addressing climate change.

### **NO CHANGE TO RECOMMENDATION**



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>24 JULY 2019</b>
<b>TITLE OF REPORT:</b>	<b>182628 - APPLICATION FOR APPROVAL OF 1ST PHASE RESERVED MATTERS FOR THE ERECTION OF 275 DWELLINGS WITH APPEARANCE, LANDSCAPING, LAYOUT AND SCALE TO BE CONSIDERED ONLY AT LAND TO THE SOUTH OF LEADON WAY, LEDBURY.</b>  <b>For: Mr Mark Elliot, 60 Whitehall Road, Halesowen, B63 3JS</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182628&amp;search=182628">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182628&amp;search=182628</a>
<b>Reason Application submitted to Committee – deferred from last committee</b>	

**Date Received: 16 July 2018**

**Ward: Ledbury South**

**Grid Ref: 370718,236535**

**Expiry Date: 19 June 2019**

Local Member: Councillor Helen l'Anson,

This application was deferred at the last meeting for further information and an updated report has been prepared below.

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

- 1.1 The site to which this application relates occupies an area of 13.33 hectares and is located to the south of Ledbury and to the immediate south of the A417 (Leadon Way). The road acts as a bypass for the town and confines residential development to the north. The site is therefore at the urban fringe of Ledbury and currently represents its transition from the built up area of the town to countryside. However, this is tempered to some degree by the presence of development further to the west where it is bounded by the B4216, along which are located a number of buildings including Hazel Farm; a Grade II listed property whose associated buildings have been converted from their former agricultural use to residential, and an area of commercial development which includes the premises of Ornua (cheese factory). The character of the land further to the south and east is very much agricultural with irregularly shaped fields generally defined by hedgerows and small areas of woodland.
- 1.2 The land was originally agricultural/pastoral use and is divided into two fields with an established hedgerow defining the two areas. Hedgerows also define the roadside boundaries to the north and west, and the eastern boundary with an adjoining field, whilst the southern boundary is open and defined by a post and wire fence. Currently, the site is partially developed with road and drainage infrastructure partially built and completed including main access road and attenuation ponds. Three dwellings are in a state of partial completion, however works have ceased on site following the High Court decision and are on hold pending determination of this application.

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

- 1.3 The site is located within an undulating landscape. Within the western field levels rise across it from west to east and south to north to a high point at its centre, with levels continuing to rise across the eastern field steadily to a high point at its south eastern corner.
- 1.4 Outline planning permission was granted on appeal on 4 April 2016 following a Public Inquiry, for the erection of up to 321 no. residential dwellings. The details of access to the site were agreed as part of the outline proposal with all other matters reserved for future consideration. Accordingly the appeal decision includes a suite of conditions which relate to matters including the provision of 40% affordable housing, habitat enhancement, landscaping, construction management, phasing of development, noise mitigation and the provision of sustainable drainage.
- 1.5 The application now to be considered is one for Reserved Matters and follows a successful High Court challenge against Reserved Matters approved under reference 164078/RM. The scheme comprises a residential development of 275 dwellings, comprising 110 affordable units and 165 units for the open market. Approval is sought for the details of a) appearance, b) landscaping, c) layout, and d) scale, i.e. the reserved matters, in order to satisfy the requirements of Condition 1 of the outline permission. The access from Leaddon Way was approved as part of the outline permission in the form of a roundabout access. The application site and proposed layout is shown below.



- 1.6 The application has been amended since its original submission to take account of comments submitted during the consultation phase and by Local Members and Planning Committee and to ensure consistency with the original Outline permission and Section 106 agreement. This has related particularly to ensuring a policy compliant delivery of affordable housing based upon the reduced number of total units proposed (275 reduced from 321) and deliver appropriate landscaping and open space features. Furthermore, the proposal omits a section of the overall site which has outline planning permission from development under this reserved matters proposal. This land, as shown on the above plan as the greyed out section, is that located nearest to Ornuia (cheese factory) and is, on the plans submitted, labelled as being for a future Phase 2 of development. This Phase 2 would come forward if and when noise impact from the factory can be successfully mitigated.



## 2. Policies

### 2.1 Herefordshire Core Strategy

SS1	–	Presumption in favour of sustainable development
SS2	–	Delivering new homes
SS3	–	Releasing land for residential development
SS4	–	Movement and transportation
SS6	–	Environmental quality and local distinctiveness
SS7	–	Addressing climate change
LB1	–	Development in Ledbury
H1	–	Affordable housing – thresholds and targets
H3	–	Ensuring an appropriate range and mix of housing
OS1	–	Requirement for open space, sport and recreation
OS2	–	Meeting open space, sport and recreation needs
MT1	–	Traffic management, highway safety and promoting active travel
LD1	–	Landscape and townscape
LD2	–	Biodiversity and geodiversity
LD3	–	Green infrastructure
LD4	–	Historic environment and heritage assets
SD1	–	Sustainable design and energy efficiency
SD3	–	Sustainable water management and water resources
SD4	–	Waste water treatment and river water quality

The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-  
[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

### 2.2 Neighbourhood Development Plan

The Ledbury Neighbourhood Development Plan was made on 11 January 2019. It now forms part of the Development Plan for Herefordshire.

The application site is referenced and acknowledged within the NDP which states when combined with two other large scale housing sites – *'together amount to commitments of over 1,000 homes which the LNDP supports'*.

The Ledbury Neighbourhood Development Plan can be viewed on the Council's website by using the following link:-

[https://www.herefordshire.gov.uk/directory\\_record/3074/ledbury\\_neighbourhood\\_development\\_plan](https://www.herefordshire.gov.uk/directory_record/3074/ledbury_neighbourhood_development_plan)

### 2.3 National Planning Policy Framework – NPPF

The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The National Planning Policy Framework has been considered in the assessment of this application. The following sections are considered particularly relevant:

- 2. Achieving sustainable development
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

### 3. Planning History

- 3.1 143116/O – Proposed outline planning permission for the erection of up to 321 residential dwellings (including up to 35% affordable housing, structural planting and landscaping, informal public open space, children's play area, surface water attenuation, vehicular access point from Leadon Way and associated ancillary works. All matters reserved with the exception of the main site access – Refused, then Allowed on appeal 4 April 2016.
- 3.2 150884/O – Proposed outline permission for erection of up to 321 residential dwellings (including up to 35% affordable housing), structural planting and landscaping, informal public open space, children's play area, surface water attenuation, vehicular access point from Leadon Way and associated ancillary works. All matters reserved with the exception of the main site access – Refused 26 June 2015
- 3.3 164078 – Application for approval of reserved matters following outline approval P143116/O for 321 residential dwellings – Approved w/conditions on 21 December 2017. A legal challenge followed and the decision was quashed in the High Court on a technical matter relating to noise on 23 August 2018.
- 3.4 164107 – Application for variation of conditions 14 and 17 of planning permission P143116/O – Approved with a Deed of Variation to the original Section 106 Agreement. *Note, Condition 1 of this permission references the plans approved under the quashed permission 164078 and as such this permission can not be implemented in its current guise.*
- 3.5 170075 – Application for approval of details reserved by conditions 6 – *Habitat Enhancement Plan*, 7 – *Arboricultural Method Statement*, 8 – *Method Statement for Nesting Birds*, and 23 – *Scheme for an Archaeological Watching Brief*, of planning permission 143116, all discharged 14 February 2017
- 3.6 173302 – Application for approval of details reserved by conditions 4 – Phasing, 11 – Levels, 13 – Construction Method, and 22 – Drainage, attached to planning permission 143116 – Undetermined
- 3.7 190874 – Application for approval of details reserved by condition 2 & 12 and part discharge of conditions 7 8 9 19 & 20 attached to planning permission 164107 – *Undetermined as references plans approved under the quashed permission 164078 and as such this permission can not be implemented in its current guise.*

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 **Welsh Water** comments *The following response is based on a review of the potable water network only as welsh Water do not provide sewerage services in this area –*

We have previously undertaken a Hydraulic Modelling Assessment and identified a suitable point of connection which can serve the entire development. We seek your cooperation to impose a planning condition that enables suitable control to ensure that the connection point is directed towards a point of adequacy. Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

Condition – *A potable water connection shall only be made to the 110mm HPPE main on Villa Way at approximate grid reference 370607, 236731. The agreed scheme shall be constructed and completed in full prior to the occupation of any dwelling hereby approved.*

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

*Reason: To ensure the site is served by a suitable potable water supply.*

4.2 **Transportation Manager** has no objection and notes –

- The access arrangements set in the 2014 permission are the provision of the roundabout and toucan crossing. Attached to this work is an additional footway route along Martins Way and some pedestrian improvement to the Full Pitcher Roundabout. This work is subject to a Section 278 agreement.
- The layout before the committee for consideration has achieved technical approval for a section 38 agreement and therefore meets the requirements of the Local Highway Authority.
- The layout, by virtue of the fact that it complies with our design guide has a design speed of 20mph, therefore the road layout within the site is suitably constrained to support cycling on the carriageway.

4.3 Service Manager Built and Natural Environment comments:  
**(Building Conservation Officer)**

Having looked at the proposals and the submission by the heritage consultant, my view would be that the bund and fence would cause a low level of harm to the setting of the buildings at Hazle Farm. This harm would be at the lower end of less than substantial harm and I would leave the weighing up of public benefit to you in this instance.

With regards to further amended plans and further supporting details dated 28 May 2019 comments as follows –

The 3m bund and fence would be an alien feature in close proximity to the listed and curtilage listed buildings at Hazel Farm. Whilst these buildings are screened when viewed from the NE, an aspect of the setting of these building which contributes to their significance is the way in which the immediate landscape form is understood. As such it is felt that the bund would cause less than substantial harm and at the lower end of the scale. This harm should be weighed up against any public benefits of the scheme in accordance with s196 of the revised NPPF. We are mindful that the vegetation cover will change and whilst this will not mitigate the harm, it will lessen by some degree over time. If this can be taken into consideration is a matter for the planning case officer to advise on, as we are aware that there may or may not be control over these trees remaining insitu.

4.4 Service Manager Built and Natural Environment comments:  
**(Archaeology)**

*No objections or further comments.*

Service Manager Built and Natural Environment comments:  
**(Landscape)**

I have seen the amended landscape proposals which relate to the detailed landscape sheets 1-4. The amendments proposed have addressed a number of issues raised at the meeting with the applicant which include:

- The provision of an extensive landscape buffer along the southern site boundary including a mix of both deciduous and coniferous species.
- Increased tree planting within the site to provide a green infrastructure connecting areas of open space.
- Consideration given to the provision of appropriate facilities within areas of open space which relate to the housing surrounding it including affordable housing and single storey dwellings.

- Provision of an attenuation pond which offers enhancement to the housing development; in terms of ascetics, biodiversity and play.

It is my understanding following on from a conversation with the case officer the attenuation plan will be dealt with by way of a drainage condition, this matter aside, I am therefore broadly satisfied with the layout of the landscape proposals and consider that what is now shown is in line with policies LD1 and LD3 of the Core Strategy.

The provision of a landscape management plan for a period of 5-10 years which includes height of hedgerow in particular along the northern site boundary can be secured via a condition.

#### 4.5 Service Manager Built and Natural Environment comments: **(Ecology)**

*Ecological protection & enhancement:* The advice and guidance provided within the EDP Enhancement Plan (December 2016) and FPCR Ecological Assessment (March 2015) should be followed, including biodiversity enhancements.

*Lighting:* The provided lighting scheme, Murwell Consulting Engineers Ltd (dated 11/05/2018) is appropriate and provides low-level lighting to minimise environmental impacts.

*Site drainage:* The letter of confirmation from Georisk Management (dated 01/02/2019) confirms that surface runoff will be maintained and that the application site is on higher ground to that surrounding to the south and west, thus concerns regarding sustained ground water supply to an offsite Great Crested Newt pond/population can be reassured that there will be no negative impacts.

#### 4.6 Service Manager Built and Natural Environment comments: **(Arboriculture)**

Comments on amended plans and updated details received 10 July 2019 are awaited and will be reported on the Committee Update Sheet.

#### 4.7 **Strategic Housing Manager** comments –

I refer to the amended plans received 10<sup>th</sup> July 2019 and can confirm that my comments of the 4<sup>th</sup> June 2019 with regards to the open market units remain unchanged.

With regards to the affordable housing, needs data indicates that there is an estimated additional 1,078 affordable housing dwellings required for the period 2011-2031. As off 2012 there was a net need of 68 additional homes per annum for the period 2012-2017 this included an existing backlog of 87 units. The last major development in Ledbury was March 2006 where 18 affordable housing units were built on New Mills. Since then there has only been an additional 14 affordable housing units provided with the last development of Ledbury Cottage Hospital taking place in 2009.

The 110 units being provided on this site will provide a mix of 1, 2, 3 and 4 bed units including 2 much needed accessible and adaptable bungalows.

Therefore I would advise that this is a fully compliant scheme providing 40% much needed affordable housing and I am in support of this application.

Referenced previous comments on open market housing stated With regards to the open market mix, I am aware of the sites' history and if I was reviewing this application afresh then I would be looking for the mix to be 6 x1 beds, 43 x 2 beds, 78 x 3 and 38 x 4 beds. However,

this is not the case and whilst the Local Housing Market Assessment 2013 (LHMA) refers to meeting identified needs, the range of house types provided across the county will be monitored to ensure an appropriate mix of housing. I can confirm that with the sites that have achieved planning in Ledbury a good and appropriate mix will and can be achieved.

#### 4.8 **Environmental Health Officer** (Noise and Nuisance) comments:

##### Background

With regard to this site and application there has been previous extensive correspondence, meetings and site visits to discuss concerns over environmental noise concerns in the area and the likely impact on the proposed dwellings. The proposed development site is located on the outskirts of Ledbury, on a greenfield site identified as a predominantly rural setting, however, in close proximity to two main noise sources; traffic noise (Leadon Way bypass) to the north and 24/7 Ornuva factory noise to the west. The reserved matters proposal for 275 houses omits 46 houses closest to the factory included in the proposed layout of the outline application.

Our department has been asked to comment on the noise constraints and proposed mitigation. In general terms when examining the impact of noise on residential development, we refer to BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and BS4142:2014 Methods for rating and assessing industrial and commercial sound as well as the associated planning policy framework and guidance including the Noise Policy Statement for England, Planning Practice Guidance – Noise, National Planning Policy Framework (NPPF) and the ProPG Guidance.

##### Road traffic noise

Noise monitoring adjacent to Leadon Way gave an arithmetic average of 64.3dB LAeq day and 62.3 LAeq at night in 2014. The applicants noise assessment report dated March 2019 (Wardell Armstrong) proposes road traffic noise mitigation along the northern section of the site to protect proposed dwellings immediately to the south of Leadon Way.

These include:

- a) A reduction in the speed limit on Leadon Way from 60 to 40mph on the approach to the new roundabout (half way along the northern side of the development).
- b) A 3.00m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m<sup>2</sup> to the eastern section of the northern boundary to the site.
- c) A 2.1m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m<sup>2</sup> to the western part of the northern site boundary.
- d) A 1.8m high close boarded fence around all remaining gardens areas.

Figures 2, 3 and 4 of the applicant's March 2019 noise report (Wardell Armstrong) give the results of road traffic noise modelling at the proposed dwellings across the site with the above mitigation in place.

##### External amenity

All the gardens to the northern side of the site after mitigation will be exposed to daytime road traffic noise of between 50 and 55dB LAeq. This is slightly higher than the desirable standard for external amenity areas of 50dB but less than 55dB considered to be the upper guideline value for noisier environments. We are of the opinion that this greenfield site is not a 'noisy environment'. However it is recognised that the proposal incorporates close by recreational

space further away from Leadon Way which is considerable quieter and less than 50dB which provides for some mitigation in accordance with the ProPG guidance.\* So in this context we do not think that the amenity noise levels for the dwellings closest to Leadon Way are unacceptable.

### Internal noise levels

Daytime road traffic noise at the facades of the first floor of the proposed dwellings closest to the road are, however, predicted to be above 60dB LAeq, These exposure levels are higher than the desirable external standard of 50dB at the façade which would enable the achievement of desirable internal noise levels with the windows open. Therefore the north facing elevations of the proposed dwellings and some of the side elevations would have, without mitigation, internal noise levels with partially open windows above the desirable bedroom daytime standard of 35dB.

The applicant's noise report therefore proposes the following mitigation:

e) Two different higher glazing specifications and acoustic vents in the dwellings shown in Figure 3 of the noise specification report. The applicant has been requested to install the higher of the two glazing specifications in all the identified properties i.e. 10/12/6 glazing with acoustic vents and this has been agreed.

Windows on the impacted elevations will need to be kept closed during the daytime to ensure desirable daytime noise standards in bedrooms. Of the properties impacted, the majority will have south facing elevations where desirable bedroom daytime noises can be achieved with the windows open as facades away from the road will have noise level of less than 50dB. However, there are a handful of dwellings with facades facing east and west where this cannot be achieved. Although this is not ideal, our department does not object to this proposal as noise mitigation is possible in the majority of impacted dwellings and satisfactory daytime internal noise levels at ground floor level can be achieved due to the fencing mitigation.

Figure 4 of the report models road traffic noise impacts at night time where BS8233 specifies a desirable standard of 30dB in bedrooms. Noise levels at the worst impacted facades are predicted to be greater than 55dB with a number of properties with noise exposure levels between 45 and 55dB. The mitigation discussion in e) above equally applies to night time road traffic noise impacts. In other words bedroom windows for some north facing dwellings that about the road will be required to have their windows closed and mitigation proposed in e) above will apply.

NB Day and night time noise monitoring undertaken by Ornu's noise consultant December 2017 to establish background noise levels used the same monitoring location as the applicant's location for road traffic noise. This gave readings of 50-55dB and not as high as the applicants' measurements.

### Factory noise from the Ornu cheese factory

The Ornu cheese factory noise runs 24/7 generating an audible constant low frequency sound (hum) in close proximity to the factory. Unlike the passing traffic noise the factory noise source is in a fixed location so creating an audible directional point source at the north west area of the proposed development site. Road traffic noise from Leadon Way and to a degree Dymock Road is dominant during the daytime, however during the night (23:00 – 07:00), at the south western section of the proposed site the factory noise becomes the main dominant audible sound.

There has been extensive correspondence on this issue and subsequently noise mitigation work at the factory has taken place and further noise mitigation is proposed:

- The noise mitigation works were undertaken in early 2019 on the factory site included the removal of the green box extract, the acoustic enclosure of the pump motor and additional silencer to the yellow extractor. Officers from the local authority have verified subsequently that the low frequency tonal element of the noise was reduced so audibly less intrusive, however measurements of the overall volume of the factory sound was found not to be reduced.
- The applicant has removed the most adversely impacted proposed dwellings from this site proposal, increasing the distance of the now proposed dwellings from the factory (Phase 1) as the matter to be addressed in this application.

f) A 3 m high noise barrier sited on top of a physical bund 75m in length maintaining a height of AOD 55m to the north west corner of the site closes to the Ornu cheese factory is proposed.

### Factory noise

It is not disputed by the representatives of the Ornu factory that the noise from the Ornu site is generally continuous and steady during the noise sensitive night-time hours (23:00-07:00), where the local authority's main concerns have been raised with regards to the factory noise at this proposed site.

### Background noise level

Central to the BS4142 assessment of the impact of the factory noise on the proposed dwellings is the establishment of a representative background sound level i.e. what is typical in context to the area. The methodology is not simply to ascertain what the lowest background sound level as is suggested by the Hayes McKenzie report of the 4th April but to identify a general, most frequently occurring representative value.

Ornu's noise consultants (Hayes McKenzie) have argued the quietest background noise levels (between 4-5 am) are lower than the typical background noise levels of 33/34dB for a proportion of the time therefore it is more appropriate to refer to background noise levels of 27dB. With factory noise significantly above the 27dB level at the facades at the closest dwellings they contend that this might lead to complaints. Our department does not disagree that background noise levels will fluctuate and that therefore the steady continuous noise from the factory may be more audible at the lowest background sound level, however the methodology to be used is BS4142 relies on the use of a typical background sound level, in context to the area being assessed.

We would concur with the applicant's noise report (Wardell Armstrong) that given the range of findings of background sound levels found that the selection of a representative background for use in the assessment of 33-34dB (LA90) night time and 41-44dB daytime is appropriate. These levels take into account that traffic movements will be through the night although to a much reduced level than in the day time. Also the presence of the factory needs to be considered as it is a well-established industrial unit in the area. The lowest measured background reading (27dB L90) would be more representative of a fully rural, green site area. The 33-44dB (LA90) background reading is more representative and in context with the development site being on the outskirts of Ledbury town where rural meets a small market town divided by a by-pass road.

### Character correction and tonality

Noise which is tonal, impulsive and /or intermittent can be more intrusive and the BS4142 methodology awards penalties for the character of the noise. The initial noise report undertaken in 2014 found that there was a clearly audible tonal element to the noise and our own readings initially found that the noise had a low frequency characteristic. Ornu's noise consultants in

December 2017 also identified a tonal element to the factory noise which they concluded would lead to a character correction of the noise by 6dB

The noise mitigation undertaken at the factory site in early 2019 has been found by the applicant's noise consultants not to have led to an overall reduction in the loudness of the factory noise. However, the distinctive tonal element of the noise previously identified has been eliminated and therefore in the March 2019 applicant's noise report no character corrections or penalties have been applied to the BS4142 rating. Local authority officers in spring 2019 subsequent to the mitigation works have been able to verify that the tonal element to the noise is no longer present.

The predicted factory noise has been modelled in the applicant's report such that it is expected that the rating level i.e. the specific noise level at the façade of the closest proposed dwelling will now be 43dB LAeq at first floor bedroom window height. Ornu's noise consultants in their response of 5th April 2019 argue that this is worse than what was initially predicted by Barratts consultants of 37dB LAeq in their earlier modelling in 2018 but this is addressed in Barrett's noise consultant's response to EHO questions on 25th April.

The BS4142 assessment however also requires the assessment of the industrial noise in a context. The absolute background sound levels are low and there would be noise mitigation through the structure of the proposed dwelling allowing for a 10-15dB reduction through an open window.

The outcome of the Wardell Armstrong report is that predicted noise levels across the site from the cheese factory is shown in figure 5. Their BS4142 initial assessment finds that at night time when background noise levels are lower there will be at the very closest houses a moderate adverse impact although we would advise that a difference of 9 or 10dB. The BS4142 methodology advises 'a difference of +5dB is likely to be an indication of an adverse' and 'a difference of +10 dB or more is likely to be an indication of a significant adverse impact *depending on the context*'.

Factors that the local authority has taken into consideration when considering the assessments findings in the context include a judgement that a night-time background noise level of 33-34dB is relatively low, there is still the bund and acoustic fence as mitigation to be undertaken and real-time overnight noise monitoring inside the worst impacted dwellings which are constructed show houses has been found to have desirable (BS8233) internal noise levels.

g) The March 2019 report proposes enhanced glazing and acoustic vents to the properties as set out in Figure 3 and Figure 4 to address road traffic noise impacts from Dymock Road. These will provide mitigation also for the factory noise.

#### Real time noise monitoring assessment

Two dwellings have been constructed in early 2018 as show houses for the site. (These are nos 1 SH and 2 SH shown on the amended site layout plans drawings 5000B and 5001B Feb 2019 which are the same plots 1 and 2 as shown on the drawings 1000AM and 1001AM submitted in September 2016 164078). This has enabled the concerns regarding the adverse impacts at the properties closest to the factory presented in the Wardell Armstrong report which anticipated moderate adverse impacts to be verified in practice.

These sites have been visited twice by Officers from the local authority during the daytime subsequent to the Ornu site mitigation. On both occasions road traffic noise was found to be dominant as expected for this time of day.

Wardell Armstrong have undertaken overnight noise monitoring to verify the impact of the mitigation at the factory. The findings of overnight monitoring undertaken on 29th March 2019



find that without the proposed mitigation bund and fence in place, factory noise levels dropped to below the BS8233 desirable internal noise level of 30dB inside the factory facing bedrooms. On 4th April 2019 Wardell Armstrong set up further night time noise monitoring in plots 1 and 2 closest to the factory with partially open windows (approximately 10 - 12cm) witnessed by local authority officers when overnight noise monitoring set up was taking place. These measurements were undertaken in rooms without soft furnishings and curtains.

The BS4142:2014 guidance no longer addresses the likelihood of complaints referred to in the Hayes McKenzie report. Whilst our findings are that within the most sensitive dwellings there may be occasions where at night time in the bedrooms facing the factory the factory noise is audible (due to fluctuations in background noise levels) with the windows open, it is unlikely to be intrusive.

Ornua's noise consultants Hayes McKenzie contend that complaints may also occur regarding factory noise in gardens leading to complaints (there will be no attenuation through the fabric of a building). Whilst factory noise may be audible in gardens (again due to fluctuating background noise levels), the dominant noise during daytime and early evening when gardens may be in use will be road traffic noise.

### Conclusion

Ornua's representative's argue that the revised NPPF (the relevant section published 24<sup>th</sup> July 2018) (reserved matters application received 18<sup>th</sup> July 2018) places an onus on the developer (the 'agent of change') such that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. This application eliminates a substantial number of proposed dwellings in close proximity to the factory and creates a distance buffer between the factory and the proposed dwellings. There are no planning controls on the factory to ensure that factory noise is not increased by for example additional plant, more intensive use of equipment or plant maintenance failure and we cannot say for certain therefore whether complaints from future occupants may or may not arise in the future.

We are of the view that substantial mitigation has been proposed by the applicant which renders the majority of the site to fall below the Lowest Observable Adverse Effect Level (LOAEL) as set out in the Noise Policy Statement for England (NPSE) and the perimeter to the north and factory facing as being above the LOAEL but below the SOAEL (Significant Observed Adverse Effect Level). The proposed dwellings in these localities would be categorised by the classification of the noise having an Observed Adverse Effect Level which could lead to small changes in behaviour or attitude and having to keep close windows for some of the time because of noise. The objective to which would be to mitigate and reduce to a minimum. The Noise Policy Statement for England (NPSE) concludes that where the noise impacts fall between the LOAEL and SOAEL 'all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development.' The second objective of the NPSE (after the avoidance of significant adverse effects).

Our department therefore takes the view that it does not object to the details of the reserved matters scheme as it relates to the noise constraints and challenges on the site providing that the noise mitigation specified in a) to g) above is conditioned.

*\*Pro PG Planning & Noise: Professional Practice Guidance on Planning & Noise (Acoustics and Noise Consultants, Institute of Acoustics, Chartered Institute of Environmental Health).*

Following Ornua's further comments, the Environmental Health Officer responds:

The Council's Environmental Health Officers have reviewed these subsequent comments and responds as follows –

These comments are subsequent to Burgess Salmon's response dated 14<sup>th</sup> June 2019. With our consultation response of 23<sup>rd</sup> May 2019 in black

### **General comments**

#### **Layout and proposed mitigation**

As far as we are aware Ornuva has been kept informed of all noise reports that have come through the planning process subsequent to the High Court decision in summer 2018 which includes the proposed noise mitigation outlined in the Wardell Armstrong report dated March 2019 so we are not sure why Burges Salmon contend that they have not been consulted. (Bottom sentence first page).

We have attempted to answer the objector's key concerns regarding the potential for future noise complaints in the body of our response below. We cannot comment on the applicant's potential further application for reserved matters as this is not the subject of this reserved matters application. However we do not think unreasonable to state that further noise mitigation is likely to be required at source and we will scrutinise most carefully any reserved matters application made for the 46 houses currently termed 'Phase 2' omitted from this application.

We do not think para 4 of page 2 of the letter makes much sense. The key issue regarding factory noise is the night time noise levels at an anticipated 43dB LAeq to the outside façade of the closest houses so we are not sure where the quoted 55dB night time noise level comes from. Para 3 page 2 we have not said that no properties will be adversely impacted by road traffic noise. As much as we would aim for no properties to have to rely on closing the windows at the front façade during the day time at some point to block out road traffic noise during the day, and our representations are clear on this, we are of the opinion that if a refusal was granted on this basis it could be successfully challenged by the applicant.

The real time monitoring undertaken in March and April at the properties most likely to be adversely impacted by factory noise would indicate that the projected noise levels presented are not in practice as adverse as anticipated.

Mitigation on site has either contributed to the removal or removed the tonal element of the noise in early 2019. This is not insignificant as the tonal quality of the noise affects the BS4142 assessment and it is the characteristics of the noise which contribute towards its intrusiveness.

We cannot comment on the last paragraph of page 2 regarding the supposed agreement between Ornuva and the applicant that regarding the acceptability or not of a predicted rating of 37dB LAeq at the façade of the closest houses to the factory as we have not had sight of such an agreement. We have a note from Ornuva's noise consultants indicating that this is what was agreed dated 4<sup>th</sup> May 2018. We subsequently sought confirmation from the applicants regarding this but no confirmation was received.

We are not sure why Burges Salmon suggest that Council is promoting land use competition as the site has outline planning permission granted by the HM Planning Inspectorate for up to 321 houses (with appropriate noise mitigation) and note that Ornuva did not respond to the consultation regarding the outline planning application 150884.

In the objector's letter it is contended that the Council should ensure that noise limits are secured at each stage of development and that hard noise targets be set and achieved at each stage of the development. We do not think that this is a reasonable approach given the removal of the 46 proposed houses closest to the factory from Phase 1 and the real life monitoring results found on site. This approach would be without precedent and impractical, it could be

challengeable and furthermore this does not prevent the factory from upping its noise output by for example failing to maintain external plant and equipment.

## **Background**

With regard to this site and application there has been previous extensive correspondence, meetings and site visits to discuss concerns over environmental noise concerns in the area and the likely impact on the proposed dwellings. The proposed development site is located on the outskirts of Ledbury, on a greenfield site identified as a predominantly rural setting, however, in close proximity to two main noise sources; traffic noise (Leadon Way bypass) to the north and 24/7 Ornuia factory noise to the west. The reserved matters proposal for 275 houses omits 46 houses closest to the factory included in the proposed layout of the outline application.

Our department has been asked to comment on the noise constraints and proposed mitigation. In general terms when examining the impact of noise on residential development, we refer to BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and BS4142:2014 Methods for rating and assessing industrial and commercial sound as well as the associated planning policy framework and guidance including the Noise Policy Statement for England, Planning Practice Guidance – Noise, National Planning Policy Framework (NPPF) and the ProPG Guidance.

## **Road traffic noise**

Noise monitoring adjacent to Leadon Way gave an arithmetic average of 64.3dB LAeq day and 62.3 LAeq at night in 2014. The applicants noise assessment report dated March 2019 (Wardell Armstrong) proposes road traffic noise mitigation along the northern section of the site to protect proposed dwellings immediately to the south of Leadon Way.

These include:

- a) A reduction in the speed limit on Leadon Way from 60 to 40mph on the approach to the new roundabout (half way along the northern side of the development).
- b) A 3.00m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m<sup>2</sup> to the eastern section of the northern boundary to the site.
- c) A 2.1m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m<sup>2</sup> to the western part of the northern site boundary.
- d) A 1.8m high close boarded fence around all remaining gardens areas.

Figures 2, 3 and 4 of the applicant's March 2019 noise report (Wardell Armstrong) give the results of road traffic noise modelling at the proposed dwellings across the site with the above mitigation in place.

## **External amenity Answer to question 2**

All the gardens to the northern side of the site after mitigation will be exposed to daytime road traffic noise of between 50 and 55dBLAeq. This is slightly higher than the desirable standard for external amenity areas of 50dB but less than 55dB considered to be the upper guideline value for noisier environments. We are of the opinion that this greenfield site is not a 'noisy environment' and in our response of July 2017 we raised concerns that road traffic noise could be elevated in garden amenity areas closest to the road above 50dB. Our position with regard to this has not changed; we raised concerns in July 2017 but did not object. In June 2017 the ProPG guidance was published. This guidance specifically extends the advice contained in BS8233:2014 regarding external amenity and para 3(v) of the guidance allows for further

external noise mitigation if a public amenity area or green space is within 5 minutes walk, hence our qualified next comment 'However it is recognised that the proposal incorporates close by recreational space further away from Leadon Way which is considerable quieter and less than 50dB which provides for some mitigation in accordance with the ProPG guidance.\* So in this context we do not think that the amenity noise levels for the dwellings closest to Leadon Way are unacceptable.'

### **Internal noise levels**

Daytime road traffic noise at the facades of the first floor of the proposed dwellings closest to the road are, however, predicted to be above 60dB LAeq, These exposure levels are higher than the desirable external standard of 50dB at the façade which would enable the achievement of desirable internal noise levels with the windows open. Therefore the north facing elevations of the proposed dwellings and some of the side elevations would have, without mitigation, internal noise levels with partially open windows above the desirable bedroom daytime standard of 35dB.

The applicant's noise report therefore proposes the following mitigation:

e) Two different higher glazing specifications and acoustic vents in the dwellings shown in Figure 3 of the noise specification report. The applicant has been requested to install the higher of the two glazing specifications in all the identified properties i.e. 10/12/6 glazing with acoustic vents and this has been agreed.

Windows on the impacted elevations will need to be kept closed during the daytime to ensure desirable daytime noise standards in bedrooms. Of the properties impacted, the majority will have south facing elevations where desirable bedroom daytime noises can be achieved with the windows open as facades away from the road will have noise level of less than 50dB. However, there are a handful of dwellings with facades facing east and west where this cannot be achieved. Although this is not ideal, our department does not object to this proposal as noise mitigation is possible in the majority of impacted dwellings and satisfactory daytime internal noise levels at ground floor level can be achieved due to the fencing mitigation.

Figure 4 of the report models road traffic noise impacts at night time where BS8233 specifies a desirable standard of 30dB in bedrooms. Noise levels at the worst impacted facades are predicted to be greater than 55dB with a number of properties with noise exposure levels between 45 and 55dB. The mitigation discussion in e) above equally applies to night time road traffic noise impacts. In other words bedroom windows for some north facing dwellings that about the road will be required to have their windows closed and mitigation proposed in e) above will apply.

NB Day and night time noise monitoring undertaken by Ornu's noise consultant December 2017 to establish background noise levels used the same monitoring location as the applicant's location for road traffic noise. This gave readings of 50-55dB and not as high as the applicants' measurements.

### **Factory noise from the Ornu cheese factory**

The Ornu cheese factory noise runs 24/7 generating an audible constant low frequency sound (hum) in close proximity to the factory. Unlike the passing traffic noise the factory noise source is in a fixed location so creating an audible directional point source at the north west area of the proposed development site. Road traffic noise from Leadon Way and to a degree Dymock Road is dominant during the daytime, however during the night (23:00 – 07:00), at the south western section of the proposed site the factory noise becomes the main dominant audible sound.

## Answer to Question 1

Over the time period of this application from 2014 through to 2019 officers of the council have assessed the factory sound levels using calibrated sound level meters and undertook additional subjective assessments of the noise characteristics as specified in the 'BS:4142:2014 method for rating and assessing industrial and commercial sound'. Over this time our findings are that the specific sound levels (loudness) from the factory have not altered significantly, (Approximately 3dB changes in sound levels.) However officers have noted changes in the character of the factory sound. The BS:4142 subjective method identifies 'certain acoustic features can increase the significance of impact over that expected from a basic comparison between specific sound level and background sound level; identifying 'tonality', 'impulsivity', 'intermittency' and 'other sound characteristics' as sound characteristics that could create a distinguishing sound characteristics that will attract attention. As such the assessment allows for a penalty to be placed on an identified characteristic depending on the subjective assessment of the sound characteristic. E.g. tonality when the sound has a distinctive tone which is audible over the other general sounds a penalty of; +2db just perceptible at receptor, +4dB clearly Perceptible and +6 highly perceptible.

In 2015 officers subjective assessment of the factory noise characteristics identified the sound to contain a general low frequency sound with additional high pitched continuous tone characteristic clearly perceptible over a continuous and slightly cyclical low frequency constant tone at the location of the proposed dwellings. For this tonal characteristic we broadly that concur the tonal penalty awarded to the applicants BS:4142 sound assessment was correct. In 2017 the factory sound characteristics were again assessed as part of our consultation response and it was noted the noise continued to have distinguishing sound characteristics. However we believe that the comment made in question 1 regarding our comments made on the 5<sup>th</sup> July 2017 with reference to the applicants BS:4142 assessment in which we stated, as quoted ' the noise source is likely to have a significant adverse impact on the dwellings closest to the noise source' is misleading as these comments were made in relation to the circumstances where the original applications detailed an additional 46 houses closest to the factory now omitted.

There has been extensive correspondence on this issue and subsequently noise mitigation work at the factory has taken place and further noise mitigation is proposed:

- The noise mitigation works were undertaken in early 2019 on the factory site included the removal of the green box extract, the acoustic enclosure of the pump motor and additional silencer to the yellow extractor. Officers from the local authority have verified subsequently that the low frequency tonal element of the noise was reduced so audibly less intrusive, however measurements of the overall volume of the factory sound was found not to be reduced.
- The applicant has removed the most adversely impacted proposed dwellings from this site proposal, increasing the distance of the now proposed dwellings from the factory (Phase 1) as the matter to be addressed in this application.

**Question 1 continued** Subsequent to the mitigation works at the factory site officers visited the vicinity at night-time on the 5<sup>th</sup> February 2019. The factory noise was witnessed to be a steady state with no distinctive noise characteristics including the previously witnessed tonal elements. Therefore following this visit we concur that it is inappropriate to award a tonal penalty. No evidence has been supplied by the objectors that a maximum tonal penalty of +6dB is still relevant in the current circumstances.

f) A 3 m high noise barrier sited on top of a physical bund 75m in length maintaining a height of AOD 55m to the north west corner of the site closes to the Ornu cheese factory is proposed.

## **Factory noise**

It is not disputed by the representatives of the Ornuva factory that the noise from the Ornuva site is generally continuous and steady during the noise sensitive night-time hours (23:00-07:00), where the local authority's main concerns have been raised with regards to the factory noise at this proposed site.

## **Background noise level**

Central to the BS4142 assessment of the impact of the factory noise on the proposed dwellings is the establishment of a representative background sound level i.e. what is typical in context to the area. The methodology is not simply to ascertain what the lowest background sound level as is suggested by the Hayes McKenzie report of the 4th April but to identify a general, most frequently occurring representative value.

Ornuva's noise consultants (Hayes McKenzie) have argued the quietest background noise levels (between 4-5 am) are lower than the typical background noise levels of 33/34dB for a proportion of the time therefore it is more appropriate to refer to background noise levels of 27dB. With factory noise significantly above the 27dB level at the facades at the closest dwellings they contend that this might lead to complaints. Our department does not disagree that background noise levels will fluctuate and that therefore the steady continuous noise from the factory may be more audible at the lowest background sound level, however the methodology to be used is BS4142 relies on the use of a typical background sound level, in context to the area being assessed.

We would concur with the applicant's noise report (Wardell Armstrong) that given the range of findings of background sound levels found that the selection of a representative background for use in the assessment of 33-34dB (LA90) night time and 41-44dB daytime is appropriate. These levels take into account that traffic movements will be through the night although to a much reduced level than in the day time. Also the presence of the factory needs to be considered as it is a well-established industrial unit in the area. The lowest measured background reading (27dB L90) would be more representative of a fully rural, green site area. The 33-44dB (LA90) background reading is more representative and in context with the development site being on the outskirts of Ledbury town where rural meets a small market town divided by a by-pass road.

## **Character correction and tonality**

Noise which is tonal, impulsive and /or intermittent can be more intrusive and the BS4142 methodology awards penalties for the character of the noise. The initial noise report undertaken in 2014 found that there was a clearly audible tonal element to the noise and our own readings initially found that the noise had a low frequency characteristic. Ornuva's noise consultants in December 2017 also identified a tonal element to the factory noise which they concluded would lead to a character correction of the noise by 6dB

The noise mitigation undertaken at the factory site in early 2019 has been found by the applicant's noise consultants not to have led to an overall reduction in the loudness of the factory noise. However, the distinctive tonal element of the noise previously identified has been eliminated and therefore in the March 2019 applicant's noise report no character corrections or penalties have been applied to the BS4142 rating. Local authority officers in spring 2019 subsequent to the mitigation works have been able to verify that the tonal element to the noise is no longer present.

## **Answer to question 5.**

The mitigation for this proposal Phase 1 provides for a distance barrier between the factory and the proposed dwellings which was not there in the quashed reserved matters application

164078. Please note that our comments quoted in question 5 relate to the amenity of residential properties in close proximity to the site. These properties have been removed under the reserved matters proposal in question.

The measures implemented in early 2019 did work in the sense that the tonal element of the factory noise was removed so we do not think true to say that the measures 'implemented to date by the Applicant did not work' as suggested. Our subsequent comments in our response of May 2019 has been to say that road traffic noise is dominant during the day time not the factory noise. See below comment (bottom para page 4 of response 23<sup>rd</sup> May) 'These sites have been visited twice by Officers from the local authority during the daytime subsequent to the Ornua site mitigation. On both occasions road traffic noise was found to be dominant as expected for this time of day

The predicted factory noise has been modelled in the applicant's report such that it is expected that the rating level i.e. the specific noise level at the façade of the closest proposed dwelling will now be 43dB LAeq at first floor bedroom window height. Ornua's noise consultants in their response of 5th April 2019 argue that this is worse than what was initially predicted by Barrett's consultants of 37dB LAeq in their earlier modelling in 2018 but this is addressed in Barrett's noise consultant's response to EHO questions on 25th April.

The BS4142 assessment however also requires the assessment of the industrial noise in a context. The absolute background sound levels are low and there would be noise mitigation through the structure of the proposed dwelling allowing for a 10-15dB reduction through an open window.

#### **Answer to question 4**

Ornua have queried EHO acceptance of the assumption by Wardell Armstrong that an open window would mitigate noise by 15dB (not 10dB). (All the guidance suggests a sound reduction of 10-15dB). EHOs confirm that we have accepted this 15dB sound reduction because the bedrooms and the top hung casement windows at the development are small, a higher glazing specification has been agreed which would provide some mitigation with windows open and the on-site monitoring undertaken by Wardell Armstrong found at Plot 1 at 5.00am found 28dB inside the rooms against measured 43dB at the front façade which would support this approach.

The outcome of the Wardell Armstrong report is that predicted noise levels across the site from the cheese factory is shown in figure 5. Their BS4142 initial assessment finds that at night time when background noise levels are lower there will be at the very closest houses a moderate adverse impact although we would advise that a difference of 9 or 10dB. The BS4142 methodology advises 'a difference of +5dB is likely to be an indication of an adverse' and 'a difference of +10 dB or more is likely to be an indication of a significant adverse impact depending on the context'.

Factors that the local authority has taken into consideration when considering the assessments findings in the context include a judgement that a night-time background noise level of 33-34dB is relatively low, there is still the bund and acoustic fence as mitigation to be undertaken and real-time overnight noise monitoring inside the worst impacted dwellings which are constructed show houses has been found to have desirable (BS8233) internal noise levels.

g) The March 2019 report proposes enhanced glazing and acoustic vents to the properties as set out in Figure 3 and Figure 4 to address road traffic noise impacts from Dymock Road. These will provide mitigation also for the factory noise.

## Real time noise monitoring assessment

Two dwellings have been constructed in early 2018 as show houses for the site. (These are nos 1 SH and 2 SH shown on the amended site layout plans drawings 5000B and 5001B Feb 2019 which are the same plots 1 and 2 as shown on the drawings 1000AM and 1001AM submitted in September 2016 164078). This has enabled the concerns regarding the adverse impacts at the properties closest to the factory presented in the Wardell Armstrong report which anticipated moderate adverse impacts to be verified in practice.

These sites have been visited twice by Officers from the local authority during the daytime subsequent to the Ornuva site mitigation. On both occasions road traffic noise was found to be dominant as expected for this time of day.

Wardell Armstrong have undertaken overnight noise monitoring to verify the impact of the mitigation at the factory. The findings of overnight monitoring undertaken on 29th March 2019 find that without the proposed mitigation bund and fence in place, factory noise levels dropped to below the BS8233 desirable internal noise level of 30dB inside the factory facing bedrooms. On 4th April 2019 Wardell Armstrong set up further night time noise monitoring in plots 1 and 2 closest to the factory with partially open windows (approximately 10 - 12cm) witnessed by local authority officers when overnight noise monitoring set up was taking place. These measurements were undertaken in rooms without soft furnishings and curtains.

The BS4142:2014 guidance no longer addresses the likelihood of complaints referred to in the Hayes McKenzie report. Whilst our findings are that within the most sensitive dwellings there may be occasions where at night time in the bedrooms facing the factory the factory noise is audible (due to fluctuations in background noise levels) with the windows open, it is unlikely to be intrusive.

**Answer to question 3** The predicted 9-10dB above background noise levels at night-time outlined in the Wardell Armstrong report of March 2019 have not been evidenced in practice despite the lack of a bund as proposed mitigation. Noise levels in the bedrooms were below 30dB at night time with windows open (thus complying with the desirable standards set out in BS8233) and as outlined above, the BS4142 findings are always set in a context.

Ornuva's noise consultants Hayes McKenzie contend that complaints may also occur regarding factory noise in gardens leading to complaints (there will be no attenuation through the fabric of a building). Whilst factory noise may be audible in gardens (again due to fluctuating background noise levels), the dominant noise during daytime and early evening when gardens may be in use will be road traffic noise.

## Conclusion

Ornuva's representative's argue that the revised NPPF (the relevant section published 24th July 2018) (reserved matters application received 18th July 2018) places an onus on the developer (the 'agent of change') such that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. This application eliminates a substantial number of proposed dwellings in close proximity to the factory and creates a distance buffer between the factory and the proposed dwellings. There are no planning controls on the factory to ensure that factory noise is not increased by for example additional plant, more intensive use of equipment or plant maintenance failure and we cannot say for certain therefore whether complaints from future occupants may or may not arise in the future.



## Answer to question 6

In our response above we do not acknowledge nor contend as quoted in question 6 that nuisance is likely to occur. We acknowledge that we cannot say for certain whether or not complaints may arise that is all. We do not suggest at all in our response that the proposal would lead to Statutory Nuisance under the Environmental Protection Act 1990 as suggested. (This is also the answer to last sentence in question 3).

## Question 7

We are sorry but we do not understand this question.

## Conclusion

We are of the view that substantial mitigation has been proposed by the applicant which renders the majority of the site to fall below the Lowest Observable Adverse Effect Level (LOAEL) as set out in the Noise Policy Statement for England (NPSE) and the perimeter to the north and factory facing as being above the LOAEL but below the SOAEL (Significant Observed Adverse Effect Level). The proposed dwellings in these localities would be categorised by the classification of the noise having an Observed Adverse Effect Level which could lead to small changes in behaviour or attitude and having to keep close windows for some of the time because of noise. The objective to which would be to mitigate and reduce to a minimum. The Noise Policy Statement for England (NPSE) concludes that where the noise impacts fall between the LOAEL and SOAEL 'all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development.' The second objective of the NPSE (after the avoidance of significant adverse effects).

Our department therefore takes the view that it does not object to the details of the reserved matters scheme as it relates to the noise constraints and challenges on the site providing that the noise mitigation specified in a) to g) above is conditioned.

\*Pro PG Planning & Noise: Professional Practice Guidance on Planning & Noise (Acoustics and Noise Consultants, Institute of Acoustics, Chartered Institute of Environmental Health)

### 4.9 Land Drainage Engineer comments –

In previous responses we have requested that the following information is provided by the applicant prior to the discharge of condition 20 regarding the sustainable management of surface water runoff:

- The drainage calculations indicated that surcharging of the onsite drainage system may occur in the 1 year event, and that flooding of the on-site drainage system may occur in the 30 year event.
- The drainage calculations did not appear to have been run for any storm durations longer than 240 mins (and not longer than 180 mins for the 1 year and 30 year storms).
- The drainage calculations did not address previous comments in which we asked the Applicant to provide confirmation of how the volume and rate of runoff that currently discharges to the culverted watercourse to the north-west of the site compares to the volume and rate currently discharged to this culvert.
- The Applicant used an FSR model rather than FEH (which is the current best practice). Reference was also made to IH124 but it was not clear how this model has been used.
- The Applicant assumed that pipes and manholes outside of their model will provide an additional storage volume 20m<sup>3</sup>/ha for the 100 year calculations but not the others. They did not explain how this was calculated.
- The CCTV footage showed some siltation (S18 – upstream headwall) which was not modelled.

- The layout of the development appears to have changed slightly since the previous submission, however no amended calculations have been submitted.
- The drainage layout shows the key carrier drains. Prior to the approval of the reserved matters application we would want to see a more detailed layout of all drainage infrastructure serving the development.
- A high level overflow has been installed upstream of the proposed attenuation pond, with direct unattenuated discharge to the downstream existing sewer network. No explanation of this system has been provided.
- No details of the proposed attenuation pond have been provided, including cross sections through the pond and details of inlet and outlet structures.
- The pond does not appear to include a high level overflow which we recommended is located 100mm below the top of the pond and at the 100yr+40%CC flood level.

This response is in regard to the points raised above, with information obtained from the following sources:

- Statement on Surface Water Run-Off, prepared by Georisk Management, dated 01/02/2019;
- Response to Drainage Strategy Comments by Balfour Beatty, prepared by DDS, dated 07/03/2019;
- Drainage Strategy Sheet 1 of 2, drawing ref: 0058\_3\_F.
- Drainage Strategy Sheet 2 of 2, drawing ref: 0058\_4\_E.

Each of the points raised above are discussed below.

The drainage calculations indicated that surcharging of the onsite drainage system may occur in the 1 year event, and that flooding of the on-site drainage system may occur in the 30 year event.

In the Response to Drainage Strategy Comments document the applicant clarifies that the surcharging of the network indicated under the 1 year return period at nodes 62 and 103 represent the pond and Hydrobrake flow control chamber respectively, and are designed to fill to some extent even on lower return periods. The applicant clarifies that no flooding is predicted during the 30 year return period, highlighting that there are nodes that are marked as 'flood risk' however this is an indication of when the water level at the node is within 300mm of the cover level. We agree with the explanation provided by the applicant, although highlight that (as discussed below) revised drainage calculations are required to support the amended site layout and drainage layout.

The drainage calculations did not appear to have been run for any storm durations longer than 240 mins (and not longer than 180 mins for the 1 year and 30 year storms).

In the Response to Drainage Strategy Comments document the applicant clarifies that storm durations between 15 and 1440 minutes have been modelled but only results for the critical events for each node have been reported. We agree with the explanation provided by the applicant, although highlight that (as discussed below) revised drainage calculations are required to support the amended site layout and drainage layout.

The drainage calculations did not address previous comments in which we asked the Applicant to provide confirmation of how the volume and rate of runoff that currently discharges to the culverted watercourse to the north-west of the site compares to the volume and rate currently discharged to this culvert.

In the Response to Drainage Strategy Comments document the applicant states that the discharge rate from the development has been set in accordance with the approved Flood Risk Assessment addendum by Banners Gate, which acknowledges the existing ground levels are

split into northern and southern parcels. The applicant states that this has been approved by Hereford Council in July 2017, although our own review of previous correspondence indicates that Herefordshire Council have continued to request analysis of the existing discharge rates and volumes that would naturally flow to the culverted watercourse to the north-west of the site.

Whilst the principles to limit discharge to the equivalent greenfield rates for the 1 year, 30 year and 100 year events is acceptable, the applicant has not yet confirmed what these existing rates would be for the current drainage catchment.

We recommend that the Council requests clarification of how the volume and rate of runoff that currently discharges to the culverted watercourse to the north-west of the site compares to the volume and rate currently discharged to this culvert and amends the submitted drainage strategy accordingly.

Further analysis of the drainage calculations submitted previously (dated December 2016) indicates that drainage from the attenuation pond will be limited to the equivalent greenfield rates for the 1 year, 30 year and 100 year events although it is not clear how this will be achieved. We note that the Drainage Strategy drawing states that flows will be limited to 64 l/s but assumed this is a maximum discharge rate that would only occur during the 100 year event. The applicant must clarify how discharge rates will be limited to lower values during smaller events.

We recommend that the Council requests further clarification of how discharge rates will be limited to the equivalent 1 year, 30 year and 100 year events.

The Applicant used an FSR model rather than FEH (which is the current best practice). Reference was also made to IH124 but it was not clear how this model has been used.

In the Response to Drainage Strategy Comments document the applicant states that whilst it is acknowledged that FEH could be considered best practice for rainfall methodology, FSR is still a widely used and accepted methodology. Whilst FSR may still be widely accepted by other local authorities, in Herefordshire the Council promote the use of FEH data as recommended by

The SuDS Manual published in 2015 and as requested in our response dated November 2017. We appreciate, however, that the use of FEH data was not specifically requested prior to the submission of the drainage calculations dated December 2016 and therefore approve of the use of FSR in this instance. The applicant also clarified that the reference to IH124 was made in error.

The Applicant assumed that pipes and manholes outside of their model will provide an additional storage volume 20m<sup>3</sup>/ha for the 100 year calculations but not the others. They did not explain how this was calculated.

In the Response to Drainage Strategy Comments document the applicant states that the additional storage of 20m<sup>3</sup>/ha approximates the volume of storage available within the private drainage serving the dwellings across the development. The applicant goes on to state that it is generally accepted that under the 100 year plus climate change return period that this small volume can be included within the simulation, and that the additional storage is not considered when simulating the 30 year return period. Consultation with our in-house drainage team suggests that the volume of storage available in the network should be based on network calculations (not including predicted flooding from the network during extreme events) and not a generalised figure of 20m<sup>3</sup>/ha, although we would welcome a reference to the industry-recognised document where this allowance is stated.

We recommend that the Council requests calculations of the available storage volume within the network during the 100 year event, or reference to the document where this allowance is stated.

The CCTV footage showed some siltation (S18 – upstream headwall) which was not modelled. In the Response to Drainage Strategy Comments document the applicant states the siltation / debris between manhole S18 and the headwall to the ditch course is noted, however the applicant states that it is reasonable to assume that this would have little to no effect on the 'main run' of the surface water network i.e. S105 > S18 > S14A along which the discharge from the proposed development would travel. As such the condition of this particular run has not been considered within the applicants submitted calculations. We approve of the approach.

The layout of the development appears to have changed slightly since the previous submission, however no amended calculations have been submitted.

No further information has been provided. We recommend that the Council requests updated calculations that reflect the amended development layout and drainage layout as presented in the submitted Drainage Strategy drawings.

The drainage layout shows the key carrier drains. Prior to the approval of the reserved matters application we would want to see a more detailed layout of all drainage infrastructure serving the development.

No further information has been provided. We recommend that the Council requests updated plans that illustrate all drainage infrastructure serving the development.

A high level overflow has been installed upstream of the proposed attenuation pond, with direct unattenuated discharge to the downstream existing sewer network. No explanation of this system has been provided.

No further information has been provided. We recommend that the Council requests confirmation of how this overflow is proposed to operate and supporting calculations.

We stress that discharge from the site must not exceed equivalent greenfield rates and volumes up to the 1 in 100 year plus climate change event and that all site-generated surface water runoff up to the 1 in 100 year plus climate change event must be retained within the site boundary, with exceedance flows directed towards the proposed attenuation pond or other areas of low vulnerability for temporary storage. We note that the drainage calculations indicate flooding from certain areas of the network during the modelled 100 year event. Whilst this is acceptable, we highlight that exceedance flows should be managed within the site up to the 100 year plus climate change event and not discharged off site.

No details of the proposed attenuation pond have been provided, including cross sections through the pond and details of inlet and outlet structures.

No further information has been provided. We recommend that the Council requests this information prior to discharging the condition.

The pond does not appear to include a high level overflow which we recommended is located 100mm below the top of the pond and at the 100yr+40%CC flood level.

No further information has been provided. We recommend that the Council requests this information prior to discharging the condition.

The above was preceded by the following comments dated 24 October 2018 –

*We have reviewed the amended drawings provided for this development (182628) (Drawing Ref 0058\_3\_E Drainage Strategy Sheet 1 of 2, and Drawing Ref 0058\_4\_D Drainage Strategy Sheet 2 of 2) and cannot see any differences to the previously submitted drainage strategy. I also do not believe that any further information relevant to drainage has been provided. We*

*therefore have no further comments to make and our previous comments (attached) are still valid.*

4.10 **Open Spaces Manager** commented on amended and updated plans –

*I am happy in principle with the POS and play areas subject to precise details of the play area and costs, which are I understand still covered by planning condition that has not been discharged.*

4.11 **Waste Manager** commented on amended plans received 14 and 28 May 2019 –

*Whilst the new plan did address my primary concerns, there are still just a couple of small tweaks that could be made that would reduce the likelihood of future problems. A prior to occupancy condition securing appropriate details is considered acceptable to address the remaining points and secure appropriate refuse collection facilities over the whole site, which are –*

- Plots 116-188 – the distance the crew would need to walk to collect the bins I have measured as being over 25 metres.
- I noticed on the main site plan part of this private road is marked as being constructed to commercial vehicle standard, however it does look like it might be too tight for the vehicle to travel this, so the collection point needs to be within a 25 metre walking distance from the road.
- Shared collection points next to parking spaces aren't ideal, as you have a situation where multiple bins are being put directly next to someone's car – for plots 156-158 there could be another collection point

*Amended plans have been received which address the above comments.*

4.12 **Planning Obligations Manager** comments –

*The revised plans now accords with our discussion with representatives of Barratt West Midlands in respect of the policy requirement for affordable housing. The plans propose 40% affordable housing which is in accordance with the original outline permission.*

## 5. Representations

5.1 **Ledbury Town Council** post the previous Planning Committee meeting submitted a further comment on 27 June 2019 –

At a recent meeting of the Economic Development and Planning Committee of Ledbury Town Council Members received a presentation from a member of the Ledbury Area Cycle Forum (L AFC) in respect of proposed plans for the above application.

Mrs Johnson (L AFC) advised that the newly proposed plans do not comply with the Ledbury Neighbourhood Plan, which is a condition necessary in order to comply with Herefordshire Council policies to reduce car dependency.

She advised that the original application was approved subject to the condition that the Active Travel route would provide a highly attractive, wide traffic free, tree lined pathway through the site from the northeast corner to the point of the southern boundary. She believes the amended application no longer complies with this.

As a result Ledbury Town Council resolved to support the comments being submitted by LAFC in respect of this application and therefore authorised me to write to you in support of their comments/objections.

The Town Council commented on the first tranche of amended plans on 8 March 2019 –

At the meeting of Ledbury Town Council's Economic Development and Planning Committee held on Thursday 8 March 2019, members resolved NOT TO SUPPORT planning consultation reference 182628 on grounds previously stated, with the additional comments:

- continuing concern re noise abatement;
- uncertainty about adequacy of SUDS system;
- and reassurance needed that the social mix remains the same.

Comments from the Town Council dated 8 August 2018 stated –

At the meeting of Ledbury Town Council's Economic Development and Planning Committee on 2 August 2018, Members Resolved Not to Support due to the following:

1. Lack of clarity in visual plans on market mix, suggesting the mix of affordable housing may now be below the level previously agreed.
2. Lack of proper impact assessment.
3. Potential drainage problem due to surface attenuation pond not being at lowest of development.
4. Potential impact on off-site pond, which is a breeding ground for great crested newts.
5. Lack of a suitable plan for the vacant area in the now vacant western part of the site, beyond spur roads to facilitate future development.

5.2 Six **letters of objection** have been received from local residents. Comments received are summarised as –

- The road building particularly serving the second phase of development is premature. If the second phase is not approved it will leave an inappropriate eyesore detrimental to the surroundings
- The mix of houses has changed, the percentage of affordable dwellings and smaller homes now proposed is inappropriate
- Changes to housing mix are by stealth and to give greater profitability to the detriment of Ledbury
- The technical noise appraisal does not form part of the Reserved Matters application
- Impact of proposed surface water drainage plans on a third party pond which is a Great Crested Newt habitat
- This site is going to be blighted for ever by the factory noise and the developers should plan to accept it
- The phase 2 area should be a substantial planted landscaping area to mitigate noise
- The bund and acoustic fence by their combined size, are inappropriate to the area and will dominate and 'tower' over the hedgerows
- It is noted there is potential for the site to serve access to an adjoining field and proposed development, all of which would be served by a single access on to Leadon Way
- It is not possible to make substantive comments with phase 2 area omitted
- Future residents will have adverse amenity due to proximity to industrial premises
- Social housing located nearest industrial premises mean these homes are 'sacrificial' acting as a noise barrier
- Insufficient details regarding green spaces

- No services or facilities on the site, which is an out of town satellite settlement. A convenience store should be included

Following consultation on amended plans dated 28 May 2019 local residents have commented as follows –

- Pleased some consideration has been made regarding landscaping, essential as this is after all a bund plus barrier almost 20 feet high highly visible as one enters the Dymock Road and open countryside
- Requested that the following conditions be included:- 1) Materials used including colour etc for sound attenuation barrier to be approved prior to installation. 2) Tree landscaping to be: full length of bund; minimum 3 metres high on planting; x 4 trees deep on each side of barrier; spacing along length to be similar; species to be advised. Overall high density planting required albeit with some consideration required of future growth.
- The proposed amended layout and inclusion of a sound barrier bund do not go far enough in terms of mitigating the noise exposure from the existing cheese factory.
- One cannot look at this Application in isolation from the 'future application' section of the overall site.
- The phase 2 of the site is integral to the overall layout and workings of this new estate and must therefore be understood alongside this Application to be correctly and fairly approved or not.
- The location of affordable properties remains unchanged: next to the main roads and closest to the industrial premises i.e. affordable housing being used as an acoustic barrier.
- A second access route into the site should be included: there are simply too many properties proposed for a single access.
- It appears that the 'solution' to noise nuisance from the former Meadow Cheese plant is to create a 2 metre high bund with a further 3 metre high fence on top. this 'solution' as being a wholly unwarranted intrusion into the existing 'natural' landscape of the surrounding area.
- Why cannot a solution be sought to reduce the noise, to acceptable levels, at source, ie within the plant's own machinery, buildings
- If the bund plus fence 'solution' is approved there must be full living screening on both sides of the eyesore.

**5.3 Ornuia Ingredients UK Limited (Ornuia) objects to the proposed reserved matters application as set out in below –**

Ornuia made additional representation following the publication of the June Committee Report. Their further objection dated 14 June 2019 is as follows –

We write again on behalf of Ornuia Ingredients (UK) Limited in respect of the application referred to above. We had intended to submit this objection in respect of the planning condition discharge application ref: 190874 as well, but we understand that this application is not being pursued by the Applicant. The comments in this objection are pertinent to both applications but given that ref: 182628 is being considered by the Council on 19 June then this objection should stand against that application.

Layout

We maintain that the Council needs to be satisfied that the current proposed layout of the properties will not lead to complaints from future residents of the properties because of noise emitted from our client's cheese factory, located opposite the development site. Ornuia considers that the proposal in its current form is contrary to the NPPF (paragraphs 170(e) and 180) and the development plan (policies SD1 and SS6)

Notwithstanding the removal of the Phase 2 properties from the reserved matters application, it is clear from the information provided by the Applicant that the properties closest to the factory will experience unacceptable noise levels likely to lead to complaints even with the proposed mitigation measures in place. The proposed layout (and suggested future mitigation measures) do not adequately safeguard our clients ongoing operations from complaints i.e. from both private and statutory nuisance. We are, unfortunately, in the exact same position as we were in 2017 when the Council authorised the quashed reserved matters application ref: 164078. The layout will prejudice the effective and successful delivery of any future noise mitigation scheme.

Both the Applicant and the Council's Environmental Health Officers (EHO) acknowledge that the proposed layout of the development, with the outlined mitigation measures in place, could result in complaints from future residents. It is unreasonable for the Council's EHO to state that "we cannot say for certain therefore whether complaints from future occupants may or may not arise in the future". If the Council considers that there are properties which form part of this application which might be adversely affected by noise they should refuse this application and ask the Applicant to revise the proposed layout so that the new layout, with mitigation in place, will safeguard the amenity of future residents.

### Proposed Mitigation

The Applicant has submitted outline details of proposed noise mitigation. It has also submitted a noise assessment report. Ornu has not been consulted on either of these documents directly.

Whilst the noise mitigation measures proposed by the Applicant are not being secured at this stage, they are clearly the Applicant's best attempt to demonstrate that noise levels will be acceptable at all of the properties proposed in Phase 1. As such, it is likely that the mitigation measures outlined will form part of a future noise discharge application if the layout is approved, as these mitigation measures have been considered by the Council to work with the proposed layout.

We do not consider that the proposed mitigation measures are adequate and, as such, the Council should not approve the current proposed layout for Phase 1 due to the borderline significant impacts that will be experienced by future residents at a number of the properties even with the proposed mitigation in place.

We consider that it is unreasonable for the EHO to conclude that desirable bedroom daytime noises can be achieved at the majority of the properties with their windows closed but that "there are a handful of dwellings with facades facing east and west where this cannot be achieved. Although this is not ideal, our department does not object to this proposal as noise mitigation is possible in the majority of the impacted dwellings and satisfactory daytime internal noise levels at ground floor level can be achieved due to the fencing mitigation."

The threshold for acceptability is not "the majority of the properties". If there are properties that will be adversely affected by noise under the proposed development, as the EHO clearly acknowledges, the layout of the scheme needs to be amended to remove the affected properties. Clearly, therefore, sufficient noise mitigation measures have not been proposed by the Applicant and the Council will be authorising the development of properties where residents are likely to complain of noise nuisance.

It is equally unreasonable for the EHO to conclude that noise impacts at night time internally will be acceptable, where these properties will experience greater than 55dB against a recommended standard of 30dB. No conclusion is given by the EHO in this respect but it is clear that this position could lead to complaints.

WA's report states that the properties located closest to our client's factory would be subject to noise above the Lowest Observed Effect Level (as set out in NPPF/Noise Policy Statement for



England) and borderline Significant Observed Effect Level. In other words, the noise will be "noticeable and intrusive". The Council's EHO considers that the dwellings closest to the factory "would be categorised by the classification of the noise having an Observed Adverse Effect Level which could lead to small changes in behaviours or attitude and having to keep close windows for some time because of noise." This is the Council's conclusion with the proposed mitigation in place. The impact on amenity to future residents is clear and having to rely on residents keeping their windows closed in order to reduce noise is not a reasonable form of mitigation.

As such, this clearly demonstrates that the requirement that "all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principle of sustainable development" has not been undertaken, as required by the NPSE, because even with the mitigation measures in place there will be properties in the proposed phase that will experience borderline significant impacts from noise.

Our client also has serious concerns about the conclusion of both the Applicant and the Council's EHOs in determining that the tonal quality of the noise being emitted from the factory has now disappeared. Ornuia disagrees with the Applicant and the Council that the noise emitted from the factory is not tonal. Operations at the factory have not changed since the 2014 noise assessment undertaken by the Applicant, which demonstrated a tonal quality to the noise being emitted from the site. Ornuia's own noise experts maintain that the noise from the factory is tonal. Tonal noise requires a penalty of 6dB to be applied to the results of the assessment. In other words, if the noise is tonal further mitigation should be secured. No explanation has been provided by the Council's EHO on why or how they consider the tonal quality of the noise has now disappeared nor has any technical detail been published by the Council supporting this assertion and change in situation. Neither the EHO in its response to the consultation or the Applicant have provided evidence justifying the conclusion that the noise emitted from our client's factory is not tonal.

Ornuia and the Applicant had separately agreed that a predicted rating level of 37 dB LAeq would be acceptable on the development site because this noise level will be very unlikely to result in complaints over noise. Ornuia is disappointed that the proposed mitigation will not achieve this level. Ornuia considers that the Council should seek to secure mitigation which results in a rating level of 37 dB LAeq at the site. Whilst the Applicant carried out works to the cheese factory in January, in an attempt to reduce the noise being emitted from the factory, these works were not successful and predicted noise from the factory did not reduce following these works.

As previously mentioned, without a more robust approach to noise mitigation and a change in the proposed layout on the proposed development, Ornuia considers that the Council will be promoting land-use competition contrary to the terms of planning law and the NPPF.

#### Further control on noise compliance

As noise is such an important part of the proposed development, Ornuia would expect to see a scheme of mitigation and a layout that ensures that appropriate noise levels can be achieved at all properties proposed as part of this phase of the development. The Council needs to ensure that there are noise limits secured in any future approved noise mitigation scheme so that they are complied with and, where they are not, there is a penalty e.g. the development has to stop until the noise is attenuated to an appropriate level.

It is not clear which document submitted by the Applicant actually proposes the scheme of mitigation required by the outline consent given that the summary document is so brief. There is inconsistency in this document as the "Summary of the Noise Mitigation Measures", dated 22 February, details noise mitigation to be applied to properties (outlined in Figures 2 and 3) but these figures include properties which are not even a part of Phase 1. This document is unclear

and does not relate to the same layout proposed in the application. As such, it cannot properly give the Council comfort that the proposed mitigation will work as it is factually inaccurate.

Neither the Summary document nor the "Noise Assessment Report", prepared by the Applicant and dated March 2019, detail when (i.e. give a timeframe) any proposed mitigation will be in place; how the development will be brought forward in terms of which units will be developed first; and how further/future remediation measures will be secured in the event that the proposed noise mitigation does not achieve what is predicated.

We appreciate that the discharge application is not being pursued but these reports were originally submitted in respect of the condition discharge application too and are wholly inadequate. In addition, there are no hard noise targets included in the report, as such, it is unclear how the Council considers at this stage that an estimated upper ended range of predicted noise levels is appropriate when there is no set limit proposed. Given the linkage between the layout and the proposed mitigation the Council needs to be satisfied at this stage that the mitigation will work with the proposed layout. The detail provided by the Applicant is inadequate and cannot reasonably be relied on to be certain that noise issues will not arise from all of the properties as set out in the proposal.

A final point to consider in respect of the noise mitigation measures to be secured is that the current planning condition on the outline consent (condition 19 of ref: 164107) provides: "All works which form part of the approved scheme shall be completed in accordance with the approved details [i.e. those works secured as part of the noise mitigation scheme] prior to first occupation of any dwelling in that phase and such measures shall be retained thereafter."

Ornua does not consider that this condition adequately secures the successful implementation any proposed mitigation works. It simply requires that the works approved under the proposed mitigation scheme need to be implemented; it specifies nothing about them having to succeed or requiring future remediation in the event that the works do not succeed. It is unclear why the planning inspector considered that this planning condition was adequate but the Council will have an opportunity to remedy this and secure more stringent (and appropriate) controls.

As such, Ornua would urge the Council on any future noise discharge application to not only seek more control (as outlined above) but to ensure that either any revised RMA approval or the discharge approval is conditioned to ensure that an approved noise mitigation scheme is adhered to for the duration of the development otherwise the Council will have no recourse to the Applicant in the event that the mitigation approved through the discharge application fails. Without any additional means of control in place (e.g. appropriately worded planning conditions on the reserved matters approval or a section 106 agreement) the Council is saying, at this stage, that it is confident that the proposed mitigation works, coupled with the layout, will be effective and there is no need for any future control over the development in respect of noise.

On the basis of the information provided above, the Council should take a precautionary approach given the clear uncertainty over the appropriateness and effectiveness of the proposed layout on noise and the mitigation proposed. Ornua considers that the Applicant should have proposed the phased delivery of the site from east to west i.e. the development should begin at the eastern boundary and move further west. In addition to this, the Council should secure means to undertake noise reporting on a periodic basis, as the houses are developed from east to west, to demonstrate that the mitigation works are working. The Council should also secure set noise levels through conditions or a s.106 so that in the event that the noise levels are exceeded development should cease until further remediation is secured to the satisfaction of the Council. Given that none of this detail has been proposed by the Applicant in its proposed mitigation measures, which have informed the proposed layout design, the Council would be acting unreasonably to accept the proposed measures and the layout in their current form.

The following comments were received 16 May 2019:

**1. In respect of the email below from Wardell Armstrong (enclosing x2 notes), dated 8 April 2019**

There is no indication where the Plots 1 and 2 show homes are on any of the plans provided by the Applicant. The Council should be provided with this information.

It would have been helpful for the Applicant to provide photos of the proposed or assessed measurement locations / situations of the open window; particularly the openness of the windows. It is not clear specifically what assumption was used.

The two notes are explicit that a slightly open window attenuates noise by 15 dBA. However, the guidance provides that open window attenuation is generally 10-15 dB (see for instance in BS8233, which WA do refer to but they do not provide the range of attenuation, they simply use the upper range cited in the guidance with no justification for doing so). The notes are of course based on predicted noise level outside and measured noise level inside. My client's consultant considers that it would have been more helpful if the Applicant had measured inside and out – it is not clear what the purpose of the measurements in the gateway were.

The Applicant's argument seems to boil down to the fact that people will have to shut their windows because of the traffic noise so, in turn, the factory noise will not be an issue. However, my client's consultant does not consider that this will stop people complaining of noise from the Cheese Factory because the noise emission (i.e. potential nuisance from the Cheese Factory) is outside. Ornu has never disputed the fact that internal noise levels will be below the BS8233 guidance (which apply to 'anonymous' noise); the issue is BS4142 and the likelihood of complaints based on significant impact (externally).

In that regard, these submissions do not change the thrust of Ornu's original objection.

**2. In respect of the [Wardell Armstrong Letter dated 11 April 2019, titled *Response to Hayes McKenzie Comments 4<sup>th</sup> April 2019*], sent to Ornu on 12 April 2019**

Ornu still has outstanding concerns following WA's response of 11th April but at this stage Ornu does not propose submitting any further substantive response given the points it has raised to date.

The headline point is that windows will need to remain closed to mitigate the noise impact from the factory, which is assessed as significant adverse even without tonal components (see Ornu's original objection). The inclusion of facade insulation / double glazing can only be seen as a contextualising factor noted by BS4142 as affecting (reducing) the sensitivity of the receptor to the assessed level of impact. Ornu does not consider that this will prevent complaints, or even minimise them for the proposed layout, at the predicted level of noise.

**3. Noise barrier**

I am still unclear under what planning consent the Applicant is proposing to develop the acoustic barrier. I cannot see that it is authorised by the outline consent. Has the Applicant discussed this with you please?

## **Next steps**

Clearly, my client's consultants still consider that there are gaps and insufficient detail in the responses provided by Barratt. I would be grateful if you could ensure that these comments are taken into account by the Council and passed on to your Environmental Health Officer for review. I would also be grateful if you could please provide me with your EHO's response once you receive it as my client would like the opportunity to review these points and comment on them accordingly.

*The following objection and comments were received 5 April 2019 –*

## **Background**

Ornuia is the owner and operator of the Meadow Cheese Factory, located opposite the proposed development site. Ornuia successfully challenged the grant of the original reserved matters application (ref: 164078) which was quashed by the High Court. It is now with the Council for redetermination. We understand that this application, whilst live, is not being pursued by Barratt as they would prefer to focus attention on ref: 182628.

Application ref: 164078 was quashed because the Council did not take into account a representation submitted by Ornuia which demonstrated that the noise levels to be experienced at a number of the proposed houses would be too high, causing detriment to the occupiers of those properties and potential nuisance issues which could affect the operation of the Cheese Factory. Ornuia was clear that granting consent for the layout before discharging the noise condition could prejudice the outcome of the proposed noise mitigation. Ornuia also contested that the methodology used by Barratt in assessing noise impacts was flawed on a number of points, one of which was that it did not take into consideration tonal emissions which attract a 6dB penalty under BS4142:2014.

RMA 182628 now seeks approval of what is known as Phase 1 i.e. the first 275 units consented by the original outline consent (which granted consent for a total of 321 units). The remaining 46 units will, we understand, be brought forward by Barratt as part of a future planning application (presumably known as Phase 2). Phase 2 is being delayed due to the greater noise issues that will be experienced by future occupiers of this part of the site because it is in even greater proximity to the Cheese Factory. As such, we understand that Barratt will bring Phase 2 forward once it has worked out how it can secure adequate noise mitigation for this part of the site which Ornuia considers would need to be more extensive here compared to elsewhere.

Ornuia and Barratt has separately sought to reduce noise emissions from the Cheese Factory and agreed a noise limit at the closest properties to the Cheese Factory which includes a correction for any tonal components. As part of this agreement Ornuia gave Barratt the opportunity to undertake mitigation works to the Cheese Factory to lower the noise levels. Unfortunately, these works have not succeeded and the overall noise levels emitted from the factory have not reduced, as Wardell Armstrong note in their report on p.9, para. 2.2.31 – see the first bullet point. Barratt is now predicting significantly higher noise levels than previously stated, including a predicted noise level of 43dB at the boundary of the current Phase 1 properties.

## **Considering noise as part of the RMA**

Ornuia appreciates that Barratt has submitted a separate condition discharge application to the Council under ref: 190874 for Phase 1 and it has been explained (in the Council's letter to Ornuia of 13 March 2019) that noise will be dealt with through this application and not through the RMA 182628.

However, Barratt has submitted its noise report (prepared by Wardell Armstrong, dated March 2019) in support of the RMA ref: 182628 (see the Wardell Armstrong letter of 22 February 2019 and the March 2019 report itself). EHO comments in respect of this application also express concern with the noise being emitted from the Cheese Factory, which is a 24/h operation, and the need to engage Ornuva on both of these applications. As such, we come back to the principle discussed in the High Court case about the interaction between the layout of the site and how, in Ornuva's view, approving the layout before the discharge of condition 19/21 will prejudice the mitigation that can be provided. The Court was clear that the Council, having considered noise as part of the RMA, should have considered it fully and properly. The same is true of the applications currently before the Council.

Admittedly, we are in a different position today than we were in December 2017 because at that stage Barratt had not submitted any detail concerning the discharge of the noise condition. Today we have this detail but, for the reasons noted below, it is inadequate. Given that application ref: 182628 has now been submitted to the Council and given the importance of ensuring that the information in both applications is consistent, Ornuva considers that both applications (refs: 182628 (Phase 1 RMA) and 190874 (Condition 19 discharge for Phase 1)) should be considered at the same time by the Council once sufficient explanation and information in respect of the layout and proposed mitigation has been provided by Barratt and been considered by the Council, in agreement with Ornuva. As mentioned, this is a principle that Ornuva put forward in the High Court and one it maintains.

### **Objection to ref: 182628**

Ornuva's noise consultants, Hayes McKenzie, has produced the attached note on the noise report submitted by Barratt in support of both applications. This notes a number of points which the Council should take into consideration. In headline terms, it is of great concern to Ornuva that:

- the predicted noise levels to be experienced at the Phase 1 properties closest to the Cheese Factory have increased from less than 37dB LAeq (assessed in June 2018 by Wardell Armstrong) to 43 dB dB LAeq. No comment on this is made in the report and no explanation is provided as to why this level has increased so significantly;
- the report states that no tonal content correction has been included in Barratt's assessment but no data is provided to support this assumption. As mentioned above, tonal emissions require a tonal penalty of up to 6dB to be applied to the overall results and this then requires more adequate mitigation measures to be applied;
- due to the high noise levels that will be experienced by the occupiers of these properties, notwithstanding the measures proposed, occupiers are likely to complain about noise from the Cheese Factory if they are required to keep windows closed to prevent noise impact internally; and
- there a number of questions and inconsistencies raised in Barratt's noise report which should be clarified with them, as per the attached note.

Clearly therefore the current layout of the site means that those Phase 1 properties in closest proximity to the Cheese Factory will experience unacceptable noise levels which is likely to cause issues for Ornuva in the future.

As an aside, the Hayes McKenzie review of Wardell Armstrong's March 2019 report does not cover the detail submitted on behalf of Barratt in the 22nd February 2019 letter from Wardell Armstrong. This also states that it is submitted in support of the noise condition discharge application and the reserved matters application. The letter refers to the various guidance documents, also referred to in the report, and the proposed mitigation measures, but notes the adverse noise impact predicted at the nearest receptors. It is notable that the predicted noise levels from the Ornuva premises, shown at Figure 5 in the WA letter, include the properties now

noted to form Phase 2 of the development with levels which would be judged to have a significant adverse impact, using Wardell Armstrong's own assessment methodology.

It is also arguable that the predicted levels at the closest of the properties which now form Phase 1 would also be judged to have a significant adverse impact (see the Hayes McKenzie review of WA report). WA argue that this will be resolved through facade insulation but note in their conclusions that '*windows of proposed dwellings closest to and facing the cheese factory will need to be kept closed, to achieve internal guideline noise levels in bedrooms during the night-time*'. Ornuia does not therefore consider that the noise from the Cheese Factory can be considered negligible, as suggested in WA's conclusions, when assessed in accordance with BS4142:2014 which very specifically uses '*outdoor sound levels to assess the likely effects of sound on people who might be inside or outside a dwelling*'. Ornuia also considers that complaints about noise from the Cheese Factory will be very likely if this layout is approved and are not resolved through the mitigation measures secured through the noise condition discharge.

### **Next steps**

The layout of the proposed Phase 1 development should not be set before it is clear whether Barratt can deliver a noise mitigation scheme which adequately secures a reduction in the level of noise emitted from the Cheese Factory and secures the amenity of future residents. Currently, the March 2019 noise report does not adequately deal with this and needs more explanation because it proposes inadequate mitigation. Ornuia considers that the two applications should be considered together for the reasons detailed above and to ensure consistency in approach and flexibility.

Whilst Ornuia has been and remains willing to cooperate with Barratt to secure a mutually beneficial outcome it clearly wants to ensure that its current operation can run in the same manner as today. On this point, it is worth noting the protection afforded to existing businesses under the NPPF. Whilst the NPPF has always been clear that pre-existing businesses should be protected, and it is a well-established legal principle that decision makers should not promote land-use competition, the revised NPPF issued in July 2018 introduced the concept of 'agent of change'. Paragraph 182 seeks to ensure that decisions taken by local planning authorities should ensure that new development can be integrated effectively with existing businesses and that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. This requires that where existing businesses could have adverse effects on the new development, the applicant (or agent of change) of the new development should be required to secure suitable mitigation. This is a material consideration in the assessment of both of the applications before the Council. And, at this stage, Ornuia does not consider that Barratt has proposed adequate noise mitigation for the reasons noted above and maintain that the proposed layout could effectively prejudice the noise mitigation to be secured.

#### 5.4 The **Campaign to Protect Rural England** (CPRE) objected on 23 August 2018 as follows –

- The ratio of affordable to open market housing is not as per the approved reserved matters application P164078/RM and is well below the 'up to 40%' outlined in the planning inspectors report.
- The application shows a reduction in the percentage of open market 2 and 3 bedroom houses, these are the type of houses needed in Ledbury and Herefordshire as a whole
- The site seems to have been designed assuming that development of the western part of the site will eventually go ahead as per the original submission P143116/O. However should that not be the case the spur roads to the west of the site will be redundant and ugly and there will be no real western boundary to the development. This part of the site could be used to plant a buffer of trees/hedges to help mitigate noise to the development.

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

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=182628&search=182628](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182628&search=182628)

## 6. Officer's Appraisal

*Policy context and Principle of Development*

### Legislation

- 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."* The development plan is the Herefordshire Core Strategy.
- 6.2 Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 state the following respectively:-

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

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

### Herefordshire Local Plan – Core Strategy

- 6.3 Policy LB1 – *Development in Ledbury* states Ledbury will accommodate a minimum of 800 new homes balanced with a minimum of 15 hectares of new employment land during the plan period. The majority of new housing development will be focussed to the north of the town as set out in Policy LB2 and the strategic location for new employment of around 12 hectares to the west of the town, south of Little Marcle Road. Further development will take place through the implementation of existing commitments, infill development, and sites allocated through a Neighbourhood Development Plan. A number of sites which have future potential for development have been identified in the Strategic Housing Land Availability Assessment (SHLAA).

Within Ledbury, new development proposals will be encouraged where they are relevant to this application:

- maintain and enhance the vitality and viability of the existing town centre.
- improve accessibility within Ledbury by walking, cycling and public transport, particularly where they enhance connectivity with, for example, local facilities, new employment areas and the town centre;
- contribute to addressing deficiencies in community facilities and/or allow for infrastructure improvements (including broadband) in the town, to promote sustainable development;

- reflect and enhance the characteristic built historic elements of Ledbury, such as its stone, brick and timber-framed buildings, medieval plan form, conservation areas and setting overlooking the Leadon Valley;
- protect and enhance its green infrastructure, including connections to the public right of way network and biodiversity, particularly the Malvern Hills Area of Outstanding Natural Beauty to the east and the Leadon valley to the west;
- protect and enhance the setting of the town from eastern and western viewpoints; and, where this is not possible, incorporate appropriate mitigation measures; and have demonstrated engagement and consultation with the community including the town council.

- 6.4 Policy H3 – *Ensuring an appropriate range and mix of housing* states Residential developments should provide a range and mix of housing units which can contribute to the creation of balanced and inclusive communities. Also, Policy H3 indicates that the latest *Local Housing Market Assessment* will provide evidence of the need for an appropriate mix and range of housing types and sizes. Whilst it is not in dispute these are policies for the supply of housing they also have wider implications in terms of ensuring the social benefits of providing a suitable mix of housing types.
- 6.5 The Herefordshire Local Housing Market Assessment (HLHMA) formed part of the evidence base for the CS, although it is now some five years old. However, it is specifically cited in CS Policy H3 and without any other substantive evidence in regard to housing need in this area significant weight is attached to this. For the Ledbury area the HLHMA indicated that the greatest demand was for two and three bedroom housing, which was estimated as providing 30.5% and 55.2% of open market housing needs, and 38.3% and 30% of affordable housing need with four bedroom or larger housing providing only 10% of the estimated open market and 4% of the affordable housing needs.
- 6.6 Core Strategy policy SS6 describes proposals *should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.*
- 6.7 Policy SS6 then states in its list of criteria states *Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.*
- 6.8 Core Strategy Policy SS7 – *Addressing climate change* states Development proposals will be required to include measures which will mitigate their impact on climate change. At a strategic level, this will include:
- focussing development to the most sustainable locations;
  - delivering development that seeks to reduce the need to travel by private car and which encourages sustainable travel options including walking, cycling and public transport;
  - designing developments to reduce carbon emissions and use resources more efficiently;
  - promoting the use of decentralised and renewable or low carbon energy where appropriate;
  - supporting affordable, local food production, processing and farming to reduce the county's contribution to food miles\*;
  - protecting the best agricultural land where possible

Key considerations in terms of responses to climate change include:

- taking into account the known physical and environmental constraints when identifying locations for development;
- ensuring design approaches are resilient to climate change impacts, including the use of passive solar design for heating and cooling and tree planting for shading;

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- minimising the risk of flooding and making use of sustainable drainage methods;
- reducing heat island effects (for example through the provision of open space and water, planting and green roofs);
- reduction, re-use and recycling of waste with particular emphasis on waste minimisation on development sites; and
- developments must demonstrate water efficiency measures to reduce demand on water resources.

6.9 Core Strategy policy LD1 – *Landscape and townscape* criteria requires new development must achieve the following:

- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
- conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management

6.10 Core Strategy policy LD4 – *Historic environment and heritage assets* sets out as relevant to this appeal that Development proposals affecting heritage assets and the wider historic environment should:

*1. Protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible*

*2. the conservation and enhancement of heritage assets and their settings through appropriate management, uses and sympathetic design. Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas*

### **Ledbury Neighbourhood Development Plan**

6.11 The Ledbury Neighbourhood Development Plan was made on 11 January 2019. It now forms part of the Development Plan for Herefordshire.

The application site is referenced and acknowledged within the NDP which states when combined with two other large scale housing sites – *‘together amount to commitments of over 1,000 homes which the LNDP supports’*.

The NDP with regards to housing delivery sets out: *It is considered that these sites, in conjunction with the site allocated by the LNDP and windfall sites that will come forward within the settlement boundary, more than meet the needs of the town in terms of housing provision over the plan period.*

Policy HO2.2 – *Housing Density* requires The housing density of new development should respect its surroundings through good design which responds positively to local character. Housing densities should be within the range of 30 to 50 dwellings per hectare. In keeping with local character, housing densities should be at the higher end of this range towards and within the town centre and at the lower end of the range towards the edge of the settlement.

Policy HO4.1 – *Housing for Young People* – states Proposals for 1, 2 and 3 bedroom starter homes will be supported.

A key built environment objective of the NDP is To protect the transition from town centre to edge of town where it is more rural, so that any new 'edge of town' development maintains the character of the current settlement boundary.

Policy BE2.1 – *Edge of Town Transition* states The density of housing in the vicinity of the perimeter of the town should be appropriate to the location and type of housing that is required, and its environment. Whilst exceptions may be appropriate, buildings in the vicinity of the perimeter of the town should respect local character and not be more than 2.5 storeys in height. The protection and enhancement of existing, or establishing of new, hedgerows, woodland, green spaces, landscape features and street trees will be supported. Development should respect the setting of the Malvern Hills AONB.

Policy BE1.1 – *Design* states Development should demonstrate that it is sympathetic to the character and appearance of Ledbury and where possible, that it contributes to the conservation and enhancement of the overall distinctiveness of the Neighbourhood Area. The use of design review is strongly supported.

Policy TR1.1 – *Footpaths & Cycleways* states Improvements and/or extensions to the network of footpaths and cycling routes in the Neighbourhood Area will be supported , especially where they:

- Create appropriate crossing facilities dedicated to cycle, pedestrian and disabled access from the proposed strategic housing location north of the viaduct to give safe access to the station, schools, out of town shops and the town centre
- Improve cycling, pedestrian and disabled access to and from the station and the town, especially where junctions create a hazard
- Improve the Ledbury Town Trail to provide better cycling and disabled access along its whole length, including provision of street lighting and footbridges
- Extend the Ledbury Town Trail at the Ross Road roundabout over Leadon Way to provide safer cycling, pedestrian and disabled access to the Rugby Club and new Cricket Club
- Provide an appropriate crossing facility across Leadon Way at the Little Marcle Road roundabout for cyclists, pedestrians and the disabled, going to and from the Little Marcle business and farming areas.

## **National Planning Policy Framework**

6.12 The NPPF has 'sustainable development' central to planning's remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The National Planning Policy Framework has been considered in the assessment of this application. The following sections are considered particularly relevant:

- 2. Achieving sustainable development
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

6.13 Paragraph 7 sets out and defines sustainable development and of the three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, the social objective requires planning to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.

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- 6.14 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means 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 the application of policies of 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 this Framework taken as a whole.
- 6.15 NPPF Paragraph 124 states *The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.* Paragraph 127 outlines Planning decisions should ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.16 NPPF paragraph 180 states Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life

## **Assessment of Proposals**

### *Sustainable Development and Addressing Climate Change*

- 6.17 The site benefits from an outline planning permission for residential development and the application hereby assessed is for approval of reserved matters of layout, appearance, scale and landscaping relating to that permission. In accordance with the NPPF and Policy SS1 a *positive approach* must be taken by Herefordshire Council to reflect the presumption in favour of sustainable development. Furthermore the LPA through policy SS1 will be proactive wherever possible and to secure development that improves the social, economic and environmental conditions in Herefordshire.

- 6.18 The principle of residential development for up to 321 dwellings with an access from Leadon Way has been established by the outline planning permission. In accordance with Local and National Planning policy approval should be given unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. It is not considered that there any restrictive policies that are applicable in this instance as outline planning permission has already been established and as such the acceptability of the proposals is based on the assessment of both material and technical considerations. These matters are considered in the Report below.
- 6.19 Policy SS7 is a strategic policy requiring focus on measures to address climate change. Reducing carbon footprint and CO<sub>2</sub> emissions has been at the forefront of recent political and media discourse, receiving rightful prominent coverage. Herefordshire Council's Core Strategy has been 'ahead of the curve' in that regard with Policy SS7 in place and a requirement to be satisfied by development since October 2015.
- 6.20 The site is located on the edge of Ledbury, its location lends itself to the ability to walk or cycle to the town centre and other services and facilities nearby. Improved pedestrian linkages have been secured including new controlled crossing facilities on Leadon Way. The development also includes substantial open and recreational space within it. Accordingly, the proposal is located whereby many day to day functions and journeys by future occupiers can be undertaken without the need to use a private vehicle.
- 6.21 The development includes a substantial amount of new planting exceeding previous green coverage on the site with regards to trees. A comprehensive drainage plan and proposals are also incorporated and subject to formal approval through the discharge of condition attached to the outline planning permission.
- 6.22 With regards to built form and energy efficiency Barratt and David Wilson Homes set out their approach to addressing climate change through the design of their dwellings is delivered through a fabric first approach to CO<sub>2</sub> emission reduction includes the following:
- High levels of insulation
  - Higher performance windows and doors
  - Reduced air infiltration rates
  - Enhanced thermal bridging performance
  - Enhanced services
  - Maximisation of passive solar and metabolic gains

Under current Building Regulations Approved Document Part L 2013 there is a backstop fabric energy efficiency standard which the developers' standard specification exceeds.

- 6.23 On the basis of the above and in principle the proposal represents sustainable development. Given the Government's requirement to deliver a significant number of new homes during the plan period, on the broad basis outlined above, the development will within that balance of meeting housing need and addressing climate change, in principle contribute to meeting both objectives. As such Core Strategy policies SS1 and SS7 and the associated aims and objectives of the NPPF are satisfied.

### Noise

#### Background and Context

- 6.24 The proposed development site is located on the outskirts of Ledbury, on a greenfield site identified as a predominantly rural setting, however, in close proximity to two main noise sources; traffic noise (Leadon Way) to the north and 24/7 Ornua factory noise to the west.

- 6.25 The Core Strategy notes the protection of residential and local amenity is essential to ensuring local communities are and remain sustainable. Amenity considerations include such issues as noise. Policy SD1, within its list of criteria for sustainable design requires new development does not contribute to, or suffer from, adverse impacts arising from noise.
- 6.26 The NPPF paragraph 170 (e) requires the decision making process should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Paragraph 180 requires development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 6.27 The Ornu cheese factory noise runs 24/7 generating an audible constant low frequency sound (hum) in close proximity to the factory. Unlike the passing traffic noise the factory noise source is in a fixed location so creating an audible directional point source at the north west area of the proposed development site. Road traffic noise from Leadon Way and to a degree Dymock Road is dominant during the daytime, however during the night (23:00 – 07:00), at the south western section of the proposed site the factory noise becomes the main dominant audible sound.
- 6.28 Primary concern regarding noise and amenity relates to during the noise sensitive night-time hours (23:00-07:00), where the local authority's main concerns have been raised with regards to the factory noise at this proposed site.
- 6.29 It is noted there are no planning controls on the factory to ensure that factory noise is not increased by for example additional plant, more intensive use of equipment or plant maintenance failure and we cannot say for certain therefore whether complaints from future occupants of the proposed development may or may not arise in the future.
- 6.30 As detailed above, a previous approved Reserved Matters application was subsequently quashed by the Courts. The claim proceeded on one ground only, that the council failed to take into account a material consideration in that it did not take account of representations made by Ornu, including a report by acoustic engineers on its behalf which cast doubt on a conclusion reached by the council that it would in principle be possible to produce a scheme for mitigation of noise emitted by the cheese factory such that it would be reduced to acceptable levels at houses built to the proposed layout.
- 6.31 The Judge found *It follows in my judgment that an error of law was committed*. The error may be considered either as a failure by the planning authority to consider, either at the level of members or officers, a material factor in the form of the information provided by Ornu, or as a failure by officers properly to exercise the delegated power they had been given by evaluating and coming to a conclusion on that information.
- 6.32 The result and Court judgement was the decision must be quashed and remitted to the planning authority for redetermination.

#### Assessment

- 6.33 The application is presented with a Noise Assessment Report which includes acoustic contour modelling based on real time noise recordings. The Council's Environmental Health Officers have visited the site on a number of occasions and undertaken their own readings. The application features noise mitigation proposed or already implemented as follows to address both noise from the cheese factory and noise from traffic on Leadon Way –
- The noise mitigation works undertaken on site at the cheese factory in early 2019 included –
    - the removal of the green box extract

- the acoustic enclosure of the pump motor and
- additional silencer to the yellow extractor

6.34 Environmental Health Officers have verified subsequently that the low frequency tonal element of the noise was reduced so audibly less intrusive, however measurements of the overall volume of the factory sound was found not to be reduced.

- The applicant has removed the most adversely impacted proposed dwellings from this site proposal (shown as *Phase 2* on the proposed site plans), increasing the distance of the now proposed dwellings from the factory to the dwellings proposed within this application.
- A 3 metre high noise barrier sited on top of a physical bund 75 metres in length maintaining a height of AOD 55m to the north west corner of the site, closest to the Ornu cheese factory.
- A reduction in the speed limit on Leadon Way from 60 to 40mph on the approach to the new roundabout (half way along the northern side of the development).
- A 3.00m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m<sup>2</sup> to the eastern section of the northern boundary to the site.
- A 2.1m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m<sup>2</sup> to the western part of the northern site boundary.
- A 1.8m high close boarded fence around all remaining gardens areas.

6.35 The following extract from Figure 3 of the *Noise Assessment Report* by Wardell Armstrong shows dwellings which are built with additional higher glazing specifications and acoustic vents.

- Green dots denotate elevations with standard glazing and ventilation via opening windows achieve guidance internal noise levels
- Yellow dots denotes standard glazing and alternative means of ventilation required to achieve guidance internal noise levels
- orange dots denote elevations with enhanced glazing and alternative means of ventilation required to achieve guidance internal noise levels

6.36 The applicant was requested and has agreed to install the higher of the two glazing specifications in all the identified properties (orange and yellow dots) shown below and this will be secured by condition. These glazing measures also contribute to mitigation from noise from the cheese factory along with mitigation against road noise, in particular the dwellings abutting Leadon Way.



### Factory Noise

- 6.37 The starting point to the BS4142 assessment of the impact of the factory noise on the proposed dwellings is the establishment of a representative background sound level i.e. *what is typical in context to the area*. The methodology is not to ascertain what the lowest background sound level but to identify a general, most frequently occurring representative value.
- 6.38 Environmental Health Officers have considered both Wardell Armstrong's (applicant) and Hayes McKenzie's (objectors) positions on this and concluded given the range of findings of background sound levels found that the selection of a representative background for use in the assessment of 33-34dB (LA90) night time and 41-44dB daytime is appropriate. These levels take into account traffic movements will be through the night although to a much reduced level than in the day time. Also the presence of the factory needs to be considered as it is a well-established industrial unit in the area. The lowest measured background reading (27dB L90) would be more representative of a fully rural, green site area. The 33-44dB (LA90) background reading is more representative and in context with the development site being on the outskirts of Ledbury town where rural meets a small market town divided by a by-pass road.
- 6.39 Two dwellings were constructed in early 2018 as show houses for the site and has enabled the concerns regarding the adverse impacts at the properties closest to the factory presented in the Wardell Armstrong report (which anticipated moderate adverse impacts) to be verified in practice. Noise readings have been taken internally from these dwellings.
- 6.40 These sites have been visited twice by Officers from the local authority during the daytime subsequent to the Ornu site mitigation. On both occasions road traffic noise was found to be dominant as expected for this time of day.
- 6.41 Overnight noise monitoring has been carried out to verify the impact of the mitigation at the factory. The findings of overnight monitoring undertaken on 29th March 2019 find that without the proposed mitigation bund and fence in place, factory noise levels dropped to below the BS8233 desirable internal noise level of 30dB inside the factory facing bedrooms. On 4th April 2019 Wardell Armstrong set up further night time noise monitoring in the two built dwellings closest to the factory with partially open windows (approximately 10 - 12cm) witnessed by local authority officers when overnight noise monitoring set up was taking place. These measurements were undertaken in rooms without soft furnishings and curtains.
- 6.42 The findings are that within the most sensitive dwellings there may be occasions where at night time in the bedrooms facing the factory the factory noise is audible (due to fluctuations in background noise levels) with the windows open, however it is unlikely to be intrusive.

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- 6.43 The noise mitigation undertaken at the factory site in early 2019 detailed above has been found by the applicant's noise consultants not to have led to an overall reduction in the loudness of the factory noise. However, the distinctive tonal element of the noise previously identified has been eliminated and therefore in the noise report no character corrections or penalties have been applied to the BS4142 rating. Local authority officers in spring 2019 subsequent to the mitigation works have been able to verify that the tonal element to the noise is no longer present.
- 6.44 Ornu's further concerns are that complaints may also occur regarding factory noise in gardens leading to complaints. There will be no attenuation through the fabric of a building. Whilst factory noise may be audible in gardens (again due to fluctuating background noise levels), the dominant noise during daytime and early evening when gardens may be in use will be road traffic noise.

### Road Noise

- 6.45 All the gardens to the northern side of the site after mitigation will be exposed to daytime road traffic noise of between 50 and 55dBLAeq which is slightly higher than the desirable standard for external amenity areas of 50dB but less than 55dB considered to be the upper guideline value for noisier environments. As the site is a greenfield site it is not by its nature a 'noisy environment'. However it is recognised that the proposal incorporates close by recreational space further away from Leadon Way which is considerable quieter and less than 50dB which provides for some mitigation in accordance with the ProPG guidance. Within this context Environmental Health Officers do not think that the amenity noise levels for the dwellings closest to Leadon Way are unacceptable.
- 6.46 With regards to internal areas, daytime road traffic noise at the facades of the first floor of the proposed dwellings closest to the road are predicted to be above 60dB LAeq, These exposure levels are higher than the desirable external standard of 50dB at the façade which would enable the achievement of desirable internal noise levels with the windows open. Therefore the north facing elevations of the proposed dwellings and some of the side elevations would have, without mitigation, internal noise levels with partially open windows above the desirable bedroom daytime standard of 35dB. As detailed above, combination of glazing and structural mitigation is proposed.
- 6.47 Windows on the impacted elevations directly facing Leadon Way will need to be kept closed during the daytime to ensure desirable daytime noise standards in bedrooms. Of the properties impacted, the majority will have south facing elevations where desirable bedroom daytime noises can be achieved with the windows open as facades away from the road will have noise level of less than 50dB. However, there are a handful of dwellings with facades facing east and west where this cannot be achieved. Although this is not ideal, Environmental Health Officers do not object to this proposal as noise mitigation is possible in the majority of impacted dwellings and satisfactory daytime internal noise levels at ground floor level can be achieved due to the fencing mitigation.

### Conclusion

- 6.48 Ornu's position is the revised NPPF places an onus on the developer, the '*agent of change*', such that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. The application eliminates a substantial number of dwellings from the development as previously proposed, all of which are in close proximity to the factory and furthermore creates a distance buffer and increased separation between the factory and the nearest proposed dwellings.



- 6.49 Environmental Health Officers advise that on the basis of the substantial mitigation that has been proposed this renders the majority of the site to fall below the Lowest Observable Adverse Effect Level (LOAEL) as set out in the Noise Policy Statement for England (NPSE) and the perimeter to the north and factory facing as being above the LOAEL but below the SOAEL (Significant Observed Adverse Effect Level). The proposed dwellings in these localities would be categorised by the classification of the noise having an Observed Adverse Effect Level which could lead to small changes in behaviour or attitude and having to keep closed windows for some of the time because of noise. The objective to which would be to mitigate and reduce to a minimum. The Noise Policy Statement for England (NPSE) concludes that where the noise impacts fall between the LOAEL and SOAEL 'all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development.' The second objective of the NPSE (after the avoidance of significant adverse effects).
- 6.50 Environmental Health Officers therefore confirm they have no objection to the details of the reserved matters scheme as it relates to the noise constraints and challenges on the site providing that the noise mitigation specified above is implemented. On the basis that can be secured and implemented by the use of conditions as set out below, Core Strategy policies SS6 and SD1 and the relevant aims and objectives of the NPPF as relate to noise and associated amenity are satisfied.

Design

- 6.51 The detailed design approach is similar to that of the dwellings previously approved under the quashed reserved matters application with a number of subsequent updates and amendments to reflect the applicants new house types. In broad terms, however these changes are minimal and include the introduction of hipped roofs within the design portfolio so when viewed with traditional gabled designs, there will be reduced massing and greater variety within the streetscene. Proposed streetscenes are shown below –



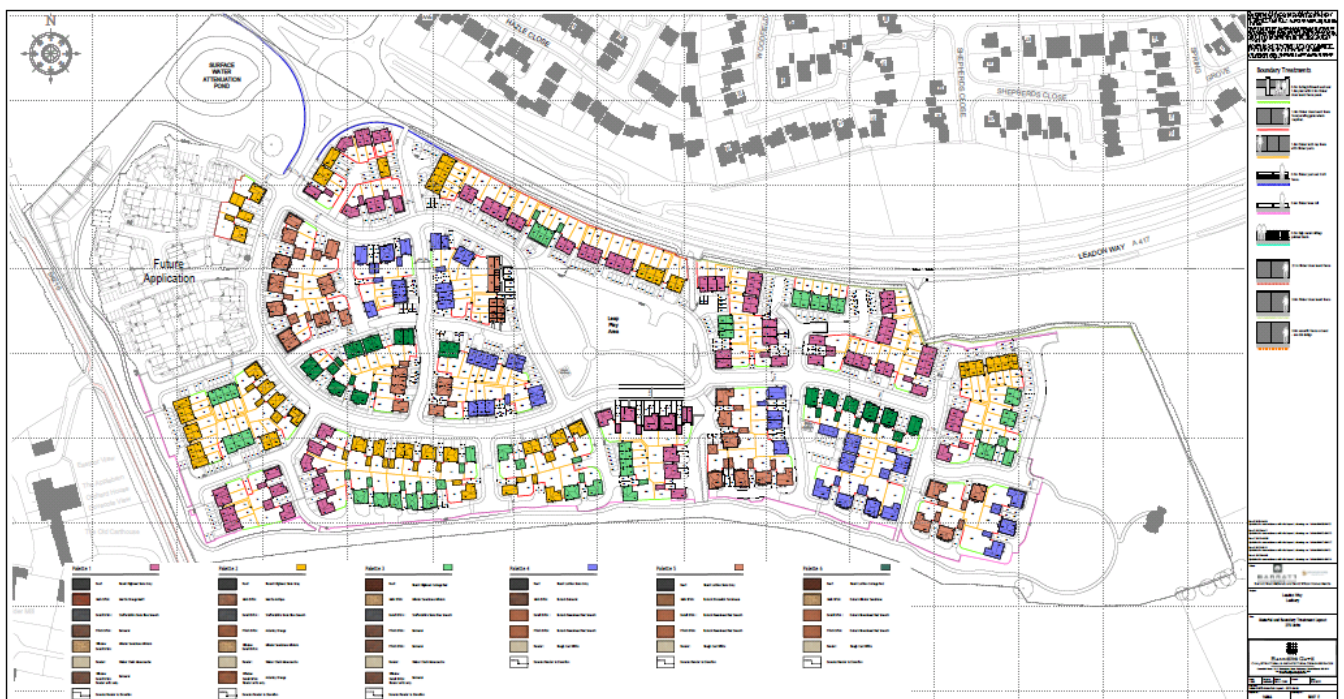
- 6.52 Overall the development comprises 32 different designs of dwellings over the 275 units proposed on the site. Only 8 of those 32 individual designs feature ten or more times over the

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development. All except 5 units are two storey in extent, with 5 units being 2.5 storeys. All garages are single storey. Numerous design features which are also indicative to Ledbury and its surrounding area included within house types are –

- bay windows
- dormer windows
- Brick course detailing
- Feature gables
- Dormer windows
- Flat roofed open porches
- Symmetrical principal elevation design

6.53 Further to the above, a mix of 6 materials palettes are used across the house types and a variety of boundary treatments also feature over the site to add variety and interest, reduce commonality and utilise design aspects from local vernacular as follows. Materials include a range of bricks utilising various shades of ‘red’ and sandstone, slate and red roof tiles, brick plinths and detailing of various contrasting colours and use of render. Fencing variation includes larch lap, close boarded, timber post and rail and painted metal railings to delineate and enclose public and private spaces.



6.54 Overall the proposals draw on various elements of local character, ranging from materials to design features and detailing. The range and mix of house designs and materials provides visual interest and dilutes uniformity on what is a large housing development. This is welcomed and provides design merit and individuality to the development as a whole. Combined with the general landscaping proposals and heights of the proposed units all being 2 or 2.5 storeys in extent, it is considered the proposal represents an appropriate design response in respect of context and quality and as such Core Strategy policies SS6, LB1, LD1 and SD1, Ledbury Neighbourhood Plan policies BE1.1 and BE2.1, and the relevant design aims and objectives of the National Planning Policy Framework are satisfied.

### Landscape

6.55 The landscape proposals generally conform to the details provided and approved by the Local Planning Authority under Reserved Matters application 160478 which also in turn were considered satisfactory to be able to discharge the relevant landscaping conditions attached to



Outline permission 143116. Notably, the landscaping details omit the *Phase 2* area. With regards to the above, the Senior Landscape Officer commented at the time *The information submitted satisfies the requirements of the Reserved Matters and is approved by the Councils Landscape Officer.*

6.56 Whilst I attach considerable weight to that position, clearly there has been the passage of time since the assessment of those details was made and further to that, whilst there has been no change to Core Strategy policies, or changes to the relevant aims and objectives of the NPPF that would render the above position obsolete, the Neighbourhood Development Plan is now made and a material consideration. As such regard must be had and assessment made against NDP Policy BE1.1 – *Design* and BE2.1 – *Edge of Town Transition* in particular.

6.57 The overall layout affords areas of public open space, which includes functional formal and informal play areas within the development and a significant amount of new landscape planting. The proposed landscape planting has been increased and improved following comments from Local Members and Planning Committee as shown on the plan below and as follows –



The landscaping proposed is indicative of and responds to the edge of settlement location and its function as a transitional area from town to countryside. Furthermore hard landscaping and structural elements create a sense of place and appropriateness to an edge of market town location and features –

- Creation of an appropriate green infrastructure, in order to create an attractive and appropriate development setting;
- Focusing of main public open space areas within elevated site areas in order to minimise the visibility of the development within views from the AONB;
- Reinforcement of the landscape structure to the site boundaries through native tree and hedge planting to create an appropriate green edge to the development and to filter views from the wider countryside setting;
- Reinforcement of the existing vegetation structure along the site's eastern site boundary, to help further contain and filter views from the eastern site context and wider AONB setting;
- Retention of all vegetation to the site boundaries and carefully considered tree and hedge planting to the southern and eastern site boundaries to create an appropriate edge to the development, and a softened transition between the development and the wider countryside setting

- Tree planting within the residential area to break up the appearance of urban development, and within areas of proposed open space to increase level of tree cover generally within the site;
- Creation of a new permissive pedestrian link to the site perimeter linking into the wider footpath/ cycle network and the existing urban edge to the north

6.58 It is undoubtable the bund, which has start/ end of 51.17 and 52.12 OAD with a highest part at 55.00 AOB upon which an acoustic fence itself measuring 3 metres tall is located, as shown on the cross section below, creates and introduces a new, prominent feature within the streetscene and one which forms the setting and one of the approaches to Ledbury, however this would be read partially within a context and with views of the industrial estate opposite the site. It is noted substantial planting is proposed around the bund and acoustic fence, as part of wider green landscaping in the north east part of the site which includes an attenuation pond, which will have landscape and noise mitigation benefits along with biodiversity and drainage features. The approach utilised here replicates in many respects that used and approved at *Porthouse development site, Bromyard*. The detailed landscaping proposals around the bund and attenuation pond (Extract from Drawing titled *Public Open Space Detailed Landscape Proposals, Sheet 1 of 4*, Drawing Ref: P16\_0793\_04-N, Received 9 July 2019), along with sectional drawing (Extract from Drawing titled *Landscape Section to Earth Bund*, Drawing Ref: P16\_0793\_09-A) are shown below –



6.59 The defined areas of open space within the site are logically laid out and well spaced within the development and the enhanced extensive planting along the southern boundary of the site which should be retained as green infrastructure, regardless of whether future adjacent

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development takes place and can be protected by condition. Also now included is the introduction of communal raised planter beds and extended the orchard planting to support policy NE2.1 of the Ledbury Neighbourhood Plan. The central area of play provision has also been enhanced to meet the needs of children of all ages, a kick-about area has also be identified to the east of the site. The perimeter of the site features a 'green' walkway through more robust and appropriate planting.

- 6.60 In respect of wider landscape implications and assessment, It is noted the site is not within the Malvern Hills AONB and although within its foreground, there is limited intervisibility between the two and in particular, from key viewpoints from the AONB, in particular the Hills themselves.
- 6.61 With regards to longer range views, the wooded nature of the slopes on this side of the Malvern Hills generally limits outward views from public vantage points towards the site. The site comprises a very minor component in a much larger landscape. With the landscape mitigation proposed and conditioned, there would be no material harm to views of the surrounding area from the AONB, on its overall setting, or its special qualities.
- 6.62 The site is barely perceptible in the much longer range views from Marcle Ridge, some 6.5 kilometres away to the west. Consequently, particularly when landscape mitigation is taken into account, the development proposed would, if noticeable at all given the distance involved, represent a negligible change, with no material impact on views from the Ridge, or on its landscape setting.
- 6.63 The Landscape and Arboriculturalist Officers previously had no objection in principle, however their previous comments along with that of Local Members identified areas where the landscaping and planting could be both improved and beneficial to the development and wider setting of Ledbury. Amended landscaping plans received since the previous Planning Committee, as detailed above, has led to a better development with both more relevant and enhanced planting and landscape features offering a better response to context and greater amenity. On this basis and with the maintenance conditions set out in the recommendation below it is considered the landscaping criteria and policies of the Core Strategy, SS6, LD1, LD1 and SD1 are satisfied, along with the relevant policies of the Ledbury Neighbourhood Plan and landscape aims and objectives of the NPPF.

### Heritage

- 6.64 The Planning (Listed Buildings and Conservation Areas) Act 1990 states *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*
- 6.65 When an authority finds that a proposed development would harm the setting of a listed building, it must give special attention to that harm with "considerable importance and weight". Importantly, this does not mean that an authority's assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or "less than substantial" and to harm that it considers would be "substantial".
- 6.66 While Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance. As a result, and in order to properly consider the effects of development on heritage assets, recourse should be had to the NPPF in the first instance.



- 6.67 Paragraphs 193 – 196 of the NPPF (2018) deal with the approach to decision-making according to the significance of the heritage asset (this being the adjoining listed buildings) and the degree of harm arising as a consequence of development. Paragraph 193 confirms that great weight should be given to the conservation of designated heritage assets. Paragraph 195 is a restrictive policy and directs refusal where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. Paragraph 196 explains the approach to decision-making where less than substantial harm to the significance of a designated heritage asset would arise. It states that such harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. 196 is thus also a restrictive policy.
- 6.68 Accordingly it is necessary for the decision-maker to judge, on the evidence before them and having particular regard to expert heritage advice, whether the proposal in this case represents substantial harm to the setting of listed buildings and their significance (in which case paragraph 195 directs refusal unless the scheme achieves substantial public benefits that outweigh the harm) or whether the harm falls within the purview of paragraph 196; in which case it is necessary to weigh the less than substantial harm against the public benefits in an unweighted planning balance. Even if harm is less than substantial, it is absolutely clear that such harm weighs heavily in the planning balance – the fact that it is not necessary to demonstrate that harm significantly and demonstrably outweighs the benefits gives weight to paragraph 196 as a restrictive policy.
- 6.69 The nearest heritage assets are located south west of the application site as shown below outlined blue. These buildings are the Grade II Hazel Farm farmhouse and associated Granary, Grade II listed in its own right.



- 6.70 Intervening distances from the development and Hazel Farm (130 metres) and the Granary (75 metres) to the nearest proposed dwellings. The setting of Hazel Farmhouse is mostly screened when viewed from the north east. However, whilst the impact upon those aspects of the setting of the building which contribute to its significance would not be harmed to any extent by the wider development.
- 6.71 The Council's historic advisors have considered the proposals and conclude that the acoustic fence and bund to the north of the buildings would harm the appreciation and understanding of

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the buildings in their context. The landscape in the immediate vicinity is predominantly flat, with views across to the Malvern Hills AONB. The bund with an acoustic fence, would be visible from the south in the context of the buildings and it will take a number of years for the proposed planting to establish and mitigate.

- 6.72 This is considered as less than substantial harm (para 196) Therefore such harm should be weighed against the public benefits of the proposal and this matter is considered in the conclusions below.
- 6.73 The edge of Ledbury Conservation Area lies approximately 0.72 kilometres to the north-east of the appeal site. The Conservation Area contains numerous listed buildings, including the grade I listed church of St Michael and All Angels. In as much as the bell-tower spire of the church can be seen, together with the roofs of other buildings, then the Conservation Area can be said to be experienced from the site. As a consequence, the site lies within its setting.
- 6.74 However, the site is separated from the Conservation Area by intervening post-war residential development (Martins Way estate) and the John Masefield High School, with the consequence that there is little, if any, awareness of the presence of these fields from within the Conservation Area. On that basis, I am not persuaded the site makes any contribution to the heritage significance of the Conservation Area which derives from its history as a market town and its architecture, including numerous listed buildings. As such I find no harm to significance of the Conservation Area.
- 6.75 As such the proposals are considered to result in less than substantial harm on designated heritage assets. When assessed against the requirements of the NPPF, the proposal is considered acceptable based on an assessment of the assets value and importance weighed against and considering the wider benefits of the proposal. It is concluded the proposal accord with policies SS6 and LD4 of the Herefordshire Core Strategy, heritage aims and objectives of the NPPF and Section 66 (1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### Ecology

- 6.76 The comments of the Council's Ecologist and Natural England are noted as are concerns from an objector regarding protected species.
- 6.77 The lighting scheme has three different lights all of which feature LED banks and photo electric control units set to switch on at 35 lux and has been assessed by the Council's Ecologist. The provided lighting scheme is considered appropriate and provides low-level lighting to minimise environmental impacts and in particular impact upon bats.
- 6.78 Concerns regarding the impact of the drainage proposals on adjoining ponds on third party land and impact upon them as Great Crested Newt habitats has been reviewed by the Ecologist.
- 6.79 The landform of the site prior to development broadly comprised an elevated ridge broadly running east-west in the central portion of the site, with ground levels falling away primarily to the north/north west and to a lesser degree to the south. The application site is on higher ground to that surrounding to the south and west. This landform would encourage surface water to flow following the natural fall of the land. Additionally, any water seepage through the soils in this locality, including the development site and arable land to the south, is likely to be minimal and slow.
- 6.80 Further to the above additional investigations into the land drains to the south of the application have been carried out. This included undertaking a camera survey along these drains. From this it has been confirmed that the land drains are completely within the Gladman appeal site and do

not extend into the Barratt application site. There is therefore no direct water drainage from the site to the Gladman land and, in turn, the ponds on the other side of Dymock Road.

- 6.81 Therefore, in terms of the development, the potential for surface water run-off to surrounding areas is unlikely to be significantly affected and it is considered that there is a very low risk of the site contributing to a significantly reduced flow of water off-site.
- 6.82 It is concluded there will be no negative impacts on offsite Great Crested Newt ponds and populations or sustained ground water supply to them will be impaired to have such a detrimental impact.
- 6.83 It is noted Outline permission 143116 Condition 6 stated –

*Development, including works of site clearance, shall not begin until a Habitat Enhancement Plan, including a timetable for implementation, based on the recommendations set out at Section 4 of the Ecological Appraisal (October 2014) submitted with the planning application and integrated with the landscaping scheme to be submitted pursuant to condition 1 above, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Habitat Enhancement Plan.*

- 6.84 The requirements of the condition were discharged under reference 170075 on 14 February 2017 on the basis of details contained within the submitted Mitigation, Enhancement and Management Plan prepared by The Environmental Dimension Partnership Ltd, received 12 January 2017.
- 6.85 Further to this the advice and guidance provided within the EDP Enhancement Plan (December 2016) and FPCR Ecological Assessment (March 2015) should be followed, including biodiversity enhancements and this is ensured by condition. On the basis of this and discharged condition 6 of Outline permission 143116 it is considered suitable biodiversity and habitat enhancements are secured and will be delivered.
- 6.86 As such the proposal satisfies Core Strategy policies LD2 and LD3 and the wider ecological and biodiversity aims and objectives of the NPPF.

#### Highways

- 6.87 It is noted access arrangements were approved under the original outline permission. The applicants propose to retain the spur and turning head referenced by the comments from the CPRE so to provide suitable access to the attenuation pond for maintenance purposes. The layout also matches the approved Section 38 Agreement so there are no highways objections to the matters considered as part of this application. The Transportation Manager confirms no objection on highway grounds to the proposals.
- 6.88 The access arrangements set in the 2014 permission are the provision of the roundabout and toucan crossing. Attached to this work is an additional footway route along Martins Way and pedestrian improvement to the Full Pitcher Roundabout. This work is subject to a Section 278 agreement.
- 6.89 The internal highways layout has achieved technical approval for a section 38 agreement and therefore meets the requirements of the Local Highway Authority. The layout, by virtue of the fact that it complies with the Council's highway design guide has a design speed of 20mph, therefore the road layout within the site is suitably constrained to support cycling on the carriageway.



- 6.90 Dwellings are served by suitable levels of off road parking and garages which are of dimensions recommended within the Council's Highways Design Guide. Secure covered cycle parking is provided either within garages or dedicated storage facilities. This, combined with the cycle lanes, internal roads designed to be able to be used as a 'shared surface' and controlled crossing over Leadon Way will help facilitate cycle use and encourage people to reduce car trips for local journeys.
- 6.91 Aligned to this and all the above, the site through its layout design and contributions to highways facilities creates both good connectivity from the site to the town and intervening facilities, whilst also enhancing connectivity within the south of the town. The plan below details connectivity, with route to School shown green, and location of town trail shown red, proposed features and improvements –



- 6.92 The proposed Improvements will help meet the NDP objectives to encourage cycling and walking connectivity through the provision and upgrade of crossings, footways and cycleways which help offset road congestion, limit and reduce air pollution, and provide a healthier option for short essential and recreational trips around the town. The routes above will create links between new and existing residential areas and local facilities and services; predominantly schools and community facilities: and the railway station. The proposals also demonstrate how account has been taken to improve the pedestrian and cycle network.
- 6.93 The controlled crossing over the Leadon Way road provided by the development is recognised within the NDP as a catalyst to open up other opportunities for more crossings to provide safe routes and support the cycling, pedestrian and disabled access priorities of which this is a firm desire of the people of Ledbury. On this basis the proposal more than demonstrates it complies with Core Strategy policies MT1 and NDP policy TR1.1 and furthermore helps contribute to

delivering 'sustainable development', reducing car dependency and reducing carbon emissions in line with Government aims and objectives.

- 6.94 Amended plans received 10 July 2019 address points raised by the Waste Manager with regards to refuse collection points and accessibility for refuse vehicles and a condition for these facilities being available prior to occupation condition is recommended.
- 6.95 As such regarding highway safety and related technical matters the proposal accords with CS policies SS4 and MT1, Ledbury Neighbourhood Plan policy SD1.1 and TR1.1, Herefordshire Council's Highways Design Guide and the NPPF.

#### Drainage

- 6.96 Whilst precise drainage details have not yet been agreed, it is noted Condition 22 attached to the original outline permission states –

*No development shall take place in any phase, including works of site clearance, until details of a sustainable surface water drainage scheme, based on the surface water drainage strategy set out in the Flood Risk Assessment and Surface Water Drainage Strategy dated October 2014 and the accompanying Drainage Strategy layout (Plan No 101 at Appendix E of the same) submitted with the planning application, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details and timetable. The scheme to be submitted shall:*

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for implementation of the scheme in relation to each phase of the development; and,
  - iii) provide a management and maintenance plan for the scheme, for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 6.97 This condition has not been discharged however details have been provided to support this application and are commented on by the Council's Drainage Engineer as set out above. Whilst unresolved, on the basis of this existing condition and previous assessment of drainage mitigation by the Appeal Inspector, the proposal accords with policies Core Strategy policies SD3 and SD4. It is emphasised conditions ensure surface water will be disposed of without adverse impact upon adjoining land uses and this position has been confirmed through the Inspector Decision and their appeal decision reference 143116 attached as to the Report.

#### Housing Mix

- 6.98 The 275 dwellings are made up of a mix of open market and affordable housing as follows:

##### Open Market – 165 Units

- 25 no. 2 bed units
- 70 no. 3 bed units
- 51 no. 4 bed units
- 19 no. 4/5 bed units

##### Affordable Housing – 110 units

- 10 no. 1 bed units
- 60 no. 2 bed units
- 35 no. 3 bed units

- 5 no. 4 bed units

6.99 It is noted the New Mills development was the last significant general needs development that has produced affordable housing in Ledbury, from around 15 years ago. The stock on that development belongs to West Mercia Housing. The Homepoint waiting list is growing considerably as there is a limited supply of affordable housing in Ledbury, and not enough to meet demand.

6.100 The housing mix of open market and affordable housing within the development is shown on the plan below (Drawing Title *Tenure Layout*, Drawing No. 5008 C, Received 28 May 2019), open market units are coloured blue, affordable rented units green, and affordable intermediate units red. Following concerns from Planning Committee a number of affordable units, seven, have been moved from the linear row of houses adjoining Leadon Way and swapped with seven open market dwellings.

6.101 The open market housing mix to strictly conform with policy would provide –

- 6 no. 1 bed units



- 43 no. 2 bed units
- 78 no. 3 bed units
- 38 no. 4 bed units

However, quashed permission reference 164078 ‘approved’ an open market mix as a percentage of the total open market mix as follows –

- 2 bed units 10%
- 3 bed units 50%
- 4 bed units 40%

The open market mix now proposed, as percentages provides –

- 2 bed units 15%
- 3 bed units 42%
- 4 bed units 31%
- 4/5 bed units 12%

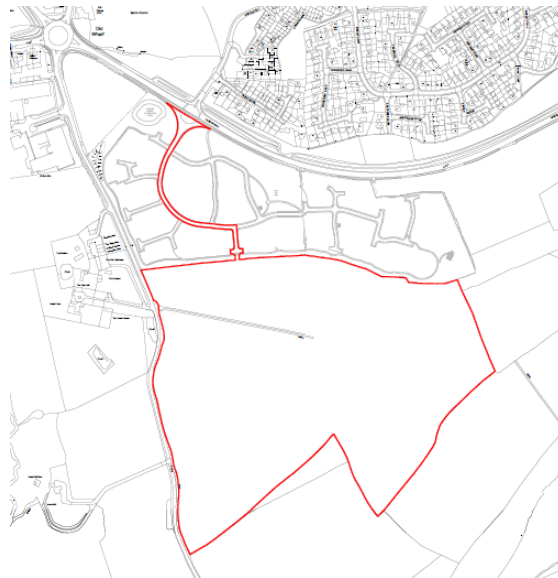
6.102 Whilst there has been a 3% increase in 4 and 4/5 units, the number of 2 bed units has also increased, by 5%. It is emphasised these figures are in regards to open market housing.

- 6.103 Further to the above, it is at the outline stage the housing mix should have been agreed. Article 2(1) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 includes definitions which provide a helpful starting point and a legal basis for determining what can and cannot be considered at the reserved matters stage. The phraseology used within the Order indicates the issues of scale and layout are principally concerned with the manner in which the buildings physically relate to one another and their surroundings and are not always appropriate for a mechanism for controlling the mix of housing.
- 6.104 Subsequent appeal decisions, including Appeal Ref: APP/Q3305/W/15/3137574 at *Land to the south of Longmead Close, Norton St. Philip, Frome BA2 7NS*, have considered the matter. Here Mendip Council refused to grant reserved matters approval on the basis that the mix of houses proposed, in terms of sizes/number of bedrooms, fails to reflect the identified local need within the sub-market housing area or the District as a whole.
- 6.105 The main issue in that appeal was whether this is material to the consideration of the application for reserved matters. The Inspector confirmed *the mix of housing in a development is a matter to be determined at the stage of granting planning permission*.
- 6.106 Noting the Council's previous position on a comparable open market mix, what is offered and the policy compliant affordable housing numbers it is considered the housing mix is acceptable.
- 6.107 The mix of 1, 2 and 3 bed units within the open market and affordable housing provision is considered to also meet the requirements of NDP Policy HO4.1 which supports such sized starter homes to help ensure young people can obtain suitable accommodation. This also reflects the areas of most need identified in the Housing Market Area Assessment.
- 6.108 On this basis The proposal will deliver an adequate suitable mix and numbers of housing and deliver much needed affordable housing compliant with Herefordshire Core Strategy policies SS2, SS3, H1 and H3 and relevant housing policies of the Ledbury Neighbourhood Plan and as such represents development that meets with regards to housing, the social objectives of the NPPF.

#### Other Matters

- 6.109 Objectors refer to a proposed adjoining development which would utilise the singular access to and from Leadon Way which serves the proposal subject to this report, and associated highway concerns from such a scenario.
- 6.110 An outline application for up to 420 dwellings with public open space, land for community facilities, landscaping and sustainable drainage system was made under reference 184032. The proposal has access for consideration within the application and would be as shown below utilising one of the main estate roads of the development under consideration in this report to then serve on and from Leadon Way via the new roundabout –





- 6.111 The application is subject to an Appeal which will be heard as a Public Inquiry with all dates regarding submission of statements, comments and the Public Inquiry itself still to be confirmed.
- 6.112 Comments have been made that Phase 2 should be considered and included within the reserved matters application to ensure appropriate assessment, however the applicant is not obliged to make a 'full area' application and phased approaches are not uncommon. In this situation the approach enables much needed housing to be delivered without delay whilst the area most impacted by noise is further assessed.

Section 106 Agreement / Planning Obligations and Conditions

- 6.113 On the basis of the 40% affordable housing proposed and as confirmed by the Planning Obligations Manager, the development is policy compliant with regards to Core Strategy policies and the completed Section 106 associated with the outline planning permission.

Summary and planning balance

- 6.114 In accordance with s.38 (6) of the 2004 Act, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Core Strategy constitutes a spatial strategy and policies designed to achieve sustainable development under the three objectives; social, economic and environmental. The NPPF, a material consideration, also seeks sustainable development through the economic, social and environmental objectives for planning. To enable a conclusion to be reached on whether the application proposals are in accordance with the development plan and to take account of material considerations, I now consider the conflicts with the development plan alongside the benefits and impacts of the proposals against each of the three roles or dimensions of sustainable development in turn.

**Turning to the three objectives of sustainable development;**

*Economic Objective*

- 6.115 A key aspect of the economic role played by the planning system is to ensure that sufficient land of the right type is available in the right places and at the right time to support growth.
- 6.116 In this context, the proposals score, in economic terms at least, positively. The proposal could help to support economic growth arising from:

- employment and supply of associated materials, goods and services in the construction phase
- support to local services and facilities arising from the new resident population
- economic benefits to the Council through the payment of New Homes Bonus.

6.117 The positive economic benefits arising from the scheme are significant, and will include direct economic betterment for local shops and businesses, however, these are not unique to this application proposal. However on the basis of the scale of the development I attach significant weight to these benefits.

*Social Objective*

6.118 Planning's social role incorporates providing support to strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment.

6.119 The proposal delivers a mix and range of housing, including affordable housing, which helps meet identified local demand now and for the future along with providing on site recreation facilities through 3 play areas, community landscaping and recreational walking routes. The delivery of these houses will also contribute to the social wellbeing of Ledbury through occupiers using and contributing to the town's existing society and life. The previously agreed Section 106 contributions include £390,000 towards Ledbury Primary School

6.120 As such the *social* objective is considered to be satisfied and I attribute significant weight to the benefits in community terms, particularly to establishing sustainable communities and a sense of place the development will secure.

*Environmental objective*

6.121 The environment objective requires consideration of how the development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy).

6.122 The proposal will enable more sustainable patterns of activity through providing new housing located where the town centre and other services and facilities are accessible by foot or bicycle from the new houses. It is however clear the noise mitigation measures, namely acoustic fence and bund, will introduce a prominent feature, particularly until green landscaping and planting has matured to mitigate and screen it and a less than substantial harm to heritage asset results.

6.123 The proposal would result in less than substantial harm to the setting of a designated asset, however this is considered at the lower end of that scale, with significant landscape mitigation further minimising the harm. That harm is not considered to outweigh the wider benefits of the proposal, which includes the significant delivery of houses, including 110 affordable units.

6.124 Taking all of the above into account, officers consider that the public benefits arising from the scheme, as outlined above are positive. There is no evident harm arising in relation to other technical matters as discussed above, and officers do not feel that the impacts of the development should tip the planning balance in favour of refusal.

*Conclusions and planning balance.*

6.125 Policy SS1 of the CS reflects the presumption in favour of sustainable development in national policy and provides that planning applications that accord with the policies in the Core Strategy will be approved unless material considerations indicate otherwise.

6.126 The NPPF paragraph 11 provides the mechanism for the determination of the application stating:

**For decision making**

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

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

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.127 As detailed above there is conformity with the housing and sustainable development policies of the development plan. These policies are consistent with the guidance contained within the NPPF.

6.128 The potential benefits that could be delivered by the scheme have also been considered above to which officers consider significant weight can be attributed.

**RECOMMENDATION**

**That Approval of Reserved Matters be granted subject to the following conditions and any further conditions considered necessary by officers named in the scheme of delegation to officers.**

- 1. The development hereby approved shall be carried out strictly in accordance with the approved plans and details.**

**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.**

- 2. Prior to the first occupation of the development hereby permitted details for the long term maintenance of the acoustic fence and structural noise mitigation adjoining Leadon Way as shown on the approved plans listed under Condition 1, shall be submitted to the Local Planning Authority for written approval. The maintenance of the fence and noise mitigation shall be undertaken in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: To ensure the long term mitigation of noise and ensure adequate amenity to residents of the development hereby approved and to comply with Herefordshire Core Strategy policies SS6 and SD1 and the relevant aims and objectives of the National Planning Policy Framework as relate to noise and associated amenity are satisfied.**

- 3. G11 Landscaping scheme – implementation  
The soft landscaping scheme approved as shown on the approved plans listed under Condition xx and xx of this Decision Notice shall be carried out concurrently**

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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 xx 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 xx 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.

**5. G13 Tree planting**

With the exception of any site clearance and groundwork (excluding any works to retained features), no further development shall take place until a scheme of tree planting has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of the species, sizes and positions or density of all trees to be planted and the proposed time of planting. All tree planting shall be carried out in accordance with those details.

The trees shall be maintained for a period of xx years. During this time, any trees 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 trees fail more than once they shall continue to be replaced on an annual basis until the end of the xxyear 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.

**6. G14 Landscape management plan**

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

**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.

**7. Maintenance condition for acoustic fence**

**8. No development shall be undertaken to commence details of the play areas including equipment, surfacing, landscaping, means of enclosure and provision of seating, litter bins and the phasing of their provision until plans have been submitted and approved in writing by the Local Planning Authority. The play areas shall be constructed in accordance with the approved details and thereafter retained as approved.**



**Reason: in order to comply with the requirements of the Policies OS1 and OS2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 9. Development shall be carried out in accordance with glazing specification details to be submitted to and approved in writing by the Local Planning Authority and thereafter included as such within the development and thereafter maintained.**

**Reason: To ensure adequate levels of amenity are maintained with those dwellings and to Comply with Herefordshire Core Strategy policies SS6 and SD1 and paragraphs 127 and 180 of the National Planning Policy Framework.**

**INFORMATIVES:**

- 1. Non Standard**

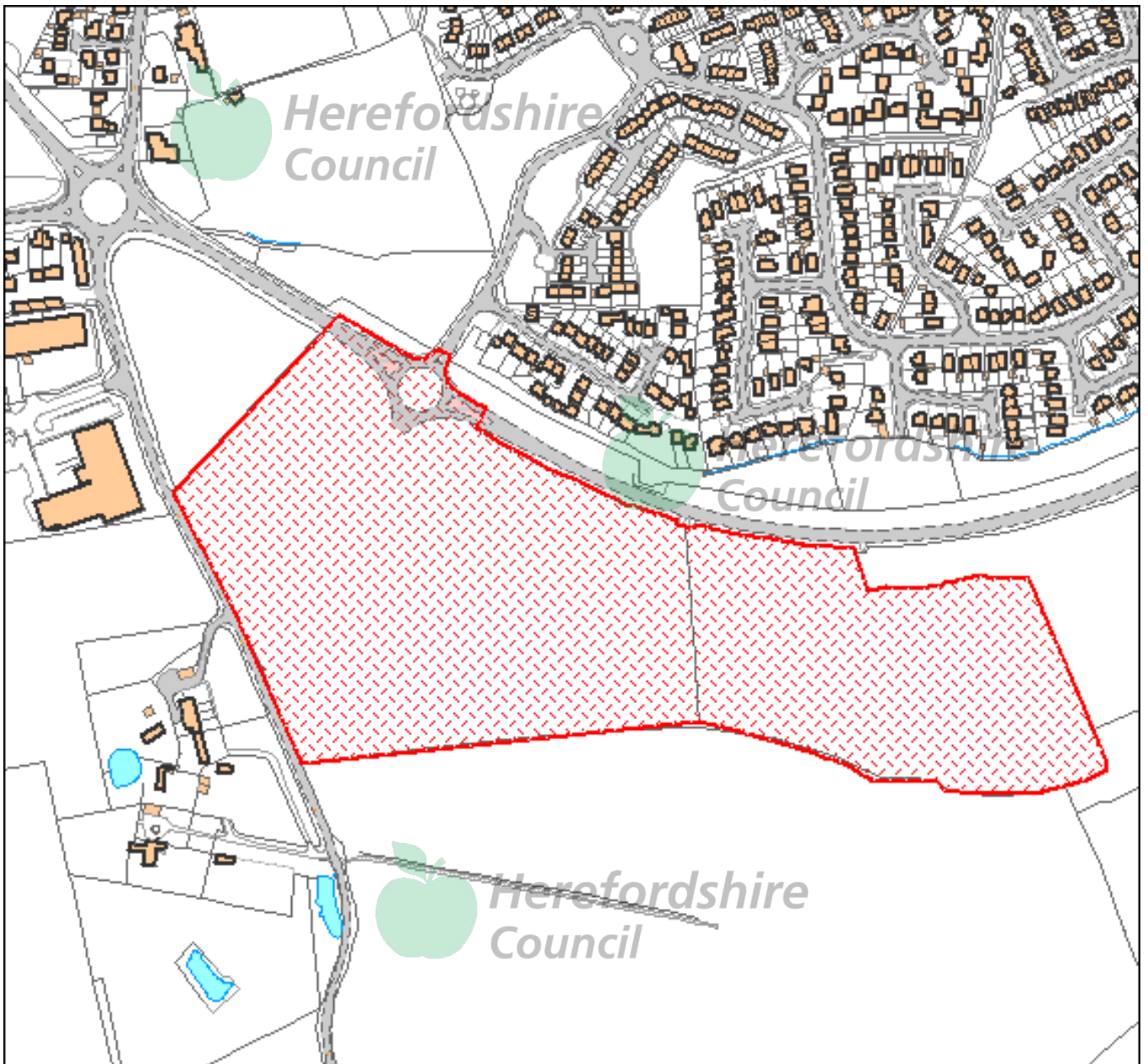
**The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission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

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 182628

**SITE ADDRESS :** LAND TO THE SOUTH OF LEADON WAY, LEDBURY

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<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>24 July 2019</b>
<b>TITLE OF REPORT:</b>	<p><b>190416 - SITE FOR A PROPOSED DEVELOPMENT FOR THE ERECTION OF 10 DWELLINGS AT LAND ADJACENT TO PLOUGHFIELDS, PRESTON-ON-WYE, HEREFORDSHIRE.</b></p> <p><b>For: Mr Dale per Mrs Claire Rawlings, 10 The Maltings, Dormington, Hereford, Herefordshire HR1 4FA</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190416&amp;search=190416">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190416&amp;search=190416</a>
<b>Reason Application submitted to Committee - Redirection</b>	

Date Received: 6 February 2019

Ward: Golden Valley  
North

Grid Ref: 338340,241663

Expiry Date: 13 May 2019

Local Member: Councillor Jennie Hewitt

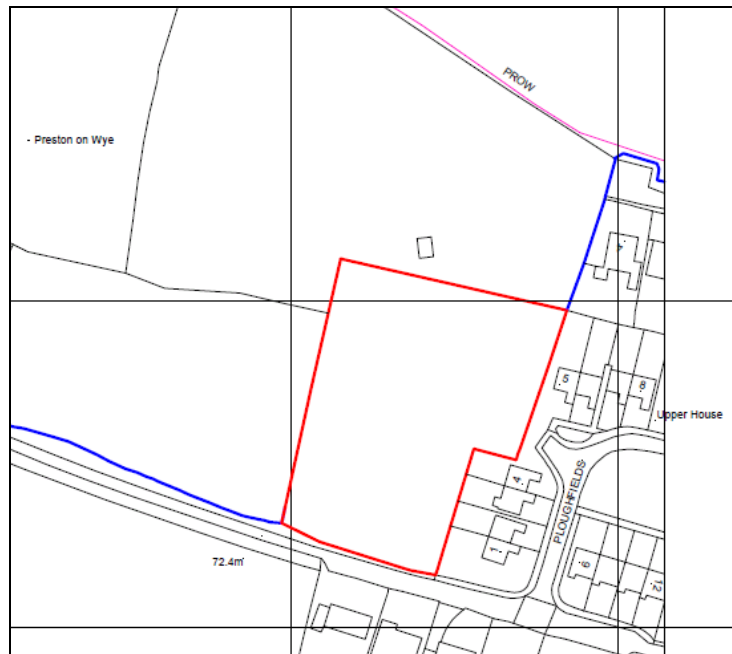
## 1.0 Site Description and Proposal

- 1.1 The application site is located within Preston on Wye, a village located within the Golden Valley area of South West Herefordshire and comprises of an area of land between Ploughfields (residential development) and open countryside. Bungalows are located to the south of the site on the opposite side of the village road Preston on Wye is a reasonable sized village with 82 houses comprised around one centre. The application site lies on the western edge the village. The village is located approximately 8 miles west of Hereford and 12 miles from Hay on Wye and there are other villages in the locality and benefits from the proximity to the settlements of both Madley and Peterchurch. The village is situated in a rural location, with a wide array of properties nearby including modern properties, listed buildings, a public house, church and village hall.
- 1.2 The application site is currently used for agricultural purposes and amounts to approximately 0.5 hectares and substantial part is roughly rectangular. The site is bounded by established hedgerows and a post and wire stock fencing. To the east of the application site it is tree line, open pasture land to the north and the C1192 road with a vehicular field gate access to the south. An existing Public Right of way public footpath is located the north of the site and can be seen on the block plan below. (PROW Preston on Wye footpath 1). The nearest footway begins on the northern side of the C1192, at the western junction radii of Ploughfields, approximately 25m east of the eastern boundary of the site.
- 1.3 Access to the site is currently obtained from the north of the C1192, this links to the C1191 to the north east of the site. Both of the roads are generally single track by nature, however regular passing bays are provided via the use of farm gateways, or wider sections of the road. The village hall, church, public house is located within walking distance and to the far north of the site outside of the application site is an existing Public Right of Way (PROW Preston on Wye Footpath 1). The site is located with a 30mph zone with the proposal providing adequate visibility in both directions. The A438 road network is located a short distance to the north of

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Further information on the subject of this report is available from Miss Heather Carlisle on 01432 260453

the village which provides further links beyond. The roads within the area are generally single carriageway. There is a bus service providing a service to Hereford, albeit infrequent.



*Extract of location plan Drawing number E001 – Rev D*

- 1.4 The application is made in outline with all matters reserved (except for access) and seeks permission for the erection of 10 dwellings.
- 1.5 As defined within The Town and Country Planning (Development Management Procedure) (England) Order 2015: “reserved matters” in relation to an outline planning permission, or an application for such permission, means any of the following matters in respect of which details have not been given in the application.

**Access:** In relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made;

**Appearance:** Means the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;

**Landscaping:** In relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, 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;

**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;

*Scale:* Except in the term 'identified scale', means the height, width and length of each building proposed within the development in relation to its surroundings;

- 1.6 This application has been supported by supporting documents in the form of a Design and Access Statement, an Ecological Assessment and arboricultural survey, Traffic and Speed Survey and Vehicular Access Proposals as well a Drainage Strategy. Revised drawings have been submitted during the application process in regards to additional clarification sought by the Local Highway Authority.
- 1.7 An indicative layout plan has also been submitted as part of the application which seeks to demonstrate that 10 dwellings can be adequately sited on the site.



*Extract of Illustrative Block Plan - Drawing number P003- Rev A*

- 1.8 The proposed housing mix as detailed within the submitted information stipulates 3no x 2 bedroom, 4no x 3 bedroom and 3no x 4 bedroom dwellings are proposed.

## **2. Policies**

### **2.1 The Herefordshire Local Plan – Core Strategy**

The following policies are considered to be relevant to this application:

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA1	-	Rural Housing Distribution
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sport and Recreation
OS2	-	Meeting Open Space, Sport and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity

LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality

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

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

2.3 The Neighbourhood Development Plan for Preston on Wye is known as 'Wyeside Group' and covers Blakemere, Bredwardine, Moccas, Preston on Wye and Tyberton. This plan was 'made' on 18th October 2018 and therefore forms part of the statutory development plan.

2.4 Wyeside Group Parish Neighbourhood Plan:  
Relevant Policies are:

- WH01: New Housing Developments
- WH02: Ensuring an appropriate Range of tenures, Types and Size of Houses
- WE02: Landscape Design Principles
- WE03: Protecting Green Infrastructure, Heritage Assets and Local Green Space
- WE04: Renewable Energy
- WE05: Pubic Sewerage and Wastewater Treatment
- WF04: General Policy: Applicable to all Developments
- WHD01: New Building Design

The Wyeside Neighbourhood Development Plan can be seen online at:

[https://www.herefordshire.gov.uk/directory\\_record/3124/wyeside\\_group\\_neighbourhood\\_development\\_plan\\_made\\_18\\_october\\_2018](https://www.herefordshire.gov.uk/directory_record/3124/wyeside_group_neighbourhood_development_plan_made_18_october_2018)

2.5 The National Planning Policy Framework (NPPF) has been considered in the assessment of this application. The following sections are considered particularly relevant:

- 2. Achieving Sustainable Development
- 5. Delivering a Sufficient Supply of Homes
- 8. Promoting Healthy and Safe Communities
- 9. Promoting Sustainable Transport
- 11. Making Effective Use of Land
- 12. Achieving Well-Designed Places
- 15. Conserving and Enhancing the Natural Environment
- 16. Conserving and Enhancing the Historic Environment

### 3 Planning History

3.1 None

### 4. Consultation Summary

#### Statutory Consultations

4.1 Natural England: **No objection:**

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

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453



#### Internationally and nationally designated sites

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

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have

Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process.

The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website.

<http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/>

The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

#### European site - River Wye SAC - No objection

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

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

#### River Wye SSSI – No objection

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

- 4.2 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.

We have reviewed the information submitted as part of this application with particular focus on the Planning Drainage Layout dated 17/07/18. We note that the intention is to drain foul water to the public sewer to which we have no objection and surface water to a nearby watercourse to which we offer no further comment.

Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

### Conditions

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

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

### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

### SEWAGE TREATMENT

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

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

### Internal Council Consultations

4.3 The Transport Manager (amended plans):  
No objection subject to conditions

4.4 The Service Manager Built and Natural Environment Manager comments:  
**(Ecology)**

The site is within the River Wye SAC catchment and as confirmed by Natural England comments a Habitat Regulation Assessment process must be completed. Subject to Natural England approving the appropriate assessment submitted to them a condition to secure the relevant mitigation measures is requested on any planning consent granted. The supplied ecological report is noted and the recommendations and proposed biodiversity net gain enhancements should be implemented as stated.

4.5 The Service Manager Built and Natural Environment Manager comments:  
**(Historic Buildings Conservation)**

Housing on the site would not be precluded due to any heritage constraints. We would encourage layout of the housing to be included within the outline application to be able to understand impact of density and massing on the character of the settlement, although it is noted that it isn't a Conservation Area.

### Background to recommendations:

There are several Heritage Assets in close proximity:

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453



- Green Farmhouse, Grade II, 110m to the SE
- Upper House, Grade II, 80m to E
- Non-conformist Chapel, unlisted heritage asset 150m to E

Policy SS6 of the Core Strategy outlines that development proposals should support the local distinctiveness of an area. As such it is felt that the design of any housing should respond to the character of traditional buildings within Preston on Wye and the wider area. This does not preclude contemporary design. Characteristics to be considered within any reserved matters application include the layout/density of the development (with consideration of how the 'edge' of the village is experienced) Materials, solid to void ratio and the span depth ration of the buildings. We would encourage the layout and density to be included within the outline application if possible to be able to determine the impact of the design.

It is not felt that appropriate development on the site would harm those aspects of the setting of these buildings which contributes to their significance.

#### 4.6 Archaeological Advisor

Preston on Wye does indeed have some general interest as regards its early medieval history in particular. As with any greenfield site in the historic landscape, remains could possibly be found. However, this potential has been assessed (e.g. in the Central Marches Historic Towns Survey 1996) as being moderate [only]. The particular location of the proposed development is outside the principal area of likely remains, and there is nothing about the nature of the field here leading to the conclusion that remains of substance are present. On balance, I am of the view that sufficient is already known about the location for the application to accord with the aims of NPPF Para 189. On the other hand, I would consider it appropriate in this case to attach a suitable archaeological condition to permission if granted. This would satisfy the policy requirements of Core Strategy LD4, and NPPF Para 199. I would suggest standard condition E01 / C47, or variant thereof.

#### 4.7 Public Rights of Way (PROW):

I have no objection to the development. If a new right of way is to be created, a legal Creation Order will need to be made. The applicant must contact this department for this. The length of the right of way created would depend on whether the development will be adopted by the council. Landowner permission is also required.

#### 4.8 The Service Manager Built and Natural Environment Manager comments: **(Landscape):**

I have read the arboricultural report in conjunction with drawing no 001; planting proposals, I note the removal of H1 along the southern boundary to facilitate the visibility splay, with some additional tree removal of category B hawthorn. Having revisited the site I am satisfied these are not specimen trees and that there is extensive proposed tree and hedgerow planting to compensate for the loss.

No landscape objection is therefore raised to the proposal as I am satisfied it complies with policy LD1 of the Core Strategy. Detailed planting plans supported by a management plan for a 5 year period are required via condition.

#### 4.9 Land Drainage Officer:

The Applicant proposes the construction of 10 dwellings. The site covers an area of approx. 0.50ha and is currently a Greenfield site. The topography of the site is slightly sloping down from approx. 73.3m AOD in the south to approx. 70.2m AOD in the north. The River Wye (SSSI) is approx. 930m to the north of the site. In addition to this, the Flits (SSSI) is located approx. 620m to the southwest of the site.

Review of the Environment Agency's Flood Map for Planning (Figure 1) indicates that the site is located within the low risk Flood Zone 1. As the proposed development is located within Flood Zone 1 and is less than 1ha, in accordance with Environment Agency standing advice, the planning application has not been supported by a Flood Risk Assessment (FRA). Within Flood Zone 3 Within Flood Zone 2 Within Flood Zone 1

Site area less than 1ha FRA required FRA required FRA not required\*

Site area greater than 1ha FRA required FRA required FRA required

\*except for changes of use to a more vulnerable class, or where they could be affected by other sources of flooding

#### 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

Soakaway testing has proven that infiltration techniques at this site are not a viable option.

The drainage layout demonstrates that the proposals are to direct all surface water runoff (from the highway, roofs and driveways) into an attenuation pond to the northwest of the site. It is stated on the layout plan that this will be designed for the 1 in 100 year +35% climate change event. The Applicant should 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>

A 40% climate change allowance should be applied.

It is stated that the flows will be restricted; however no clarification around the discharge rate or diameter of flow control has been provided. Reference is made to 'MicroDrainage' calculations, however, these do not appear to have been provided to support this outline application. The rate and volume of discharge should be restricted to the pre-development Greenfield values as far as practicable. Reference should be made to The SUDS Manual (CIRIA C753, 2015) for guidance on calculating runoff rates and volumes. The assessment of pre and post-development runoff rates should consider a range of storm durations to determine those which are critical for the site and receiving watercourse or sewer and demonstrate sufficient storage has been provided. Allowances for climate change would not typically be included in the calculation of existing discharge rates.

The final outfall is stated to be 350m into a watercourse, via gravity. No maps have been provided to demonstrate the watercourse. If the land on which this pipe is to be located is owned by a third party, an agreement must be provided for this pipe. Also, confirmation must be provided from the riparian owner(s) of the watercourse for the outfall of surface water into the watercourse.

The drainage system should be designed to ensure no flooding from the drainage system (which can include on-the-ground conveyance features) in all events up to the 1 in 30 year event. Surface water should either be managed within the site boundary or directed to an area of low vulnerability.

Guidance for managing extreme events can be found within CIRIA C635: Designing for exceedance in urban drainage: Good practice.

Consideration should also be given to the control of potential pollution of ground or surface waters from wash down, vehicles and other potentially contaminating sources. Evidence of adequate separation and/or treatment of polluted water should be provided to ensure no risk of pollution is introduced to groundwater or watercourses both locally and downstream of the site, especially from proposed parking and vehicular areas. SUDS treatment of surface water is considered preferential for a development of this size.

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 proposal for foul water disposal is to connect to the existing public sewer. The water company should be contacted.

### **Overall Comment**

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

- A detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event, and no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change;
- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure that site-generated surface water runoff is controlled and limited to agreed discharge rates for all storm events up to and including the 1 in 100 year rainfall event, with an appropriate increase in rainfall intensity to allow for the effects of future climate change;
- Evidence that the Applicant is providing sufficient storage and appropriate flow controls to manage additional runoff volume from the development, demonstrated for the 1 in 100 year event (6 hour storm) with an appropriate increase in rainfall intensity to allow for the effects of future climate change;
- Evidence of agreement from third party land owner(s) (if this differs from the Applicant) to confirm that the pipe can be located as proposed, in addition to agreement from the riparian owner(s) of the watercourse into which the outfall is proposed.
- Evidence that the Applicant has sought and agreed permissions to discharge foul water from the site with the relevant authorities;
- Demonstration of the management of surface water during extreme events that overwhelm the surface water drainage system and/or occur as a result of blockage;
- Demonstration that appropriate pollution control measures are in place prior to discharge;
- Confirmation of the proposed authority responsible for the adoption and maintenance of the proposed drainage systems.

## 5. Representations

### 5.1 Preston on Wye Council objects:

The Wyese Group of Parish Councils has the following objections:

#### 1. Traffic and the Single-Track Approach Road to the Proposed Development

The approach road proposed development re-design with a footpath is going to make it difficult for delivery vans and users of the new development to navigate passing traffic including farm vehicles at the new junction. Please check that the outline planning submission is compliant with the following policies:

#### Herefordshire Council Policies and Wyese NDP Policy WF04 - General Policy Applicable to all Developments

Ensure that traffic generated by any proposal can be accommodated safely within the local road network which in many cases is single track, and does not result in the need to widen roads along their entire length or the removal of hedgerows, except where additional passing points are needed to manage increases in traffic volumes, demonstrate that landscape, environmental and amenity impacts are acceptable, and that access and parking standards are adequate having regard to the latest highways' guidance produced by Herefordshire Council.

A further concern is the possible amenity loss for a resident opposite the development approach road whose bedroom window would be overlooked because of the greater height of the development and the possible loss of a lay-by, if it is subsumed into the proposed road and footpath configuration.

#### 2. Drainage Concerns

The approach road alongside and leading to the proposed new development suffers from flooding and poor drainage in wet conditions and compliance with the following policies is therefore requested:

#### Herefordshire Council Policies and Wyese NDP Policy WHDOI - New Building Design

All new development should incorporate sustainable urban drainage systems (SUDS) where appropriate taking account of the hydrological setting of the site, which as a minimum are fully compliant with the most recently, adopted national and local standards and preferably exceed them.

#### 3. Sewage Treatment Pipework Proposed Connection to Existing Pipework

The current sewage pipework that the proposed development would connect to passes under a number of properties and it maybe that an easement for access has not be registered by Welsh Water as the pipework was originally laid when it was farm land. This needs to be checked as it is likely that the pipework is too old and could need replacing with larger diameter pipework to meet demands for the new development. If there is not an easement in place or disruption to the community is excessive (as it runs under a number of mature gardens with infrastructure) alternative arrangements may need to be considered such as pipework re-direction over open farmland.

#### 4. Number of Proposed Houses

Page 16 of the WGPC NDP says that a total of ten new properties were acceptable to the majority of residents in Preston on Wye for the period to 2031. Three are planned at the Chapel. So, the level agreed by the community and available for development is 7. This is why 10 is considered to be too many for the Ploughfield development.

The NDP goes on to say that 'The notional size of any one development site acceptable to each village is summarised as five houses per development site in the larger village of Preston on Wye'. Whilst this is provided as a guide within the NDP it represents the views held by the local community, and is therefore the basis for an objection against a 10 houses development. In conclusion the preferred number of houses for this development is therefore 5. This would leave 2 slots for others wanting to convert or build.

#### 5. Proposed Public Right of Way

The following change to the proposed Public Right of Way (PROW) in the plan has been agreed between the landowner for the above planning submission and Preston-on-Wye local residents. This may require an update to the plan submission:

5.2 Eleven objections have been received from local residents, comments are summarised as:

- Transportation concerns:  
Due to the size of the dwellings there will be a requirement to use own transport, lack of public transport, dangerous narrow single track lanes, additional cars will exacerbate the busy narrow lanes, safety, less houses will reduce impact on the road system and utility services. Traffic volume, heavy goods lorries, limited passing places, traffic surveys done at the quietest time. Proposed access is a risk, concerns in regards to the location of proposed entrance to the development of the site. The track ((lane) is a black spot and does not allow sufficient line of sight. Concerns in regards to construction traffic, noise and volume.
- Lack of footpaths, street lighting
- More suitable villages within Herefordshire with main road access to build developments of this magnitude
- Potential resale and value of homes
- Lack of village amenities, small pub, one bus one day a week, limited public transport
- Not appropriate mix of houses, demand for bungalows, housing allocation, 5 houses more acceptable
- Neighbourhood development plan: 10 houses allocated for the village within the NDP/ If 10 approved in one location this may jeopardise brown field sites coming forwards. Non compliance of neighbourhood plan, contravenes and disregards the village wishes, village wants small developments. 3 houses already approved within the village, this development too big, the size and design needs to be improved.
- Sewers: under and across private properties, has existing pipework got capacity
- Proposed PROW: safety and security concerns, privacy concerns, litter and its removal
- Loss of hedgerows and native trees and the site requires native planting.
- Local flooding concerns.
- Local children's play area not a public play area
- Lack of archaeological investigation
- Lack of demand for new houses
- Amenity concerns: privacy, loss of view, noise and how long the building out process
- Loss of agricultural, the land should be used for pasture and crop use and not for domestic housing.

5.3 One letter of representation received supported the proposal.

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=190416&search=190416](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190416&search=190416)

## 6. Officer's Appraisal

### Policy context

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows "If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the 'made' Wyeside Neighbourhood Plan (NDP). The NDP was 'made' on the 18<sup>th</sup> October 2018. The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.3 Core Strategy Policy SS1 – Presumption in favour of sustainable development, in line with the NPPF, has a positive approach to such development. Furthermore, planning permission will be granted unless the adverse impact of the permission would significantly and demonstrably outweigh the benefits of the proposal.
- 6.4 Core Strategy Policy SS2 – Delivering new homes sets out Herefordshire is to deliver a minimum 16,500 dwellings during the plan period and that designated rural settlements play a key role in that delivery and support the rural economy, local services and facilities. Such settlements will deliver a minimum 5,600 dwellings.
- 6.5 Core Strategy policy SS6 describes proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations. Policy SS6 then states in its list of criteria that development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.
- 6.6 Core Strategy policy SS7 – Addressing climate change describes how developments will be required to mitigate their impact on climate change, and strategically, this includes:
- Focussing development to the most sustainable locations
  - Delivering development that reduces the need to travel by private car and encourages sustainable travel options including walking, cycling and public transport
- 6.7 Core Strategy policy RA1 – Rural housing distribution sets out the strategic way housing is to be provided within rural Herefordshire and to deliver a minimum 5,600 dwellings. Herefordshire is divided into seven Housing Market Areas (HMAs) in order to respond to the differing housing needs, requirements and spatial matters across the county. Preston on Wye lies within the Golden Valley HMA, which is tasked with an indicative housing growth of 12% (340 dwellings).
- 6.8 Core Strategy policy RA2 – Housing outside Hereford and the market towns identifies the settlements in each HMA area where both the main focus of proportionate housing development will be directed, along with other settlements where proportionate housing growth is appropriate. Preston on Wye is one of these settlements and is within the Golden Valley HMA.

#### Core Strategy Policy RA2 – Housing in settlements outside Hereford and the market towns.

*To maintain and strengthen locally sustainable communities across the rural parts of Herefordshire, sustainable housing growth will be supported in or adjacent to those settlements identified in Figures 4.14 and 4.15. This will enable development that has the*

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

*ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the communities concerned. The minimum growth target in each rural Housing Market Area will be used to inform the level of housing development to be delivered in the various settlements set out in Figures 4.14 and 4.15.*

*Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets, by indicating levels of suitable and available capacity.*

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

- 1. Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified in fig 4.15 proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned;*
- 2. Their locations make best and full use of suitable brownfield sites wherever possible;*
- 3. They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and*
- 4. They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.*

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

6.9 As detailed above Neighbourhood Development Plan is the mechanisms for setting growth as it allocates land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets, by indicating levels of suitable and available capacity. The relevant NDP policies are detailed below.

6.10 Core Strategy Policy MT1 – Traffic management, highway safety and promoting active travel states development proposals should incorporate the following principle requirements covering movement and transportation:

1. 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;
2. Promote and, where possible, incorporate integrated transport connections and supporting infrastructure (depending on the nature and location of the site), including access to services by means other than private motorised transport;
3. Encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities;
4. Ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services;



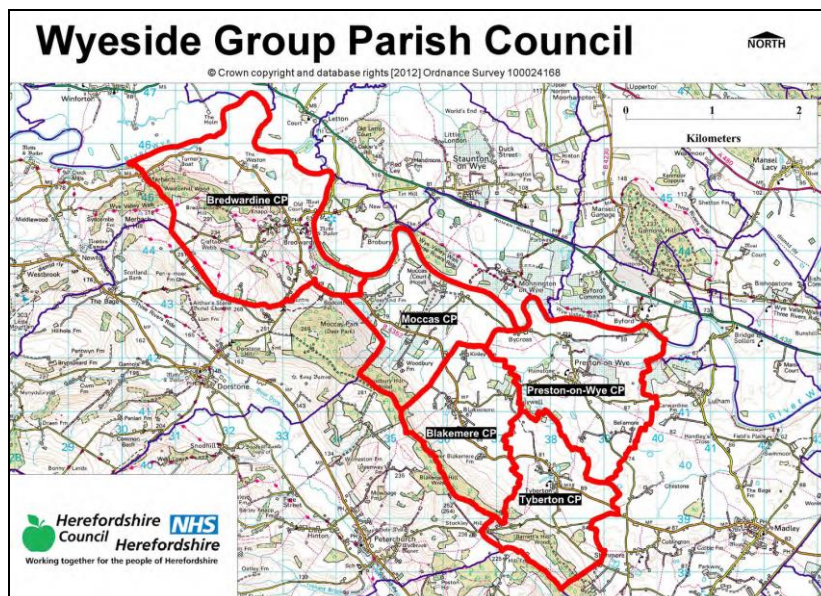
5. Protect existing local and long distance footways, cycleways and bridleways unless an alternative route of at least equal utility value can be used, and facilitate improvements to existing or provide new connections to these routes, especially where such schemes have been identified in the Local Transport Plan and/or Infrastructure Delivery Plan; and
6. Have regard to with both the council's Highways Development Design Guide and cycle and vehicle parking standards as prescribed in the Local Transport Plan - having regard to the location of the site and need to promote sustainable travel choices.

6.11 Core Strategy policy LD1 criteria requires that new development should:

- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
- Conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management.

### Neighbourhood Development Plan

6.12 The **Wyeside Group** Neighbourhood Development Plan was 'made' on 18 October 2018. It now forms part of the Development Plan for Herefordshire. The parishes that the Wyeside Group NDP cover are Bredwardine, Moccas, Blakemere, Tyberton and Preston on Wye and these are detailed on the plan inserted below:



6.13 The Neighbourhood Plan policies do not include specific settlement boundaries and their spatial strategy requires that any new housing development will be contiguous to the centre of the village.

The relevant NDP policies are detailed below.

6.14 Policy WH01: New Housing Development



Permission will be granted over the period August 2018 until 31 March 2031 for the development of around 32 dwellings. All new housing development should reflect the size, role and function of the village in which it is situated on land which is contiguous with the existing village centre; that is on a site which immediately adjoins the centre as shown on the Policies Maps or is within or abuts a group of existing buildings which are contiguous with the centre when the plan was made or updated. Housing Development which only abuts new development granted since this plan was made or updated and not shown on the plan's policies maps as existing development will not be allowed.

In addition, proposals for new housing should reflect the character of the village and surrounding environment and relate directly to the existing built form in the immediate vicinity. Also, in so far as it is reasonably practicable and viable, any development for three or more houses should be laid out in the form of an organic cluster built off a new access lane avoiding the use of a cul-de-sac, with pedestrian links/ pathways to the rest of the village.

#### 6.15 Policy WH02: Ensuring an appropriate Range of Tenures, Types and Size of Houses

Open market housing should include a mix of predominantly two and three bedroomed properties. Housing developments of more than 10 dwellings should include an element of affordable housing in accordance with Policy H1 in the Adopted Core Strategy. These houses should be integrated with open market housing across a site and should be designed so as to be visually indistinguishable from such housing.

#### 6.16 Policy WE02 – Landscape Design Principles

All new development proposals will be required to demonstrate consideration of the following landscape design principles:

- Development proposals should seek to preserve or enhance the character of the hamlets and farmsteads especially those with buildings of statutory and non-statutory heritage value;
- Where appropriate, taking account of the nature and scale of the proposed development, a detailed landscape impact analysis should be provided as part of the planning application to demonstrate how proposals have been designed to enhance local landscape character and reduce urbanisation of this sensitive rural area, whilst minimising risk of fluvial flooding;
- Demolition of buildings and structures that contribute to the character and appearance of these areas will be resisted;
- Local habitats and wildlife should be preserved and enhanced;
- Veteran, mature and established trees should be protected and incorporated into landscaping schemes wherever possible;
- The planting of local species will be encouraged. Species should be appropriate to the location and setting in terms of type, height, density and need for ongoing good management;
- When constructing boundaries native tree species should be used;
- Existing hedgerows should be retained and the establishment of new native hedges is encouraged;
- Where orchards are lost as a result of new development proposals, developers will be expected to include an equivalent range of varietal fruit species traditional to the local area in landscaping schemes;
- New development must take account of known surface and sub-surface archaeology and ensure unknown and potentially significant deposits are identified and appropriately considered during development. Lack of current evidence of sub-surface archaeology must not be taken as proof of absence.

#### 6.17 Policy WE03: Protecting Green Infrastructure, Heritage Assets and Local Green Space

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

Where appropriate, development proposals should demonstrate that they have regard to the Herefordshire Strategy for Green Infrastructure by:

- Protecting priority habitats, species, ancient woodlands, the River Wye as a landscape feature, designated and non-designated heritage assets, traditional orchards, hedges, the low density dispersed settlement pattern, and rural views;
- Retain existing open spaces (not included in development contiguous to village centres), trees, hedgerows, woodlands, water courses, parks and gardens.
- Where appropriate providing facilities for recreation and leisure;
- Incorporate sustainable drainage solutions to reduce risk of flooding;
- Incorporate landscaping utilising indigenous species;
- Archaeological, historical and cultural features will be protected and, where possible, enhanced. The area of land comprising the orchard opposite the Red Lion in Bredwardine, and the orchard bordered by Church Lane, and the River Wye as set out in Appendix 5 – NDP Policy Maps, Bredwardine Policies Map, on Page 57 is designated as a Local Green Space. In this area, inappropriate development will not be permitted except in very special circumstance

#### 6.18 Policy WE04 – Renewable Energy

Conserving and producing renewable energy will be encouraged subject to the relevant criteria in Policy WHD01 or Policy WHD02, above.

- Stand-alone small wind turbines will be permitted if they have community support and comply with the criteria in the Adopted Core Strategy Policy SD2.
- Solar panels, including ground-based panels, are permitted on the roofs or curtilages of listed buildings if it can be proved there is no harm to the building or its setting. In the case of buildings considered to be non-designated heritage assets a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

#### 6.19 Policy WE05 – Public Sewerage and Wastewater Treatment

Development at Bredwardine, Moccas and Preston-on-Wye should minimise any effect on the capacity of the public sewerage network and/or wastewater treatment works serving those villages. If a development proposal would result in the existing capacity being exceeded financial contributions will be sought for any improvements necessary to facilitate such development.

Elsewhere any new housing growth will be required to utilise alternative drainage methods, under the provisions of Policy SD4 of the Adopted Core Strategy.

#### 6.20 Policy WHD01 – New Building Design

Proposals for the erection of new buildings will be permitted provided the following requirements are met:

##### Non-Agriculture/Forestry and Business Buildings

- The use of external material relates directly to the existing built form such that it blends in with surrounding buildings;
- Development should take account of local topography and should not break the skyline;
- Development should be of a small scale and new buildings or structures should be of a height, scale and massing appropriate to the rural character of Wyeseide;

- The use of sustainable construction techniques and incorporation of renewable energy components will be encouraged and where they are to be incorporated in the roof these should, whenever possible, be of a low profile;
- All new development should incorporate sustainable urban drainage systems (SUDS) where appropriate taking account of the hydrological setting of the site, which as a minimum are fully compliant with the most recently adopted national and local standards and preferably exceed them.

### **National Planning Policy Framework**

- 6.21 The NPPF has ‘sustainable development’ central to planning’s remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people’s quality of life.
- 6.22 Paragraphs 7 and 8 set out and define sustainable development and of the three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, the social objective requires planning to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being.
- 6.23 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means 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 the application of policies of 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 this Framework taken as a whole.
- 6.24 Footnote 7 to Paragraph 11 states that, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73). The local authority is currently failing to provide a 5 year Housing Land Supply, plus a buffer and as such Paragraph 11 is triggered due to conflict with the relevant requirements of NPPF chapter 5 ‘Delivering a sufficient supply of homes’.
- 6.25 Where the existence of a five year land supply cannot be demonstrated, there is presumption in favour of granting planning permission for new housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing. In reaching a decision upon new housing the housing land supply position will need to be balanced against other factors in the development plan and/or NPPF which could result in the refusal of planning permission. This site is therefore assessed and considered on its suitability as being sustainable in regards its location and material constraints and considerations.
- 6.26 Accordingly, the Council’s housing land supply position regarding the NPPF does not result in the proposal being acceptable when there are both material considerations demonstrating the development should be refused or where, locally, housing supply targets can be demonstrated.
- 6.27 Paragraph 103 states: The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary

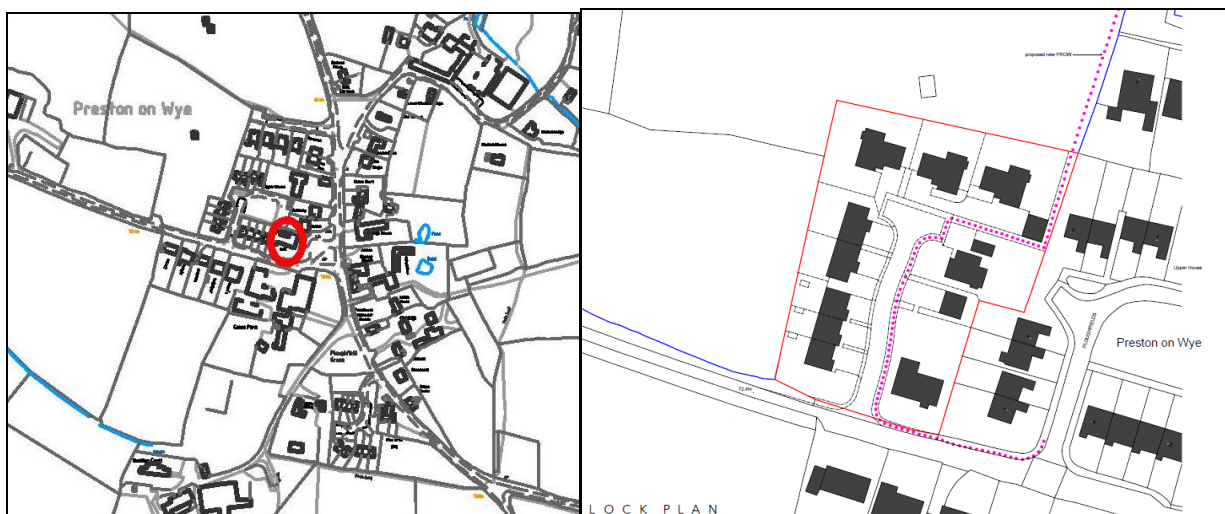
between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

- 6.28 Paragraph 109 states: Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.29 NPPF Paragraph 124 states: The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.30 Paragraph 127 outlines that planning decisions should ensure that developments:
- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.31 NPPF section 16 sets out the position regarding conserving and enhancing the historic environment. Specific principles and policies relating to the historic environment and heritage assets and development are found in paragraphs 184 – 202.
- 6.32 Paragraph 193 advises that: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.33 Paragraph 197 states: The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

### **Officer Appraisal**

- 6.34 This is an application in outline form; it therefore only seeks to establish the principle of residential development for ten dwellings and the access thereto, Access as set out in the NPPG, means - *the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.*

- 6.35 Whilst 'layout', is a reserved matter, an illustrative plan provides an example of how the intended development could be accommodated. 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.*
- 6.36 With this in mind, the application is to be considered against its compliance with policy in respect of the principle of the development and the matter of access.
- 6.37 As detailed above RA2 turns to the NDP to inform the minimum level of housing that will be delivered in their neighbourhood areas and settlements. In this instance, policy WH01 states that the neighbourhood area will seek to deliver around 32 dwellings and that *All new housing development should reflect the size, role and function of the village in which it is situated on land which is contiguous with the existing village centre; that is on a site which immediately adjoins the centre as shown on the Policies Maps or is within or abuts a group of existing buildings which are contiguous with the centre when the plan was made or updated.*
- 6.38 The made NDP does not have a settlement boundary and within the NDP it makes it clear that any proposals for new housing should be situated on a site which immediately adjoins the centre as shown on the map below or which abuts existing buildings which are contiguous with the centre when the plan was made. The NDP policies map for Preston-on-Wye notes the centre as being the village hall and the red circle denotes this. To its west lies the existing residential housing known as Ploughfields. The application site lies immediately adjacent to, and is considered to be contiguous with Ploughfields. The site abuts existing housing at Ploughfields as can be seen in the illustrative block plan also inserted below. As such, officers would conclude that proposed development would adhere to the requirements of WH01 of the NDP.



*Extract from Wyeside Neighbourhood Plan – Preston On Wye Policies Map and extract from the Illustrative Block Plan*

- 6.39 Finally, as detailed above, the Wyeside Neighbourhood Area is tasked with developing a minimum of 39 dwellings up to 2031. As of the 1<sup>st</sup> April 2018 there was a residual figure (taking into account the completions and commitments) of 31 dwellings remaining. It should be noted that this is a minimum growth target.
- 6.40 This development will help to boost the housing supply in the locality, assisting the area in meeting their growth targets in the immediate area as well as wider county requirements.
- 6.41 Whilst spatially, the sites location is one that is considered to be acceptable, the development of the site must be considered having regard to the other policies of the Core Strategy, Neighbourhood Development and the NPPF taking into account any material considerations as appropriate

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

## Impact upon the character and appearance of the settlement

- 6.42 The requirements of RA2 are underpinned by Policy LD1 Landscape and Townscape. Development proposals need to demonstrate that features such as scale and site selection have been positively influenced by the character of the landscape and townscape, and that regard has also been had to the protection and enhancement of the setting of settlements. Development proposals should also conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including locally designated parks and gardens; and should incorporate new landscape schemes and their management to ensure development integrates appropriately, through the retention of important trees, appropriate replacement of trees lost through development, and new planting to support green infrastructure. Green infrastructure is also covered by Policy LD3, which requires development proposals to protect, manage and plan for the preservation of existing and delivery of new green infrastructure; and to protect valued landscapes, trees and hedgerows. Proposals will be supported where the provision of green infrastructure enhances the network and integrates with, and connects to the surrounding green infrastructure network.
- 6.43 NDP policy WH01 also states that proposals *for new housing should reflect the character of the village and surrounding environment and relate directly to the existing built form in the immediate vicinity. Also, in so far as it is reasonably practicable and viable, any development for three or more houses should be laid out in the form of an organic cluster built off a new access lane avoiding the use of a cul-de-sac, with pedestrian links/ pathways to the rest of the village.*
- 6.44 Whilst layout is a matter for future consideration, the illustrative plan takes into account the character and pattern of development of the immediate area and vicinity. Access to the site is via a single access point providing access to cluster of, much like Ploughfields. Officers would therefore conclude that this small scale development is capable of compliance with the requirements of this policy although acknowledge that the matter of layout is one for future consideration.
- 6.45 In terms of landscape impact the site forms part of the original field pattern which links with the wider open countryside. Whilst the eastern side of the application site has undergone substantial change through the introduction of 20th century development, the northern side remains by comparison, relatively unaltered. The proposal is a relatively small scheme and in keeping for this edge of settlement location; keeping with the wayside pattern of this landscape character type: Principal Settled Farmlands. When considering the degree of adverse impact upon the landscape the land is low lying and essentially flat in character; this in conjunction with the field hedgerows and the landscape buffer along the road will reduce the visual effects of the scheme substantially. Hedgerow loss will be for the access only, and this is the case as the visibility can be achieved in front of this. Landscape colleagues note the loss of removal of a tree and hedge along the southern boundary to facilitate the visibility splay, with some additional tree removal of category B hawthorn. However, they are satisfied as they are not specimen trees and that there is extensive proposed tree and hedgerow planting to compensate for the loss they have raised no landscape objection to the proposal.
- 6.46 Landscaping is a matter reserved for future consideration. The key issue in this regard relates to the retention of the roadside hedge. NDP policies WE02 and WE03 both make specific reference to the need to protect hedgerows and trees wherever possible, and the proposals indicate that the substantial part of the hedgerows are to be retained. The need to provide appropriate visibility splays will need to be factored into the extent of hedgerow that is actually required to be removed, and how this will be replaced / reinforced to form this boundary but it is not considered that this is such a significant matter to warrant the refuse of the application outright.

- 6.47 The indicative layout responds to other aspects of Policy WE02 particularly in regards to the planting of local species which is encouraged. Again though, the precise details of the layout and landscaping are matters to be agreed through a reserved matters submission should planning permission be granted in outline.
- 6.48 In conclusion officers are satisfied that the development lies in a position that relates well to the existing built form, is contiguous can be achieved without causing unacceptable landscape impacts. The detail of the landscaping should form part of the reserved matters submissions and can be secured via a condition and it will be necessary to give careful consideration to any reserved matter application to ensure that the landscape character is taken into account at design stage.
- 6.49 Officers are satisfied that, on the basis of the information provided, a scheme can be delivered that accords with the parameters of WE02 and WH01 of the NDP and I am otherwise satisfied of compliance with Policy LD1 and LD3 of the Core Strategy.

### Highways (Access)

- 6.50 Core Strategy policy MT1 of the Herefordshire Local Plan, requires development proposals to demonstrate that the strategic and local highway networks 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 or mitigate any adverse impact from the development. Developments should also ensure that proposals are designed and laid to achieve safe entrance and exit, have appropriate Operational and manoeuvring space. NPPF Policies require development proposals to give genuine choice as regards movement. Core Strategy policy SS4 requires developments to minimise the impacts on the transport network. NPPF 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 amount of movements should take into account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken on the transport network or on highway safety can be mitigated. Development should only be prevented or refused on transport grounds where the 'residual cumulative impacts of development are severe.' (NPPF para 109).
- 6.51 Within the submitted details it has been shown the current existing access will be blocked up and a new site access created. This site access has been widened in front of the site to improve the access and will allow for vehicles to pass as well as allowing for safe access into the site whilst there are two flows. Also a new continuous footway is being proposed from the site access to the footway on the western radius of Ploughfields junction as shown on drawing below. The plans also illustrate a proposed further footpath which connects the northern part of the site to Cloverdale.

*Extract of Illustrative layout –  
Drawing no P003 rev A*



Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453



- 6.52 The plans show a single point of access of the road frontage. The plans demonstrate a visibility splay of 60 metres in each direction with a 2.4 metre set back. Comments have been raised about pedestrian connectivity of the site to the village; it is considered that the speeds and visibility on this section of road are acceptable for pedestrians for a relatively short section. The proposed highway scheme proposed a two-way vehicle movement on the C class road enabling a vehicle to pass whilst a vehicle exits the site as well as the provision of a pedestrian footway. Along the site frontage, the C1192 is a two-way vehicle movement road that varies in width of between 3.5m-5m fronting the application site. It is subject to a 30mph speed limit adjacent to the site.
- 6.53 The local roads are a lightly trafficked roads used principally by local residents and it is acknowledged the local residents and the Parish Council have raised significant concerns in regards to the highway network, lack of footpaths, volume of traffic, lack of public transport, construction traffic, concerned about the access and line of sight.
- 6.54 The Council's Highway Engineers have assessed the proposed means of access, and particularly the visibility splays and are satisfied that adequate visibility can be provided and that the traffic movements associated with the proposed development can be absorbed without adversely affecting the safe and efficient flow of traffic on the highway network. A construction management plan condition has been suggested below that will manage construction traffic. Officers would therefore conclude that the proposal is compliant with Policy MT1 and SS4 of the Core Strategy and WF04 of the NDP.

### **Design and Amenity**

- 6.55 Core Strategy policy SD1 (Sustainable Design and Energy Efficiency) seeks to secure high quality design and well planned development, that contributes positively to the character of the area and that development successfully integrates into the existing built, natural and historic environment. This policy also seeks the inclusion of physical sustainability measures, including orientation of buildings, provision of water conservation measures, storage for bicycles and waste, including provision for recycling and enabling renewable energy and energy conservation infrastructure.
- 6.56 The application submission is in outline form only, which reserves all details apart from access for further consideration. Many of the issues raised will need to be carefully considered at the Reserved Matters Stage, in particular the relationship with the dwellings on the eastern side of the site which abut the residential properties within Ploughfields. However, given the size of the site and the number of properties proposed, officers are satisfied that a scheme could be development that ensures that its residential amenity is secured. The policy also requires consideration in relation to matters of the amenity of residents / occupants of the new dwellings and this will again be a matter for consideration at a later stage.
- 6.57 Policy SS6 of the Core Strategy outlines that development proposals should support the local distinctiveness of an area. As such it is felt that the design of any housing should respond to the character of traditional buildings within the locality and the wider area. This element would be considered within any reserved matters application and I would refer you to Section 10 of this report that identifies the remaining matters and what will need to be considered.
- 6.58 The site measures approximately 0.5 hectares and a development of ten dwellings represents a relatively moderate density that is entirely in keeping with the village and immediate vicinity.
- 6.59 Officers would conclude that the proposal accords with the requirements of Policy SD1 and SS6 of the Core Strategy and WH01, WH02 of the NDP.



## Open Space Provision

- 6.60 Policy OS1 and OS2 of the Core Strategy require the provision of open space. Open space requirements from all new developments are to be considered on a site by site basis and in accordance with all applicable set standards. In this instance, the small scale development that provides private garden areas and is in close proximity to access to open countryside would not be expected to provide on site play / open space provision and officers are satisfied that the site is capable of being developed in accordance with the requirements of policy OS1 and OS2 of the Core Strategy.

## Drainage

- 6.61 The site is located within Flood Zone 1 (as defined by the Environment Agency), this is deemed to be: an area of low probability for fluvial flood. As part of the application a drainage strategy has been submitted and reviewed by officers. The foul water is shown to be discharged into the existing mains sewer with surface water being discharged into a proposed attenuation lagoon with controlled flow to an existing watercourse. Local Plan Policies SD3 and SD4 of the Core Strategy seek to ensure that matters of flood risk and drainage are considered.
- 6.62 Representations raise concerns about network capacity for the foul drainage. Welsh Water have jurisdiction over this element and are the statutory consultee. They have not raised any objection to the development in terms of capacity. In terms of surface water drainage, the Land Drainage Consultant has not raised an objection and has recommended a condition and informative notes and as such the requirements of policy SD3 and SD4 can be met and in line with NDP policy WE05. At this outline planning stage, the proposal demonstrates that the development can be suitably drained in principle ensuring the protection of adjoining land from flooding by surface water. The recommended condition requires this detail to be submitted with the Reserved matters application to ensure that the layout addresses the drainage strategy.

## Heritage assets

- 6.63 The proposed development site does not lie within a Conservation Area but there are a number of listed buildings and non-designated heritage assets that are a material consideration due to them being in close proximity:

- Green Farmhouse, Grade II, 110m to the SE
- Upper House, Grade II, 80m to E
- Non-conformist Chapel, unlisted heritage asset 150m to E

- 6.64 Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting:

*“to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

- 6.65 It follows that the duties in section 66 do not allow a local planning authority to treat the desirability of preserving the setting of listed buildings merely as material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm “considerable importance and weight”. Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an authority

should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.

- 6.66 The NPPF offers further guidance about heritage assets, recognising that they are irreplaceable resources that should be conserved; ‘...in a manner appropriate to their significance.’
- 6.67 Paragraphs 129 to 134 offer particular clarity about the assessment to be made of the significance of heritage assets. Paragraph 131 outlines three criteria to be taken account of in the determination of planning applications. These are as follows:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.68 While Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance. As a result, and in order to properly consider the effects of development on heritage assets, recourse should be had to the NPPF in the first instance.
- 6.70 The Council’s Historic buildings Officer has considered the proposals and has concluded that housing on the site would not be precluded due to any heritage constraints. In regards to the HBO’s comments regarding the layout of the housing to be included within the outline application to be able to understand impact of density and massing on the character of the settlement, although it is noted that it isn’t a Conservation Area, officers are satisfied the indicative layout would not detract from the heritage assets and would not affect the setting of the nearby designated and non designated heritage assets.
- 6.71 As discussed in Paragraph 127 of the NPPF, when looking to undertake development, one needs to look at a surrounding context, setting, its character and particularly how the works affect the character and appearance of the surrounding heritage assets and how the works reinforce local character and distinctiveness. Having considered the merits of this scheme, it is officer’s opinion that the proposed development is unlikely to cause harm to any heritage assets or their setting. In regards to buried archaeology, in line with the aims of the NPPF para 189 and 199 and Policy LD4 an appropriately worded condition has been added. As such officers are able to confirm that the proposals would comply with the requirements of policy LD4 of the Herefordshire Local Plan – Core Strategy and NDP Policy WE03 with the guidance set out in the National Planning Policy Framework.

### **Biodiversity**

- 6.72 The application submission has been supported by an extended Phase 1 ecological survey and this report found that the ecological value of the site is currently low, and that the development proposals will improve the ecological value of the site beyond the current situation through the planting of native species, wildlife hedgerows and the provision of bat boxes, bird boxes and hedgehog habitat features within the site. Policy LD2 of the Core Strategy seeks to ensure that development proposals conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire. It is noted that the ecologist has raised no objection following the submission of an ecological assessment and is satisfied with the conditions suggested that require more detail to be submitted prior to work commencing before reserved matters stage that the proposal would comply with the requirements of the policy. Detailed landscape plans also include reference to the ecological recommendations

and enhancements that can be achieved with appropriate planting and mitigation and protection. A condition has been included below to ensure compliance with policy LD2 and the guidance contained within the NPPF.

- 6.73 The site is within the River Wye SAC catchment and a Habitat Regulation Assessment has been completed. Natural England has raised no objection to the appropriate assessment submitted to them that recommends a condition to secure the relevant mitigation measures is requested on any planning consent granted. The proposal would therefore accord with the requirements of the policy and legislation.

### **PROW**

- 6.74 I note the comments from the Parish Council and a number of the representations received regarding the proposed location of the PROW route through the site, concerns relating to privacy, litter and safety and the agreement of the applicant to redirect the proposed route of the PROW extension away from the boundaries of the neighbouring properties within Ploughfields. The PROW officer has raised no objection and the exact location and direction of the PROW route details will be secured via conditions to ensure that the requirements of policy MT1 are met.

### **S106 and Affordable Housing/Housing Mix**

- 6.75 Policy H1 of the Core Strategy sets the threshold for the delivery of affordable housing at sites of more than 10 dwellings. The proposal is only for 10; and therefore there is no requirement for its provision.
- 6.76 Policy H3 requires a range and mix of housing units to be provided. Whilst this makes specific reference to larger housing sites of 50 or more dwellings, appeal decisions have suggested that it is equally applicable to smaller sites. Policy WH02 of the NDP also refers to housing mix and reads as follows: Open Market housing should include a mix of predominant two and three bedroomed properties. The scheme adheres to this policy.
- 6.77 NDP Policy WH01 confirms that there is a need for around 32 dwellings within the NDP area. The Policy states that all new housing development:
- should reflect the size, role and function of the village in which it is situated,
  - be on land which is contiguous with the existing village centre
  - should reflect the character of the village and surrounding environment and relate directly to the existing built form in the immediate vicinity.
- 6.78 The indicative layout suggests that the ten dwellings proposed will be a mix of terrace, semi detached, two storeys and bungalows and be 2, 3 and 4 bed dwellings. This is not considered to be an unreasonable mix and would achieve the stated aim of the policy. A condition to ensure that the housing mix is provided as stated on the indicative layout is not considered to be unreasonable and would ensure that any reserved matters submission is policy compliant. I note the comments from local residents who have raised concerns in regards to the mix not being appropriate and a smaller number of dwellings would be more acceptable, however it is important to provide a range of dwellings. The scheme adheres to the NDP policy WH01 and WH02.

## **Other Issues:**

### **Street lighting**

- 6.79 Concerns have been raised by a resident in regards to street lighting and in particular to the PROW and light spillage. This would form part of any Section 38 agreement (road adoption) and / or condition would be covered by the Parish Council at a later date.

### **Climate change**

- 6.80 Elements specifically relating to addressing and mitigating climate change in line with Core Strategy policy SS7 and NDP WE04 will be covered at reserved matters stage.

### **Non material planning considerations**

- 6.81 Issues such as loss of a view, or negative effect on the value and resale of properties are not material planning considerations.

### **Planning Balance & Conclusion**

- 6.82 Both Core Strategy policy SS1 and paragraph 14 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.
- 6.83 The site is well located to the main settlement of Preston on Wye with access to the public house and church and a bus service into Hereford (twice weekly). This proposal site constitutes an appropriately located site in this settlement identified for future growth in policy RA2 of the Core Strategy and the Wyeside Group Neighbourhood Development Plan.
- 6.84 The principle of development is considered to be acceptable with detailed design matters being considered in the reserved Matters stage to ensure compliance, in particular, with Policies RA2, SD1, LD1, LD2, LD3 and LD4 of the Core Strategy and with the Wyeside Group Neighbourhood Development Plan.
- 6.85 The application is made in outline with access to be determined. The proposals demonstrate that a means of access commensurate with the scale of development proposed (ten dwellings) can be provided and officers are of the opinion that the local road network can safely absorb the additional vehicular traffic and pedestrian movement generated from the development and note that Highway officers has raised no objection to the proposed development.
- 6.86 The Local Planning Authority (LPA) cannot demonstrate a 5 year supply of housing land with requisite buffer. The proposal delivers ten dwellings in a location identified as suitable for new residential development within a layout that respects and enhances the landscape character type. The 10 market dwellings in the context of an undersupply within the county are a factor to which significant weight should be attributed. In this instance the LPA considers that policies most important for determining the application within the CS retain significant weight (para 11 of the NPPF). This is on the basis that the spatial strategy envisages that each Neighbourhood Plan Area will demonstrate the ability through an NDP to meet the indicative minimum growth target for the parish. In this instance Preston on Wye is covered by a made NDP that has full weight and forms part of the development plan.
- 6.87 The relationship of the site to the host settlement lends itself to being acceptable and would support the required growth for the area. Technical matters relating to highways, heritage, drainage and ecology have been assessed as being addressed and where necessary, mitigated with conditions and meet local and national planning policy aims and objectives.

- 6.88 The concerns raised by the Parish Council and local residents have been carefully considered but the proposed works, with appropriate conditions and mitigation would ensure compliance with the requirements of policy MT1 of the Core Strategy and with the guidance contained within the National Planning Policy Framework that states that development should only be prevented or refused on transport grounds where the residual cumulative impact of the development is severe.
- 6.89 Having regard to the three indivisible dimensions of sustainable development as set out in the Core Strategy and NPPF, officers conclude that the scheme, when considered as a whole, is representative of sustainable development and that the presumption in favour of approval is therefore engaged. The contribution that the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic and social roles.
- 6.90 Having regard to all of the above and with the conditions set out below approval is recommended as below.

## **RECOMMENDATION**

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

1. C02 - Time limit for submission of reserved matters (outline permission)
2. C03 - Time limit for commencement (outline permission)
3. C04 - Approval of reserved matters
4. C06 – Approved plans
5. B01 - Development in accordance with the approved plans
6. CAB - Visibility splays- 53 X 2.4M EASTBOUND, 44M X 2.4M WESTBOUND
7. CAE - Vehicular access construction
8. CAH – Driveway gradient
9. CAJ – Parking gradient
10. CAP – Highway Improvements/off site works
11. CAQ – CB2 Secure covered cycle parking provision On site roads – submission of details
12. C01 - Samples of external materials
13. C49 – Site Observation – Archaeology
14. CNS - Habitat Regulations (River Wye SAC) – Foul- and Surface Water

All foul water shall discharge through a connection to the local Mains Sewer network; and all surface water managed through an attenuation system with final discharge to local watercourse; unless otherwise agreed in writing by the Local Planning Authority.

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2, SD3 and SD4.

15. CNS - Nature Conservation – Ecology Protection, Mitigation and Biodiversity Net Gain

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

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

16. CNS – Drainage

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

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

17. CNS – Drainage

The reserved matters application submitted pursuant to Condition 1 shall be accompanied by details of a scheme a detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event, and no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change;

- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure that site-generated surface water runoff is controlled and limited to agreed discharge rates for all storm events up to and including the 1 in 100 year rainfall event, with an appropriate increase in rainfall intensity to allow for the effects of future climate change;
- Evidence that the Applicant is providing sufficient storage and appropriate flow controls to manage additional runoff volume from the development, demonstrated for the 1 in 100 year event (6 hour storm) with an appropriate increase in rainfall intensity to allow for the effects of future climate change;
- Evidence of agreement from third party land owner(s) (if this differs from the Applicant) to confirm that the pipe can be located as proposed, in addition to agreement from the riparian owner(s) of the watercourse into which the outfall is proposed.
- Evidence that the Applicant has sought and agreed permissions to discharge foul water from the site with the relevant authorities;
- Demonstration of the management of surface water during extreme events that overwhelm the surface water drainage system and/or occur as a result of

- blockage;
- Demonstration that appropriate pollution control measures are in place prior to discharge;
- Confirmation of the proposed authority responsible for the adoption and maintenance of the proposed drainage systems.

Reason: To ensure drainage conforms with Policies SD3 and SD4 of the Herefordshire local Plan - Core Strategy and the national planning Policy Framework.

18. CNS - Housing Mix

The reserved matters application submitted pursuant to Condition 1 shall be accompanied by details of a scheme for the delivery of the open market housing in accordance with the details submitted.

Reason: To define the terms of the permission and to comply with Policies RA2 and H3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

- 19. Tree protection area – condition.
- 20. C97 – Landscape Implementation 5 year planting plan
- 21. CAT – Wheel Washing
- 22. CAZ – Parking for site operatives and Construction Environmental Management Plan.
- 23. CBK – Hours of working during construction
- 24. CB2 – Secure Cycle Parking Provision
- 25. CE6 – Water Efficiency

**Informatives**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2. I11 – Mud on the highway
- 3. I09 – Private apparatus within the highway
- 4. I45 – Works within the highway
- 5. I05 – No drainage to discharge to highway

6. 108 Section 278 Agreement
7. 107 Section 38 Agreement and Drainage details
8. 147 Drainage other than via highway System
9. Highway Design Guide and Specification

Decision: .....

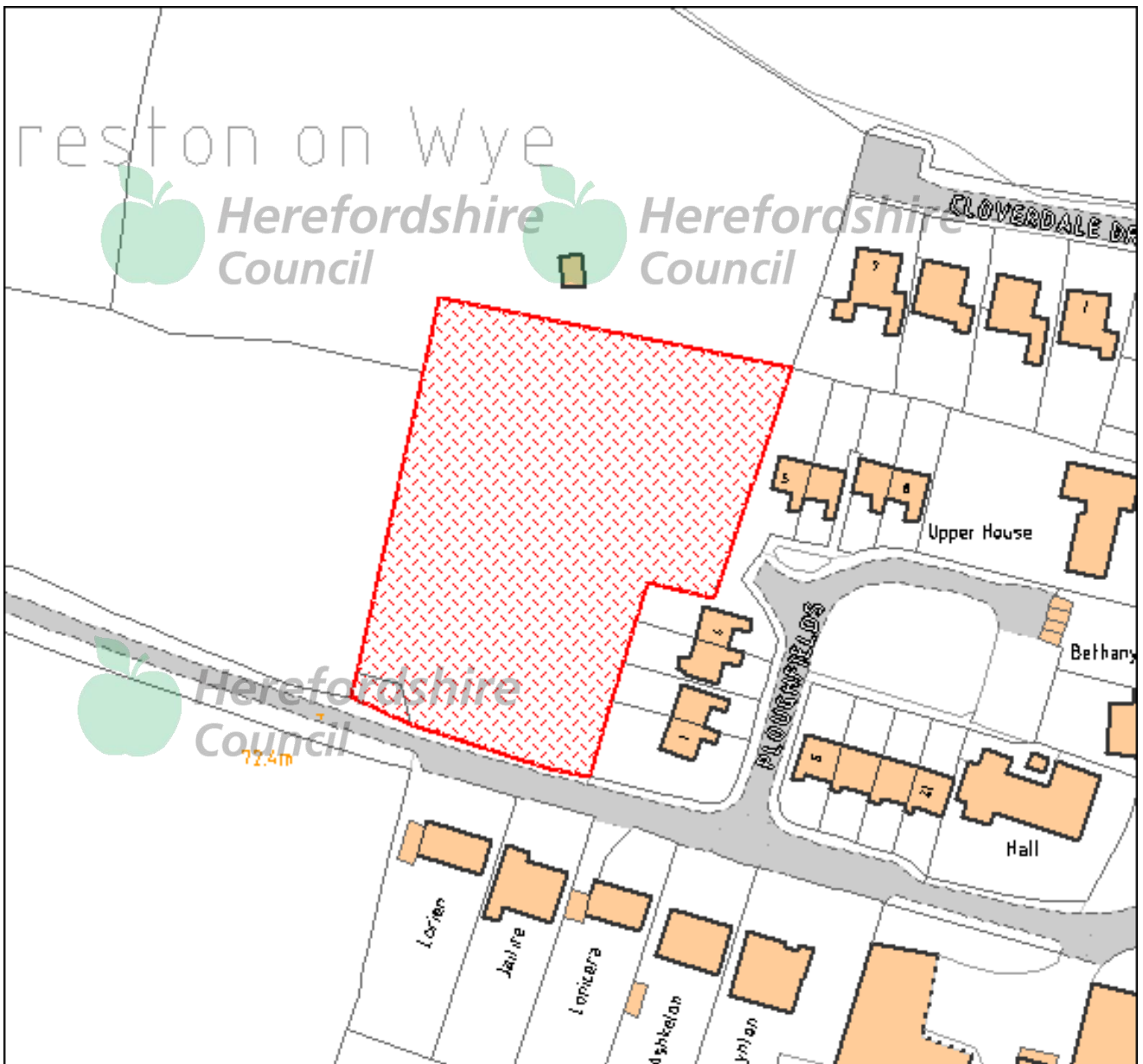
Notes: .....

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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:** 190416

**SITE ADDRESS :** LAND ADJACENT TO PLOUGHFIELDS, PRESTON-ON-WYE, HEREFORDSHIRE

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<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>24 JULY 2019</b>
<b>TITLE OF REPORT:</b>	<b>182938 - DEVELOPMENT OF 2 DWELLINGS WITH GARAGES AT LAND TO THE REAR OF MURRAYFIELD, ALLENSMORE, HEREFORDSHIRE, HR2 9BN</b>  <b>For: Mr Moore per Mr Russell Pryce, Unit 5, Westwood Industrial Estate, Ewyas Harold, Hereford, Herefordshire HR2 0EL</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182938&amp;search=182938">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182938&amp;search=182938</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

Date Received: 6 August 2018

Ward: Wormside

Grid Ref: 345479,235617

Expiry Date: 1 October 2018

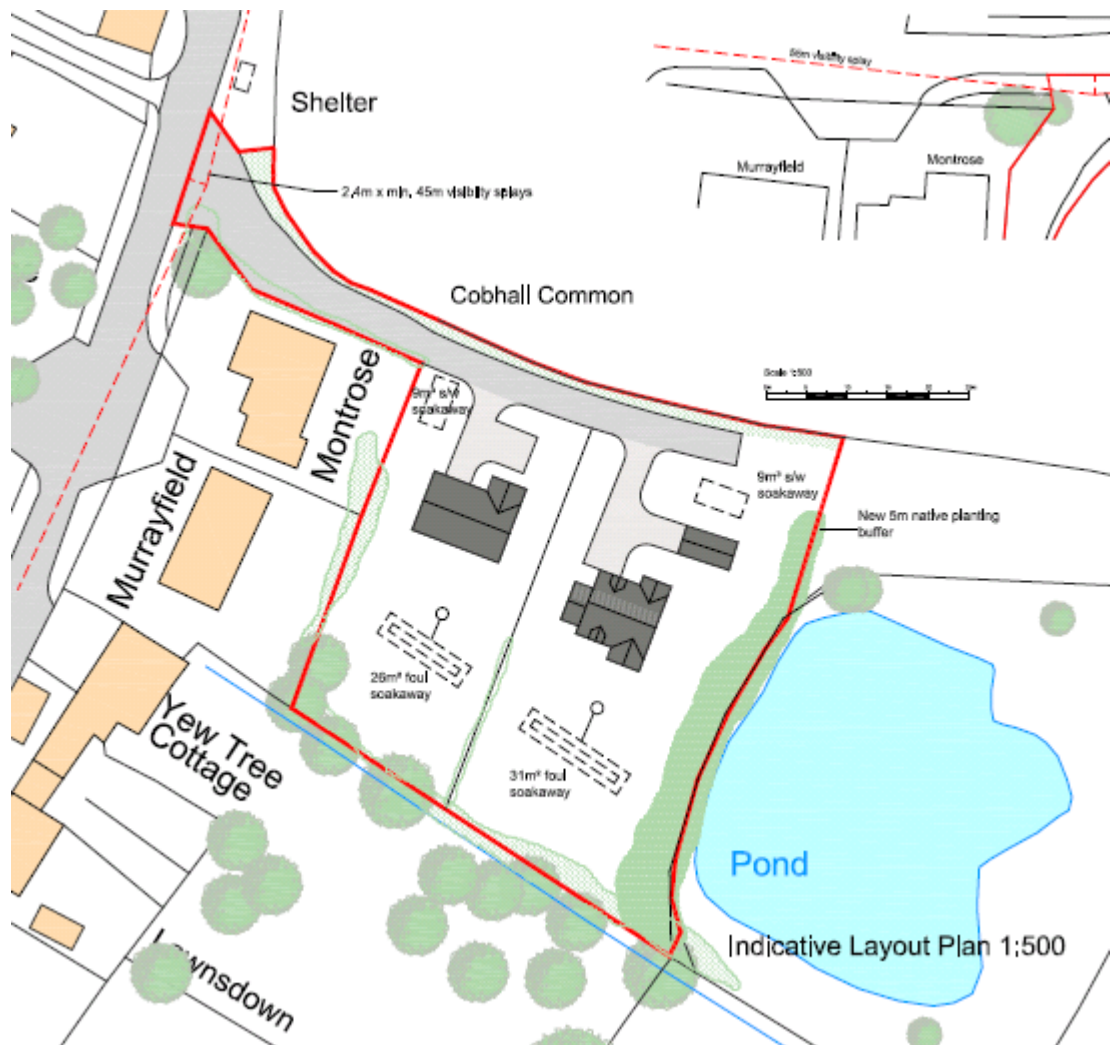
Local Member: Councillor Christy Bolderson

## 1. Site Description and Proposal

- 1.1 The application site comprises of a garden curtilage (permitted change of use in 1996) and is sited to the rear of Murrayfield and Montrose, both single storey dwellings which are located to the east of Cobhall Common Road. The site benefits from close boarded fencing along the rear of the two adjacent neighbouring dwellings, trees, hedges and fencing along the southern boundary, hedging along the northern boundary and a lake to the east. The site is located within the Parish of Allensmore and within the rural settlement of Cobhall Common.
- 1.2 The topography of the site is relatively flat. There are no local or national landscape or heritage designations either within the site or the local area.
- 1.3 This application is submitted in outline for the erection of two dwellings with access to be considered and all other matters reserved for future consideration. Through the processing of the application the number of dwellings has been reduced from three and to two x 3 bedroom properties.
- 1.4 The application is accompanied by an Ecology Report and Traffic Survey.
- 1.5 Below is an indicative layout plan showing the two proposed dwellings. The neighbouring dwellings can be seen to the west and the pond to the east.

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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

The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-  
[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

## 2.2 National Planning Policy Framework (NPPF):

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):

At the time of writing this report the Allensmore NDP is currently undergoing Regulation 14 consultation (from 27 May to 12 July 2019). At this stage the Plan is afforded limited weight.

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

## 3. **Planning History**

3.1 SH961272PF – Extension of garden curtilage and retention of wildlife lake. 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.

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

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

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

4.2 **Natural England** – A Habitat Regulations Assessment- Appropriate Assessment (HRA AA) was sent to Natural England on 1 July 2019 with a recommended condition. Response to be included within the committee updates.

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

## Internal Council Consultations

### 4.3 **Transportation Manager** – no objection following amended details

The visibility splay is restricted by the bus shelter. This bus shelter is in the ownership of the Parish Council, therefore discussions regarding the changes to the bus shelter should be directed to the Parish Council. If the bus shelter can not be moved outside of the visibility splays then the required visibility splay to the north can not be achieved.

As previously stated the bus shelter is not the responsibility of HC or the applicant, therefore due to the limited service that uses the stop, HC would not look to take the new provision of a bus shelter on as highway adopted infrastructure.

#### **Following a re-visit to the site and assessing the changes to the plotted location of the bus stop the Officer commented:**

It is confirmed that the visibility splay is achievable however it should be noted that at the time of the site visit there was a single vehicle parked on the verge which reduces the visibility splay. If minded to approve please condition as possible (recommended conditions attached).

### 4.4 **Drainage Engineer** – no objection following amended details

Flood Risk

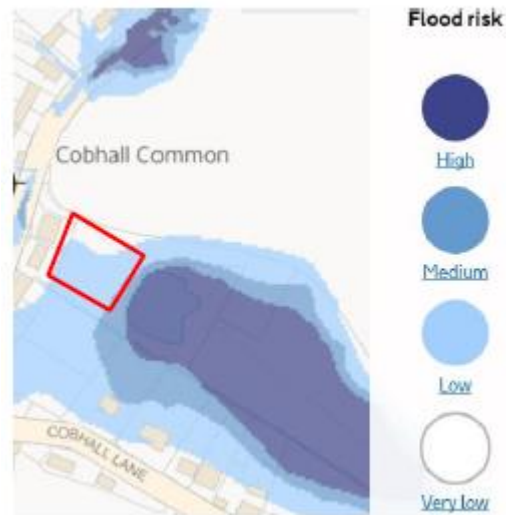
Surface Water Flood Risk

Review of the EA's Risk of Flooding from Surface Water map indicates that the site is located within an area at significant risk of surface water flooding. It should be noted that the watercourse, which is located to the south of the site, has been culverted. In addition to this, towards the east of the site, the watercourse has been partially diverted towards the northeast through a land drainage culvert. The risk of blockage of this land drainage culvert should be considered within the design of the development.

We note that there are several gullies on the road fronting the proposed plot (to the west) these have been subject to blockages in the past and the pipes connecting to the culverted watercourse are quite small. Accordingly there is a flooding problem on the highway to the west. There are also reports of surface water draining onto the road. This has caused garden flooding of properties.

We request that the finished floor levels are raised by a minimum of 300mm to prevent ingress. The Applicant has stated that this can be achieved, it has been stated that the finished floor levels will be raised, however the height has not been confirmed.

Figure 1: Environment Agency's Flood Risk from Surface Water map, September 2018



### Other Considerations and Sources of Flood Risk

We are aware of a known issue with pollution of the existing watercourse.

### Surface Water Drainage

A further trial pit has now been excavated. A photograph has been provided to demonstrate this. The ground is as follows:

- Made ground down to 800mm bgl
- Silty gravel clay alluvium from 800-1200mm bgl
- Dense brown clay at 1200-1650mm bgl

The proposed soakaways are to be 0.42m deep, thus will be within this permeable layer. It has been assumed in the MicroDrainage model that infiltration will occur through the base of the soakaway. In line with BRE365 guidance, infiltration through the base should be assumed to be 0.

The Applicant has also stated that the finished floor levels will be raised and thus will create a further permeable layer. It has not been stated how much the finished floor levels will be raised by. We recommend a minimum of 300mm to prevent ingress from the risk of surface water flooding as shown in Figure 1.

The Applicant has now confirmed that the maintenance responsibility of the drainage systems will lie with the respective homeowners.

### Foul Water Drainage

The Proposed Site Layout Plan (Ref: P002) demonstrates the use of individual package treatment plants being served by individual drainage fields (26m<sup>2</sup> and 31 m<sup>2</sup>). A Vp value of 26 has been established.

### Overall Comment

We object to the foul water proposals for the following reasons. The tests have demonstrated that the made ground and silty gravel clay is permeable. However, these materials are laid over dense brown clay which is impermeable. The treated effluent will drain sideways and will drain into the adjacent ditch. The ditch does not have a constant non-seasonal flow of water, thus in accordance with the Binding Rules, treated effluent cannot be discharged into this ditch.

Also in accordance with the binding rules, drainage fields must be located 10m from the watercourse. This has not been demonstrated on the site plan. Also in accordance with the Building Regulations Part H, "the distribution pipes should be laid at a minimum depth of 500mm below the surface" (Ref 1.42, page 33). It has not been demonstrated that this is possible at this site. No invert levels or depths have been specified.

**Following the submission of an indicative layout and soakaway details the Drainage Engineer commented on 26 April 2019 as follows:**

I can confirm that the proposals for the foul water drainage are now acceptable. We also note that the finished floor levels will be 350mm above existing. This is acceptable.

Details of the previous drainage comments can be found on the following link:

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=182938&search=182938](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182938&search=182938)

**4.5 Conservation Manager (Ecology) – no objection (subject to Natural England’s approval)**

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

All foul water shall discharge through connection to new private foul water treatment system with final outfall to suitable soakaway drainage field on land under the applicant’s control; and all surface water shall discharge to appropriate soakaway 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 LD2, SD3 and SD4

Based on supplied ecology report there is no reason for this LPA to include a specific ecological protection condition as the applicant and their contractors are already subject to the requirements of the Wildlife & Countryside Act (1981) for wildlife protection requirements and regulation.

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**

Within 3 months of completion of the works approved under this planning decision notice 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 enhancements, FOUR bird nesting boxes and ONE Hedgehog habitat 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.



## 5. Representations

### 5.1 Allensmore Parish Council – object

#### Drainage:

Drainage in this area is extremely poor and surface water flooding occurs all too often. There are a number of areas in the parish with problems of this nature and this is one of the most problematic.

As can be seen from the minutes of the Allensmore Parish Council meetings (particularly since February 2014) flooding in this area has been a major issue and at least one house nearby has been badly flooded. Also in 2014, a length of Cobhall Common Road, including the area around the bus shelter remained underwater for an extended period of time. In the last couple of years, Balfour Beatty have conducted some partial improvements, though it is not yet known how well these will cope during extreme conditions such as those seen in 2014. It is understood that during many winters in this immediate area, there are periods with standing water covering areas of the ground and septic tanks being unable to drain. The Environment Agency classifies Murrayfield HR2 9AG as an area at medium risk of surface water flooding.

The reported results of the percolation tests, including the test showing groundwater being more than 2.8m below the surface are surprising. Possibly, this is due to the timing since these were conducted at an exceptional time, understood to have been in July 2018 after an extended period of extremely dry conditions - far from typical and totally different from those experienced in a wet winter. Perhaps the Balfour Beatty drainage engineers who know the area well from their efforts to address the flooding issues, will have some informative data from the "dip stick" device for measuring groundwater levels located near the bus shelter.

#### Impact on neighbour:

It is considered that this development would have a particularly negative impact on the neighbouring property, Montrose, with the access being close to the existing house and along the entire length of the garden. Furthermore, the site proposed for the new properties abut the bottom of the existing gardens providing loss of amenity.

#### Impact on the character of the area:

A development behind existing houses would significantly and detrimentally change the character of the area. With a few exceptions, almost all the properties in this area of parish are of one house deep, primarily ribbon development along the lanes. A development of three houses deep in the garden behind an existing property would make a substantial change to the existing settlement pattern in the area and harm the character of the village.

#### Visibility and bus shelter:

Visibility for vehicles leaving the site is restricted by the bend to the right on Cobhall Common road as well as the bus shelter which the proposal indicates would need to be moved. It is not clear that the owners would agree to this move.

Following re-consultation after the scheme was reduced to two dwellings the Parish objected as follows:

The Parish Council notes the changes, particularly of the reduction from 3 to 2 dwellings, however, this does not mitigate our previous submitted objections.

We therefore reiterate our objections on four key points as included below on the grounds of drainage concerns, the impact on the neighbour, the impact on the character of the area and the visibility when entering and leaving the site.

Further to our concerns on drainage, it appears that the percolation tests have not been conducted in accordance with Section H of the Building Regulations in so far as a minimum of two test holes are required for each of the foul and surface water tests (para 1.37) (just one appears to have been conducted for each). Furthermore, according to the regulations, the tests should not be carried out during abnormal weather conditions such as drought (para 1.37). These tests appear to have been carried out in July 2018, during a period of exceptionally dry weather. If these tests are a material consideration for this application, we would like verification that they have been conducted to the required standard or they should be repeated to the required standard.

On the matter of the impact on the character, whilst it is recognised that the neighbourhood development plan has little to no weight at its current stage, we feel that the independent site assessment carried out by Aecom on all submitted sites does add support to the Parish Council view that a development behind existing housing would substantially change the existing settlement pattern. To quote their findings for this site (Site 13), they do not recommend that this site be considered for allocating to the NDP because "Site 13 is principally constrained by the settlement pattern of Cobhall Common, as development here would be positioned behind existing dwellings, adding depth to the built area and breaking the established linear pattern of the village which is particularly strong to the east of Cobhall Common Road. It is therefore considered that development at Site 13 could harm the character of the village."

Regarding the visibility splay and the bus shelter, we note that the Transportation department cannot support the application due to the location of the bus shelter. The fact that this conclusion was reached following a site visit suggests that the agent's revision to the bus shelter location on the map does not alter this conclusion.

**5.2 To date 17 objections from 8 properties. The comments therein are summarised below:**

- Cobhall Common has exceptionally high water table and regularly flooded
- Local drainage system cannot cope with excessive rainfall
- Ditch which carries water from the common passes through the field where the building is proposed
- Site is an open field
- Large lake next to the site which would be very much disturbed. This lake was dug without planning permission. A drainage ditch was filled in using this soil
- Two bungalows in front of the site discharge their water through spreaders to the site
- The soil drainage tests were done in the driest summer on record
- Site entrance is on a blind bend. Bus shelter may be re-sited but the bend remains. Narrow roads
- New road to dwellings will travel within 1.5m of the side of our bungalow. Will interfere with the quiet enjoyment of our property
- New access road may also provide access to the scrapyard. This will increase traffic. Any lorries using it may cause accidental damage to our hedges and fencing
- Two working liveries are near to the site and many horses are ridden around
- This is a farming area and there is a lot of agricultural traffic
- Our land and property have been flood numerous times and included raw sewage being found in our garden
- Development would block the footpath
- Land appears to have been extended beyond the original field entrance at some point and include land that was originally the verge
- Number of dwellings is irrelevant. Any further development will only cause more problems
- Refer you to the NDP. It would be inappropriate to ignore the work that has been done to date

- Since disturbance of soil in the lane part of the lawn began to die. We are concerned about soil contamination
- Sceptical that the ground level has been raised by 1.2m. When the pond was dug were led to believe it was by 0.406m

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=182938](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182938)

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 and the NDP can be afforded limited weight.

6.3 Despite the relatively recent adoption of the Core Strategy, 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.

6.4 Paragraph 11 of the Framework states that there is a presumption in favour of sustainable development. For decision takers this means approving development proposals that accord with the development plan without delay and 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 the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or 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. This goes back to the weight to be afforded to policies relevant for the supply of housing when the authority does not have a 5 year supply. With this in mind, the spatial strategy is sound and consistent with the NPPF; which itself seeks to avoid isolated development (paragraph 79). It is therefore considered that Policies RA1, RA2 and RA3 of the CS continue to attract significant weight.

6.5 The approach to housing distribution within the county is set out in the Core Strategy at Policy SS2. Hereford, as the largest settlement and service centre is the recipient of up to 6,500 of the requisite 16,500 homes, with the market towns identified in the second tier as recipients of approximately 4,700 dwellings.

6.6 Housing in the rural parts of the County is delivered across the settlements identified at figures 4.14 and 4.15 of the Core Strategy (pp. 109 -110). Here the identified settlements are arranged according to the seven identified housing market areas. Figure 4.14 identifies the settlements which will be the main focus of proportionate housing development. Figure 4.15 classifies the 'other' typically smaller settlements where proportionate housing will be appropriate.

6.7 There are 119 'main' villages (figure 4.14) and 98 'other settlements' (figure 4.15), giving 217 rural settlements where proportionate growth will be acceptable in principle. Cobhall Common is a settlement listed under figure 4.15.

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, at the time of writing this report the NDP is undergoing Regulation 14 consultation. At this stage, limited weight can be attached to the Plan.

6.9 Policy A4 of the NDP includes settlement boundaries for Allensmore, Cobhall Common and Winnal and states that proposals for new housing development will be within these. It is noted that the application site lies outside of the settlement boundary identified for Cobhall Common. While the tension with this policy is acknowledged, due to the policies within the NDP only being afforded limited weight at the present time, it is appropriate to assess the site's location against policy RA2 of the Core Strategy.

6.10 Policy RA2 states that:

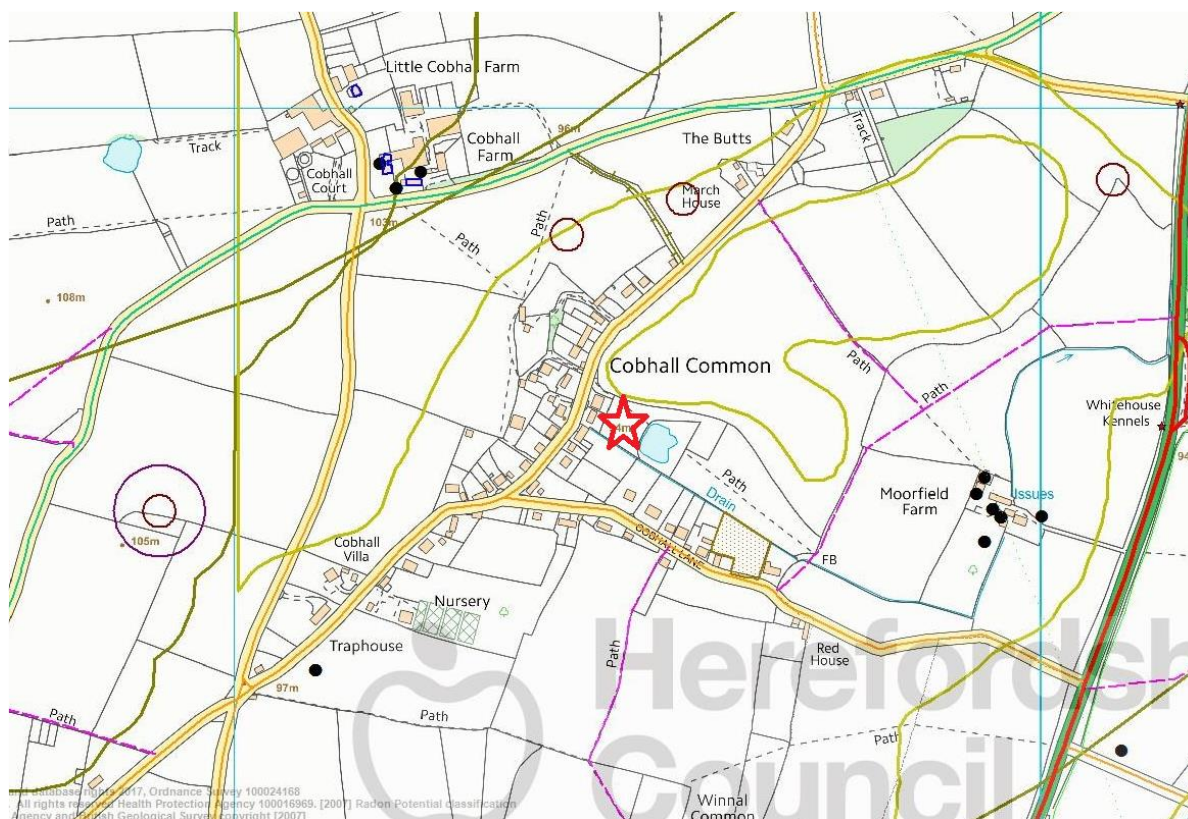
*'To maintain and strengthen locally sustainable communities across the rural parts of Herefordshire, sustainable housing growth will be supported in or adjacent to those settlements identified in Figures 4.14 and 4.15. This will enable development that has the ability to bolster existing service provision,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

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

6.11 Policy RA2 then goes on to outline that housing proposals will be permitted where the following criteria are met:

1. Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified in Figure 4.15, proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement; and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned;
2. Their locations make best and full use of suitable brownfield sites wherever possible;
3. They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding development and its landscape setting; and
4. They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in a particular settlement, reflecting local demand.

6.12 The site is identified on the map below by the red star:



6.13 As can be seen from the map, the site is located adjacent to the built up part of Cobhall Common and while there is a strong presence of wayside development facing towards the road, there are examples of tandem development with dwellings to the north west of the site being located to the rear of dwellings directly facing the road. It is appreciated that the proposed development pattern is at odds with policy A4 of the NDP which states that dwellings should be single in depth and not behind others. However, noting the limited weight of the NDP at this stage, the proposed location of the dwellings is not found to be unacceptable in terms of policy RA2 – it is in keeping with the surrounding pattern of development and located within the built up part of the settlement. The application is only in outline and the detail of design and form would come forward as part of any reserved matters application but the principle of two dwellings on the site is not found to be out of keeping with the surrounding pattern of development.

6.14 The scheme has been amended during the application process and reduced from three dwellings to two following concerns of the case officer in relation to achieving a development that was in keeping. Within the Ross-on-Wye Housing Market Assessment the main requirement is for 3 bedroom dwellings (at 63.2%) followed by 2 bedrooms (at 24.3%). This approach is also largely reflected through policy A5 of the NDP. With the proposal seeking permission for 2 x 3 bedroom dwellings it accords with both the Core Strategy and emerging NDP.

6.15 Given that the site is considered to be acceptable in terms of its general location, 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

- 6.16 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).
- 6.17 The existing access into the site will be utilised as part of the proposal and noting the traffic survey which accompanies the application, visibility splays of 45m in each direction will be provided. In light of the speed of the road, this is found to be adequate and meets the standards contained within the Design Guide. Upon further survey work by the agent, it has come to light that the bus shelter is plotted incorrectly on the OS map and does not need to be relocated to ensure the adequate visibility splays, as originally thought. Amended plans have been received through the application process to reflect the accurate situation on the ground.
- 6.18 The comments received within representations in relation to the nature of this road and the users are noted. However, the provision of two additional dwellings at this point in the settlement, utilising an existing access, is not found to amount to severe highways implications. The comments received from the Council's Transportation Manager endorse this view and raise 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.

### Impact of the development on the landscape

- 6.19 The site is not located within an area where there is either a national or local landscape designation. It is part of an attractive rural setting and within the built up part of a settlement that has been identified for residential growth. Policy LD1 of the Core Strategy states that proposals should demonstrate that character of the landscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements.
- 6.20 Policy A1 of the NDP reinforces many of the points contained within LD1 stating that development proposals will be required to demonstrate how siting and design have taken into consideration local landscape character. Policy A4 also comments on specific design criteria and when followed should result in a development that assimilates into the wider rural landscape.
- 6.21 Comments have been received in relation to the density of the proposal, notably from the Parish Council. Policy SD1 of the Core Strategy makes it clear that proposals should ensure there is efficient use of land taking into account the local context and site characteristics. Noting the surrounding development, there is a variety of plot sizes and dwelling types although detached properties are more prevalent. Two appropriately designed and sited dwellings are not found to be out of keeping with the locality. As stated previously, these details would come forward as part of a reserved matters application.
- 6.22 It is also appreciated that the lawful use of the site is as garden curtilage benefitting from permitted development rights. With this in mind, outbuildings and enclosures (subject to meeting the conditions of the General Permitted Development Order) could be erected on the site without needing the benefit of planning permission.

## 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 application proposes to utilise package treatment plants for the disposal of foul water with a sustainable drainage system for surface water. As can be viewed above, the Drainage Engineer has been consulted on the proposal several times requiring additional information including foul and surface water soakaway test results, photographs of trial pits and an updated drainage submission. In light of this, and subject to ensuring that the floor levels are 350mm above existing levels, the Drainage Engineer is happy with the proposed scheme.
- 6.25 While the site lies within flood risk zone 1, it is acknowledged through comments within the representations relating to drainage there are localised issues. The Engineer has been aware of the representations in this regard. This notwithstanding, in light of a lack of technical objection in this regard following additional information being submitted, the proposal is found to accord with policies SD3 and SD4 of the Core Strategy and therefore be acceptable.

## Ecology

- 6.26 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.
- 6.27 The application has been accompanied by an Ecology Report which includes mitigation and recommendations. The Council's Ecologist has had sight of the assessment and does not object to its conclusions and recommendations. There is a formal requirement to await the final confirmation from Natural England in relation to the Habitat Regulations Assessment carried out by the Council's Ecologist and this is reflected in the recommendation below.

## Other issues

- 6.28 In relation to impacts affecting the amenity of both existing and future occupants, given the orientation of the site and relationship with neighbouring properties, it is considered likely that a scheme that is both in keeping and avoids overlooking and overshadowing could be achieved. It is however found to be appropriate to condition working hours during the construction phase of any development on the site. With regard to the access travelling along the northern boundary of Montrose (the neighbouring dwelling located to the north west of the site) any issues experienced are not found to undermine the scheme as a whole – these will be relatively low key noting that the development has also now been reduced to two dwellings and the access already exists.
- 6.29 As stated above within the site history section of this report, the lake to the east of the proposal site does benefit from planning permission granted in 1996 under the same application to change the use of the site as a whole to garden curtilage.



- 6.30 With regard to the scrapyards mentioned within a representation, this is located approximately 160m to the south east of the site and accessed off the U73417. I find it unlikely that the proposed development being considered under this application would lead to a new access to the rear of the scrapyards given the relationship between the two and the intervening field. Tracks across this are likely to require planning permission in their own right. For the purposes of this application the access will serve the two proposed dwellings.
- 6.31 With regard to a footpath across the site, this is not recorded as a right of way on the Definitive Map. Having checked with Balfour Beatty there is currently no modification application in to include this on the map.
- 6.32 Accidental damage as part of the construction phase is not for consideration under the planning process but the granting of planning permission does not override other legislation and the developer should ensure they are working with best practice.
- 6.33 While the work that has gone into the NDP is acknowledged, at this stage (Regulation 14 consultation) it can only be afforded limited weight as set out within the National Planning Policy Framework.
- 6.34 With regard to the original field entrance and whether this has been extended at some point, the proposal has been assessed fully in terms of highways implications above. It is found to be compliant and in light of the correct plotting of the bus shelter, the required visibility splays can be achieved leading to a safe entrance.
- 6.35 The concerns in relation to soil contamination are acknowledged but given there is no constraint in this regard on the mapping system, as well as noting the level of works that could be undertaken on the site without requiring planning permission (given the lawful use of the site) investigative works in this regard are not found to be necessary for the determination of this application.

### 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 developments should be approved where they accord with the development plan. The NPPF encompasses the government's view of what is meant by sustainable development in practice. The three themes, economic, environmental and social should be pursued jointly and simultaneously.
- 6.38 The application is for housing and in the light of the housing land supply deficit must be considered against the test prescribed at NPPF paragraph 11 and CS Policy SS1. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF when considered as a whole.
- 6.39 It is acknowledged that the site lies outside of the settlement boundary for Cobhall Common as included within the NDP. However, noting that the NDP can only be afforded limited weight at this point in time it is necessary to assess the proposal in relation to the Core Strategy policies which are afforded greater weight. The site is found to be located adjacent to the built up part of Cobhall Common, a settlement identified for residential development under policy RA2. With this in mind, the principle of development is found to be acceptable, with the detailed design, layout and landscaping to be considered at the reserved matters stage. It is at this stage that it would be appropriate to consider detailed design and amenity aspects of the scheme and ensure compliance with Policies RA2, SD1 and LD1 of the Core Strategy.



- 6.40 In light of the accurate location of the bus shelter being understood, adequate visibility splays that meet the speed of the road can be provided and therefore comply with the requirements of policy MT1 of the CS and with the guidance contained within the National Planning Policy Framework. Matters of impact upon biodiversity have been considered and the Council's Ecologist is content that the mitigation measures proposed in the ecology report that accompanies the application are sufficient to ensure that the requirements of policy LD2 are met.
- 6.41 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 two dwellings adjacent to the built up part of the settlement with the associated economic and social benefits that small developments in rural hamlets support.
- 6.42 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 subject to receipt of confirmation that Natural England do not object to the Habitat Regulations Appropriate Assessment undertaken by Herefordshire Council, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary:**

- 1. C02 Time limit for submission of reserved matters (outline permission)**
- 2. C03 Time limit for commencement (outline permission)**
- 3. C04 Approval of reserved matters**
- 4. C06 Development in accordance with the approved plans**
- 5. CAB Visibility splays**
- 6. CAE Vehicular access construction**
- 7. CAH Driveway gradient**
- 8. CAT Construction Management Plan**
- 9. CB2 Secure covered cycle parking provision**
- 10. CBK Restriction of hours during construction**
- 11. All foul water shall discharge through connection to new private foul water treatment system with final outfall to suitable soakaway drainage field on land under the applicant's control; and all surface water shall discharge to appropriate soakaway 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 LD2, SD3 and SD4.**

- 12. **Within 3 months of completion of the works approved under this planning decision notice 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 enhancements, FOUR bird nesting boxes and ONE Hedgehog habitat 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.**

- 13. **CBM Scheme of foul and surface water disposal**
- 14. **CAP Bus stop relocation**

**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.**

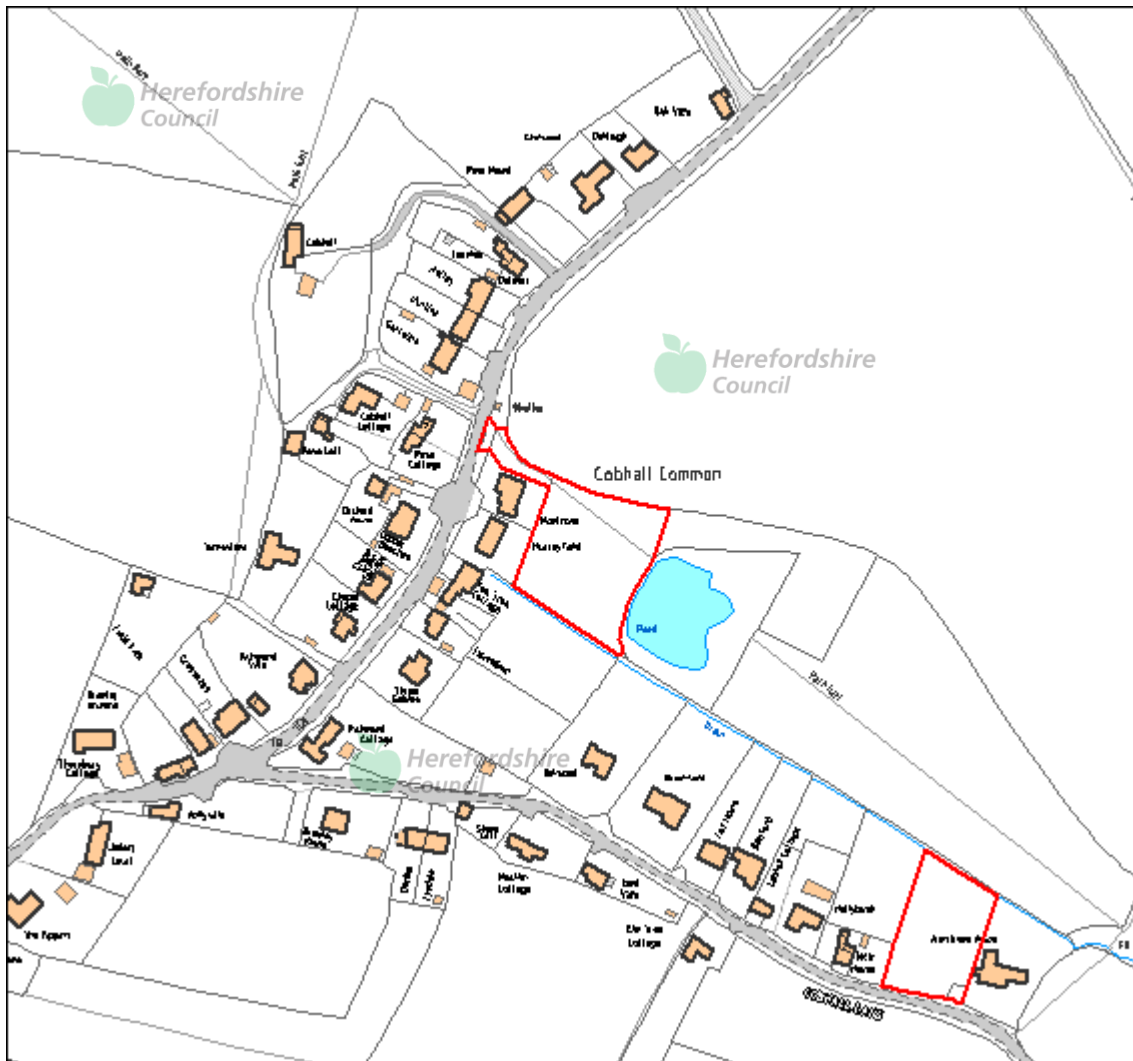
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 182938

**SITE ADDRESS :** LAND TO THE REAR OF MURRAYFIELD, ALLENSMORE, HEREFORDSHIRE, HR2 9BN

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<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>24 July 2019</b>
<b>TITLE OF REPORT:</b>	<p><b>183661 - PROPOSED EXTENSION TO AN EXISTING GYPSY/TRAVELLERS SITE COMPRISING 5NO. RESIDENTIAL PITCHES, 1 NO. EXTENDED DAYROOM, 2 NO. UTILITY BLOCKS, 1 NO. ACCESS, HARDSTANDING AND ASSOCIATED WORKS AT OAKFIELD, NASH END LANE, BOSBURY, LEDBURY.</b></p> <p><b>For: Mr Smith per Dr Simon Ruston, The Old Office, 1 Great Ostry, Shepton Mallet, Somerset, BA4 5TT</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=183661&amp;search=183661">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=183661&amp;search=183661</a>
<b>Reason Application submitted to Committee – Redirection</b>	

**Date Received: 3 October 2018**  
**Expiry Date: 12 December 2018**

**Ward: Hope End**

**Grid Ref: 370864,245018**

Local Member: Councillor Tony Johnson

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

- 1.1 Oakfield is located 0.25 miles north-east of Nash End Lane, forming part of the parish of Bosbury. The application site comprises a largely rectangular parcel of land extending circa 0.55 hectares and the site itself is 1.4 miles north-east of the main built form of Bosbury. Nash End Lane leads back to the junction with the B4220, which runs between the settlements of Bosbury and Cradley.
- 1.2 The site is surrounded by open fields, albeit for an existing adjacent dwelling house immediately south of the site, Cotmeadow, which is currently unoccupied and does show signs of becoming dilapidated in certain parts.
- 1.3 The site currently comprises one touring caravan situated on a large hardstanding area (mostly buff coloured gravel); an existing dayroom; and an existing 'estate-style' gated vehicular access onto Nash End Lane at the south-west of the site. To the north of the site lies an existing paddock, as well as further hardstanding, separated by traditional timber post and rail fencing, with an existing mature hedgerow running through the centre of the site, with access to allow entry to either side of the site. Within the north of the site, other features include two utility trailers; an outbuilding used as a shed and evidence of the storage of materials at the north-west site boundary. The existing mature hedgerow around the boundary of the site/paddock is supplemented by mature trees on the roadside (western) and northern boundaries. Officers note that works have been undertaken to the west of site to establish a further access, although

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

it is clear that this has not been brought into use and the sole access currently is from the south-west of site.

- 1.4 In providing context, planning permission was granted in January 2002, after the application was heard at the northern area sub-committee, and a subsequent appeal to vary the conditions attached to the decision notice, allowed in September 2002, for one caravan to be stationed on the land. A further application was then approved in November 2012, with regards to the use of land for another traveller pitch together with the formation of additional hard standing and utility/dayrooms ancillary to that use. From visiting the site, officers understand that this permission has not been fully implemented. However, given that the dayroom has been constructed, this permission is still extant and as such, this pitch can be brought into use at any time.
- 1.5 This current application proposes an extension to this existing site. This comprises: 5 no. residential pitches; an extension to the existing dayroom; 2 no. utility blocks; a new access; hardstanding and associated works in conjunction with the proposal, including a play area to the east of the site and bin store.
- 1.6 To provide a coherent understanding, the proposal would result in formation of a total of 7 no. residential pitches on site and the plans below refer to the existing site arrangements (Figure 1), with that of the proposed site plan (Figure 2):

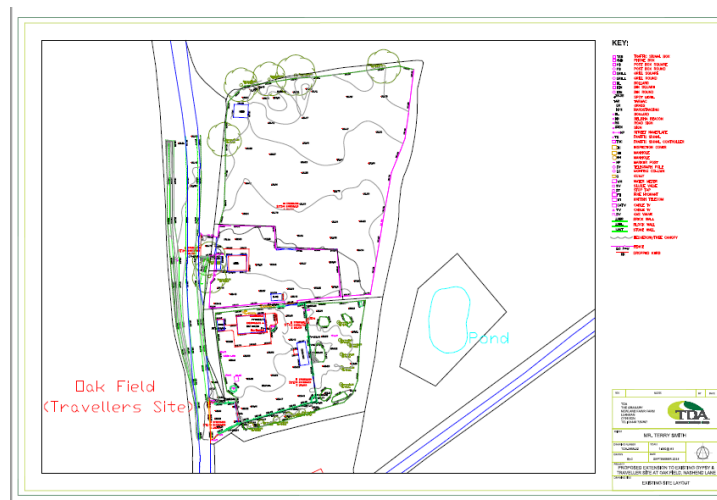


Figure 1: Existing site layout



Figure 2: Proposed site layout

- 1.7 Officers also wish to draw attention to the existing dayroom, alongside the extension proposed, and also the proposed utility block and bin store accompanying this application:



Figure 3: Existing dayroom elevations and floorplans

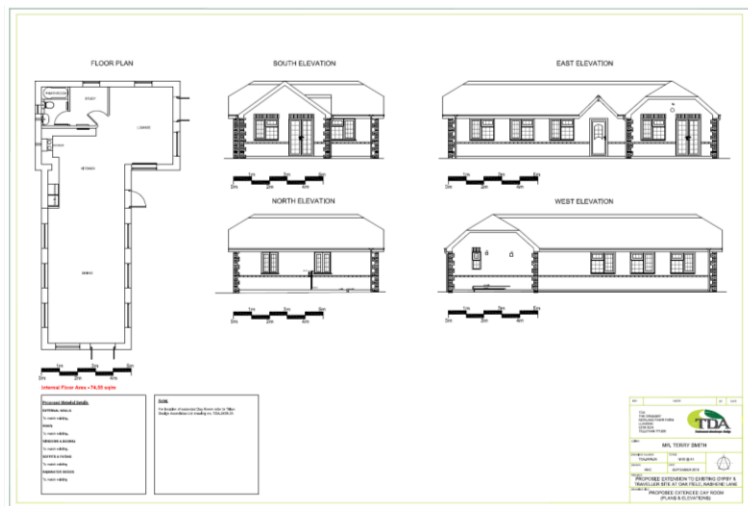


Figure 4: Proposed dayroom extension elevations and floorplans

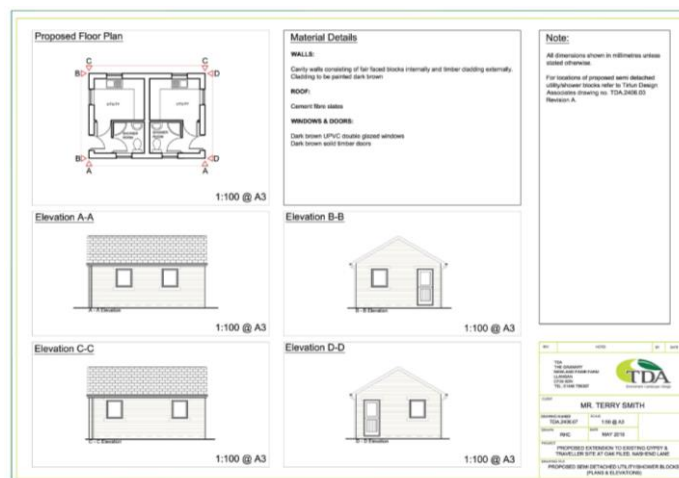


Figure 5: Proposed 2 no. utility block elevations

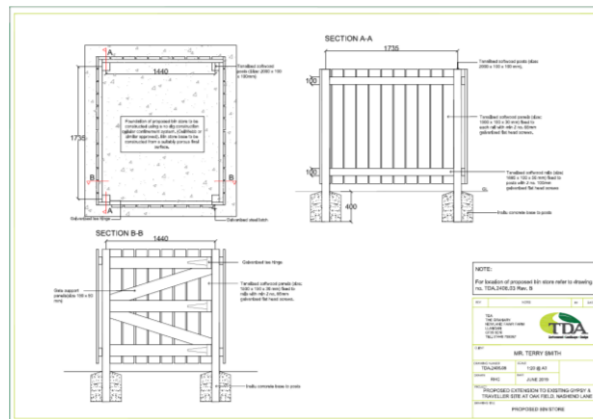


Figure 6: Proposed 1 no. bin store

- 1.8 The application has been amended since the application was validated. The original application proposed 1 no. residential pitch, 1 no. extended dayroom, 5 no. transit pitches including 1 no. utility block, 1 no. access, hardstanding, and associated works.
- 1.9 In providing an explanation for these amendments, the Council is currently in the process of preparing a Traveller Sites Development Plan Document (DPD), that if adopted will form part of the Herefordshire Local Plan. The DPD was submitted to the Planning Inspectorate for examination in February 2018. Hearing sessions took place in May 2018. Following these hearing sessions, the Inspector published post hearing advice in which he asked the Council to review the sections of the Gypsy and Traveller Accommodation Assessment in relation to turnover of pitches on the local authority sites. This review has resulted in a further five residential pitches being required in the county before 2022/23 and further eleven residential pitches between 2023 and 2031. This is in addition to the nine residential pitches already identified in the Travellers Sites DPD. In response to the post hearing advice from the Inspector, the Council has identified two additional sites, including Oakfield, that could help meet the shortfall of pitches up to 2022/23 and contribute to the longer-term requirement. The Inspector had agreed that the longer-term requirement could be addressed as part of the Core Strategy Review that is due to commence in summer 2019 if enough pitches cannot be allocated at this stage.
- 1.10 This site was identified at that stage in the examination process and was included in an additional sites consultation that took place between October and December 2018. The responses were considered by the Planning Inspector and a further hearing session was held on 18 March 2019 which included discussion about this site.
- 1.11 Following the hearing session, the applicants confirmed their intention to amend the application from transit pitches to residential pitches, given confusion and discrepancy between the proposed allocation identified in the DPD and the current application. Subsequently the site was included in the main modifications (MM16) consultation, which consultation ended on 12th June 2019. The Inspector published his report on the examination of the Herefordshire Travellers' Sites Development Plan Document on 24 June 2019. This report concludes that the Herefordshire Travellers' Sites Development Plan Document (DPD) provides an appropriate basis for the planning of Traveller sites in the county, provided that a number of main modifications are made to it.
- 1.12 It is understood that the report and revised Travellers' Sites DPD incorporating all the modifications will be presented to Council in due course, however a date has yet to be agreed.



## 2. Policies

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

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

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
RA2	-	Housing in Settlements Outside Hereford and the Market Towns
RA3	-	Herefordshire's Countryside
H4	-	Traveller Sites
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
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](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

### 2.2 Traveller Sites Development Plan Document

### 2.3 Bosbury and Catley Neighbourhood Development Plan (Bosbury NDP)

The Bosbury & Catley Group NDP was subject to a positive referendum result on 11 July 2019 (86.8%). The Bosbury NDP now has full material weight and will become part of the statutory development plan on 16 August once the adoption report has been signed by the Cabinet Member. At this time, the policies in the Bosbury NDP can be afforded full material weight as set out in paragraph 48 of the National Planning Policy Framework (June 2019) which itself is a significant material consideration. Whilst no policies are included in specific reference to travellers, officers view that the following policies are applicable in considering this application:

- Policy 1 – Village Character
- Policy 2 – Local Character
- Policy 4 – Local Facilities
- Policy 5 – Transport

The Bosbury NDP together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

[https://www.herefordshire.gov.uk/directory\\_record/3033/bosbury\\_and\\_catley\\_group\\_neighbourhood\\_development\\_plan](https://www.herefordshire.gov.uk/directory_record/3033/bosbury_and_catley_group_neighbourhood_development_plan)

### 2.4 National Planning Policy Framework (NPPF) - June 2019

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

- Chapter 1 – Introduction
- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities

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

Chapter 9 – Promoting sustainable transport  
Chapter 11 – Making effective use of land  
Chapter 12 – Achieving well designed places

## 2.5 Government's Planning Policy for Traveller Sites (PPTS)

### 3. Planning History

- 3.1 N122734/F – use of land for the stationing of caravans for residential purposes for 2 no. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use – application approved with conditions under delegated powers
- 3.2 NE2001/2481/F – proposed gypsy site for one family – application approved with conditions at planning committee, a subsequent appeal was allowed to vary conditions which were attached to planning permission

### 4. Consultation Summary

As the application has been amended since validation only the latest response are included below. All Consultation responses can be viewed on the Council's website through the following link:-

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=183661&search=183661](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=183661&search=183661)

#### Statutory Consultations

#### 4.1 Natural England – No objection

*"Natural England has previously commented on this proposal and made comments to the authority in our letter dated 23 November 2018. The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us".*

#### Internal Council Consultations

#### 4.2 Ecology – No objection and condition recommended:

*From information supplied and images available to me I can see no immediate ecology related concerns with this proposal. There are no ecological records for or immediately 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 construction process. Any breach of this legal Duty of Care would be a criminal offence. In this instance this LPA has no reasonable cause to require this information as part of the planning application.*

*The proposed planting scheme should be subject to a relevant condition if planning consent is granted:*

*The soft landscaping and habitat creation and planting as proposed in supplied plan reference TCA.2406.03 dated September 2018 shall be implemented in full, any trees or shrubs dying within 5 years of completion of all works on the site shall be replaced like for like and all the site*

hereafter maintained in full as approved unless otherwise approved in writing by the local planning authority.

*Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 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 – Qualified Comments and Conditions recommended:**

*Thank you for consulting the local highway authority on the above enquiry. I have now had the opportunity to review the information provided. Please see below my comments and recommendation.*

- *The amended site layout proposes a further intensification of the site, with the addition of 5 mobile homes and two utility / shower block on the eastern half of the site. However, as stated in our previous comments, it is viewed that the proposals would have a notable impact on the operation of the local highway network.*
- *A provision of 1 parking space per mobile home is proposed, with 4 additional visitor car parking spaces. This level of parking provision is considered acceptable.*
- *There is sufficient room internally for vehicles to enter, manoeuvre internally and exit the site in a forward gear, including vehicles towing caravans as they will be frequently accessing / egressing the site.*
- *The applicant needs to provide details of the drainage strategy and the waste collection arrangements. The applicant should ensure that no water discharges onto the highway. This can be attached as an informative.*
- *It is understood that the level of visibility from the B4220 / Nash End Lane junction is below the standards set out in MfS2 for a 60mph road, and I note the point can be made about the trailer movements potentially being a cause for concern.*
- *However, I don't believe that the intensification of the site will result in a notable number of vehicular trips, meaning that the proposals will not have a material impact on the operation of the junction or that of the local highway network.*
- *Accident data has been checked and there have been no reported incidents at the junction or within its vicinity within the last five years, this suggests that there are no underlying issues with the highway layout which could be exacerbated by the proposed development.*

#### *Section 184*

*Based on the proposed access arrangements the applicant would need to apply for a Section 184 agreement, the details of which would need to be approved in writing.*

#### *Recommendation*

*If the officer is minded to recommend approval, the local highway authority advises the following conditions and informatives are attached to the decision notice.*

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

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

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

*I05 – No drainage to discharge to highway*

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

*I11 – Mud on highway*

*It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.*

*I35 – Highways Design Guide and Specification*

*The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.*

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

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

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

**4.4 Public Rights of Way (PROW) – No objection:**

*No objection.*

**4.5 Licensing, Travellers & Technical Support Services – No objection:**

*The Licensing Authority do not have any objection to this application. The applicants should however be made aware of the requirements contained in the Caravan Sites and Control of Development Act 1960. This application if granted would count towards the GTAA and pitch deficit.*

**4.6 Strategic Planning – No objection following revised application:**

*“Thank you for consulting me on the amended plans and proposals for the above application. As you are aware the council is preparing a Traveller Sites Development Plan (DPD) which when adopted will form part of the Herefordshire Local Plan. The DPD is currently under examination and the first hearing session took place in May 2018. Following this, the Inspector published post hearing advice in which he advised the Council to identify further pitches in order to address a shortfall in the five year supply of residential pitches. This site was identified at that stage in the examination process and was included in an additional sites consultation that took place between October and December 2018. The responses were considered by the Planning Inspector and a further hearing session was held on 18 March 2019 which included discussion*

about this site. Following the hearing the Inspector issued further post hearing advice in relation to the site at Oakfield as follows:

*“My view is that the Council should take this site forward as a proposed Main Modification with relevant details to guide development including the need for landscaping. However, as part of this, the Council should seek further information from the site owners about whether the proposed 4 additional permanent pitches will be delivered within 5 years. This is taking account of the discrepancy between the proposed allocation and the current undetermined planning application for 1 extra permanent pitch and 5 transit pitches. In particular, whether the long-term aspirations of the site owners coincide with the proposed allocation.”*

*Following the hearing session the agent for the applicant confirmed that it was the intention to amend the application from predominately transit pitches to residential pitches. Consequently the site was included in the main modifications (MM16). The main modifications consultation ended on 12th June 2019 and the Council now awaits the Inspector's report. However given the Inspectors earlier advice in relation to this site and the contribution these additional pitches will make to the five year supply, I support this application as it accords with the emerging DPD”.*

#### **4.7 Building Conservation Officer – No objection**

*“Visited the site today and can confirm that there would not be any impact on nearby listed buildings”.*

### **5. Representations**

#### **5.1 Bosbury and Coddington Parish Council – Objection to all consultations sent:**

*First consultation (12<sup>th</sup> November 2018):*

- *There is already a large concentration of Traveller Sites in the parish area. In the December 2017 consultation the Parish Council made this clear. Out of the 59 Traveller Residential Sites and 114 pitches to be found in the 133 parishes of Herefordshire, Bosbury and Coddington already have 4 Travellers Residential Sites with 12 pitches. The extra numbers gives real cause for concern.*
- *The present infrastructure within the parishes of Bosbury and Coddington is under strain. The Primary School is over-subscribed and there are at present 24 dwellings that already have planning permission to be built in the area.*
- *The definition of "transit" pitches is a very loose one - given that transit pitches can be occupied for up to 10 months of the year the site would effectively have permission for 8 pitches. This is a large increase from the 1 pitch there at present.*
- *Although planning permission was granted for the site in 2012 (application 122734) to increase the volume of pitches from 1 to 2 - no material changes have been made and this permission has subsequently lapsed. It is also worth noting that a condition of this application being granted was that here would not be more than 2 pitches allowed on the site in the future.*
- *Because of the lapse in the above planning approval the application is incorrect in what it is asking for.*
- *The increase in traffic generation caused by these extra pitches would put a strain on the lanes and highways in the area.*
- *The layout and density of the application is excessive on what is a small site with one pitch on at present.*
- *The site can be seen from the highway.*

*Second consultation (12<sup>th</sup> June 2019):*

*“Following their meeting on Thursday 6th June 2019 Bosbury and Coddington Group Parish Council would like to object most strongly to the latest version of Planning Application 183661. Their objection is based on the following reasons:-*

*- There is already a large concentration of Travellers Sites in the Parish area. In the December 2017 consultation with Hereford Council the Parish Council made this very clear. Out of the 59 Traveller Residential Sites and the 114 pitches to be found in the 133 Parishes of Herefordshire, Bosbury and Coddington already have 4 Travellers Residential Sites with 12 pitches. The extra number on this application gives real cause for concern and is excessive for the area.*

*- The present infrastructure within the Parishes of Bosbury and Coddington is already under strain. The Primary School is over-subscribed. The Doctors Surgery is full. There is a limited public transport system and there are no shops. There are at present 24 dwellings that already have planning permission to be built in the area, together with an expansion of the Buchanan Trust with a further 8 dwellings and associated utility areas.*

*- Although planning permission was granted for the site in 2012 (application 122734) to increase the volume of pitches from 1 to 2, no material changes have been made and the permission has subsequently lapsed. It is also worth noting that a condition of this original application being granted was that there would not be more than 2 pitches allowed on this site in the future.*

*- The increase in traffic generation caused by these extra pitches would put a severe strain on the lanes and highways in the area. The layout and density of the application is excessive on what is a small site with one pitch on it at present. It is assumed that business will be conducted on the site with light and noise pollution for local residents in a very rural location. The site can be seen from the highway”.*

*Third consultation (8<sup>th</sup> July 2019)*

*Following their meeting on Thursday 4th July 2019 the Parish Council would like to object most strongly to the latest version of Planning Application 183661. Their objection is based on the following reasons:-*

*- There is already a large concentration of Travellers Sites in the Parish area. In the December 2017 consultation with Hereford Council the Parish Council made this very clear. Out of the 59 Traveller Residential Sites and the 114 pitches to be found in the 133 Parishes of Herefordshire, Bosbury and Coddington already have 4 Travellers Residential Sites with 12 pitches. The extra number on this application gives real cause for concern and is excessive for the area.*

*- The present infrastructure within the Parishes of Bosbury and Coddington is already under strain. The Primary School is over-subscribed. The Doctors Surgery is full and there are no shops. There are at present 24 dwellings that already have planning permission to be built in the area, together with an expansion of the Buchanan Trust with a further 8 dwellings and associated utility areas.*

*- Although planning permission was granted for the site in 2012 (application 122734) to increase the volume of pitches from 1 to 2, no material changes have been made and the permission has subsequently lapsed. It is also worth noting that a condition of this original application being granted was that there would not be more than 2 pitches allowed on this site in the future.*

*- The increase in traffic generation caused by these extra pitches would put a severe strain on the lanes and highways in the area. The layout and density of the application is excessive on what is a small site with one pitch on it at present. It is assumed that business will be conducted*

*on the site with light and noise pollution for local residents in a very rural location. The site can be seen from the highway.*

5.2 At the time of writing this report, 12 objections have been received from 16 residents. Their comments are summarised as follows:

- Bosbury is being asked to add to an already disproportionately high number of travellers' pitches, in particular transitory pitches, in a small parish.
- Site can be publically viewed from the B4220.
- Highway safety.
- Regulation of site.
- Future surrounding development may result in mix of communities and hard for transitory dwellers to integrate with and contribute to the local community.
- Understanding that business is taking place on site which was condition on the original planning permission. Having touring caravans appears to be a business enterprise.
- Local amenities are already stretched.
- Intrusion in beautiful open countryside.
- Level of noise and disturbances from the site.
- The Planning Policy for Traveller Sites 2015 requires the planning authority to respect the interests of the settled community. These applications are considered differently to a "normal" planning application, hence a responsibility on the authority to carefully consider the views of the settled community.
- The proposed site is not large enough or has sufficient safe access for a large influx of vehicles and people and additional facilities appear inadequate.
- Consider views of Parish Council, the representatives of the electors of the parish.
- No footpaths for pedestrians, generating further vehicle movements to access facilities.
- Site is close to Grade II listed buildings, and this further development will negatively affect the county's historic and environmental heritage.
- Negative impact of location would increase Herefordshire's vulnerability to the impact of climate change.

5.3 Objectors, including Bosbury and Coddington Parish Council, have brought officers attention to identifying that this application is contrary to conditions outlined under planning permission N122734/F. It is important to state here that the conditions which were imposed have not precluded any further development or prevented subsequent applications being submitted. Whilst this is material to the determination of this application, there must be consideration as to whether the reasons for imposing these conditions are still applicable or whether different conditions can be imposed to mitigate any potential impacts.

5.4 A number of objectors have also raised the point that officers should strongly consider the views of Parish Council, the representatives of the electors of the parish. Officers note that Bosbury and Coddington Parish Council are a consultee for this application but the application should be considered in accordance with the development plan, namely the Herefordshire Core Strategy; the Bosbury NDP, which also acts the policy document for the neighbourhood area; and the NPPF.

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=183661&search=183661](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=183661&search=183661)

## 6. Officer's Appraisal

### *Policy context*

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows: *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration. It is also noted that the site falls within the Bosbury and Catley Neighbourhood Area, which was subject to a positive referendum result (Bosbury NDP) on 11 July 2019 (86.8%). As a result, the Bosbury NDP now has full material weight and will become part of the statutory development plan on 16 August once the adoption report has been signed by the Cabinet Member.
- 6.3 Officers consider that Oakfield does not lie within or adjacent to the main built form of Bosbury, a settlement identified under Policy RA2 of the CS to which will be a main focus of proportionate housing development. As such, the principle of development is considered against Policy RA3 of the CS, which limits new residential development in rural locations outside of settlements, as to be defined in either Neighbourhood Development Plans or the Rural Areas Site Allocation Development Plan Document. The Bosbury NDP was subject to a positive referendum result on 11 July 2019 and as such, in accordance with Paragraph 48 of the current NPPF, full material weight can be afforded. Nevertheless, this site is not identified within the emerging NDP and furthermore, it is noteworthy that no reference is made to considering traveller provision/sites.
- 6.4 Taking this position, it is accepted that the site is not considered to be within or immediately adjacent to the main built form of Bosbury. Indeed the site is situated adjacent to an unoccupied single residential dwelling and approximately 400 metres north of a cluster of dwellings which lie adjacent to Nash End Lane/B4220. It is therefore considered that the site lies in a rural location where both RA3 and H4 of the CS and paragraph 79 of the current NPPF would apply.
- 6.5 Policy RA3 of the CS states that residential development in such locations will be limited to proposals that satisfy one or more of the specified criteria. Criterion 7 outlines that an exceptional justification can be met through proposals for sites which would accommodate the needs of gypsies or other travellers in accordance with policy H4 – Traveller Sites. This subsequent policy provides the more detailed considerations for assessing such applications, in accordance with the development plan.
- 6.6 CS policy H4 explains that the accommodation needs of travellers will be provided through the preparation of the Travellers' Sites Document (DPD). As outlined in Section 1, the Travellers' Sites DPD was submitted to the Secretary of State for Housing Communities and Local Government on 27 February 2018 for examination. The Inspector published his report on the examination of the Herefordshire Travellers' Sites Development Plan Document on 24 June 2019. This report concludes that the Herefordshire Travellers' Sites Development Plan Document (DPD) provides an appropriate basis for the planning of Traveller sites in the county, provided that a number of main modifications are made to it. It is understood that the report and revised Travellers' Sites DPD incorporating all the modifications will be presented to Council in due course, however a date has yet to be agreed. However significant weight can be attributed.
- 6.7 Policy H4 states that proposals will be supported where:
1. *Sites afford reasonable access to services and facilities, including health and schools.*



2. *Appropriate screening and landscaping is included within the proposal to protect local amenity and the environment.*
3. *They promote peaceful and integrated co-existence between the site and the local community.*
4. *They enable mixed business and residential accommodation (providing for the live-work lifestyle of travellers).*
5. *They avoid undue pressure on local infrastructure and services.*
6. *In rural areas, the size of the site does not dominate nearby settled communities and;*
7. *They are capable of accommodating on-site facilities that meet best practice for modern traveller site requirements, including play areas, storage, provision for recycling and waste management.*

For understanding, in rural areas, where there is a case of local need for an affordable traveller site, but criterion 1 above cannot be fulfilled, then exception may be made and proposals permitted, provided such sites can be retained for that purpose in perpetuity.

6.8 The introduction to the NPPF identifies that this should be read in conjunction with the Government's Planning Policy for Traveller Sites (PPTS). In decision-taking on such sites, regard should be had to the NPPF so far as is relevant. The PPTS was revised in August 2015 and provides the most recent national guidance for such forms of development and is a material planning consideration. It states that the Government intends to review this policy when 'fair and representative practical results of its implementation are clear' and whether planning policy for traveller sites should be incorporated in the wider NPPF. The PPTS states that applications should be assessed and determined in accordance with the presumption in favour of development and application of the NPPF policies and those in the PPTS. It also confirms that the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life whilst respecting the interests of the settled community. When assessing the suitability of sites in rural or semi-rural settings, Local Planning Authorities should also ensure that the scale of such sites would not dominate the nearest settled community.

6.9 In determining planning applications, paragraph 22 of the PPTS sets out criteria (a-e) which are issues that the LPA should consider. These are as follows:

- a) *The existing level of local provision and need for sites.*
- b) *The availability (or lack) of alternative accommodation for the applicants.*
- c) *Other personal circumstances of the applicant.*
- d) *That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites.*
- e) *That they should determine applications for sites from any travellers and not just those with local connections.*

The revised PPTS has amended paragraph 25 to advise that 'Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.' (amendment underlined).

6.10 The PPTS guidance also advises that weight should be attached to the following (paragraph 26):

- a) *Effective use of previously developed (brownfield), untidy or derelict land.*
- b) *Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness.*

c) *Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children.*

d) *Not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.*

- 6.11 The PPTS also advises that if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision. Exceptions to this are where the site is within the Green Belt (designated as such), sites protected under the Birds and Habitats Directive and/or Sites of Special Scientific Interest, Local Green Space, an Area of Outstanding Natural Beauty, a National Park or the Broads.

#### Current Provision and Need

- 6.12 In terms of provision, a Gypsy and Traveller Accommodation Needs Assessment (GTAA) for Herefordshire was finalised in November 2015. This forms part of the evidence base for the emerging Travellers Site DPD. As advised by the Program Director Housing and Growth, the assessment has identified a need for 48 pitches to be provided by 2031 with 19 of these being required in the period between 2014/15 to 2018/19. The assessment also suggests a further requirement of 18 pitches between 2014/15 to 2018/19 in relation to need arising from Gypsy and Travellers living in bricks and mortar housing. Notwithstanding the number of extant permissions, appeals and current applications, at this time, there is not a five year supply of deliverable sites available.

- 6.13 In the post hearing advice following the submission of the Travellers Site DPD in February 2018, the Inspector asked the council to review the sections of the Gypsy and Traveller Accommodation Assessment in relation to turnover of pitches on the local authority sites. This review has resulted in a further five pitches being required in the county before 2022/23 and further 11 pitches between 2023 and 2031. This is in addition to the nine pitches already identified in the Travellers Sites DPD. The council was also asked to prepare a report outlining the possible approaches to identifying the additional pitches. The Inspector has agreed the approach suggested by the council to finding additional pitches. The council has identified two additional sites that could help meet the shortfall of pitches up to 2022/23, one being land at Stoney Street, near Madley, for up to 10 pitches and the other being this site under consideration, for up to 4 pitches. Whilst only 4 pitches have been identified, in contrast to the 5 additional pitches proposed, officers should make clear that in the absence of an adopted Travellers Site DPD, that regard and appropriate assessment is given to Policy H4 of the CS.

#### Principle of Development

- 6.14 The first critical issue which must be considered is whether the applicant falls within the definition of 'Gypsies and Travellers' as detailed in Annex 1 - Glossary of PPTS (August 2015) and thus complies with criterion 7 of CS policy RA3, which allows the provision of gypsy or other traveller sites in rural locations outside of settlements. This definition has amended that provided in the previous PPTS publication (dated March 2012) and states that for the purposes of planning policy 'Gypsies and Travellers' means:

*"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."*

- 6.15 The inclusion of those who have permanently ceased to travel for the above stated reasons has been deleted by the 2015 publication. The revised glossary also states that when determining if persons are gypsies or travellers for the purposes of the PPTS consideration should be given to the issues listed below, alongside other relevant matters:
- a) Whether they previously led a nomadic habit of life.*
  - b) The reasons for ceasing their nomadic habit of life.*
  - c) Whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.*
- 6.16 The pre-amble to policy H4 of the CS confirms that this definition applies to the policy and has subsequently been confirmed through the supporting statement submitted by the applicant's agent in that the pitches would solely be used by those who meet this definition.
- 6.17 When assessing the site's sustainability of location, it must be firstly acknowledged that CS policy RA3 permits the principle of gypsy and traveller sites outside of settlements and therefore accepts that compared to proposals within settlements, accessibility to services and facilities will be reduced somewhat. Continuing criterion 1 of CS policy H4 requires sites to have 'reasonable access to services and facilities, including health and schools', confirming that proposals for gypsy sites do not have to achieve the same degree of sustainability in locational terms as proposals for the settled community. This recognises the nomadic lifestyle of occupiers of such sites. The NPPF and the PPTS anticipate that traveller sites are likely to be located in rural and semi rural areas and that locally specified criteria should be used to guide determination of applications where there are no allocated sites in the Local Plan. Furthermore, the NPPF acknowledges that opportunities to maximise sustainable transport options vary between urban and rural areas.
- 6.18 The road between Bosbury and Cradley (B4220) does not have footways and is largely unlit. Journeys to Bosbury to the bus stop would use the B-road, and with the associated traffic, this would be a significant deterrent to walkers. Consequently the route would be rather hostile to pedestrians and the distance of 2 kilometres to the village exceeds the desirable and acceptable distances for walking to access essential services as set out in Manual for Streets 2, but it does meet the maximum distance. Given a PROW which provides direct access into the village of Bosbury and the nature of the terrain, it would also facilitate the sustainable transport mode of cycling, which both the NPPF and CS encourages.
- 6.19 Taking this policy position into account it is considered that the site is within reasonable access of services and facilities, even if not accessible on foot. Indeed, other residents hereabouts are faced with a similar predicament. The facilities in Bosbury can provide linked trips, further reducing the number of journeys required. The site has one neighbouring dwelling, which is unoccupied, and the provision of the pitches is considered not to dominate visually, due to the density proposed and the appropriate provision of landscaping, and in terms of infrastructure. Indeed, there is a 0.25 mile break in development between this site and the small cluster of dwellings at the entrance to Nash End Lane, which officers consider that it would not disrupt the local settled community hereabouts. It is clearly important to acknowledge that this is an extension to an existing traveller site and not the formation of a new site. The local objections are noted regarding the public visibility of the site from the public highway, however officers feel the site is not visible from the B4220. Indeed, as shown in the photo below taken by the officer on visit to site, the extension of the site would still not be regarded as visually prominent, namely that the dayroom would effectively be read within the locality as a bungalow in an open countryside location:



*Figure 7 – View of site from Bridleway BZ50 and Nash End Lane*

The visibility of the site from the garden of Cotmeadow is also shown below:



*Figure 8 – View of site from garden of Cotmeadow*

*The view of the site is also shown from the edge of the cluster of dwellings towards the end of Nash End Lane*



*Figure 9 – View from the edge of the cluster of dwellings at end of Nash End Lane*

- 6.20 As stipulated in the NPPF the assessment of whether development is 'sustainable' requires a joint and simultaneous approach to all three roles, economic, social and environmental, because they are mutually dependent. A settled base provides continuity in terms of accessing health and education and help to facilitate inclusive communities as advocated in section 8 of the NPPF. Furthermore, the provision of additional pitches will contribute to the Council's shortfall in sites, particularly in the long-term. It is also acknowledged in a number of representations made by local residents, that this site has never caused any issues and that the applicant has integrated well into the community, promoting peaceful and integrated co-existence with the local parish, forming a successful landscaping business, which provides work across the county. Indeed, in relevance to its location, the site does not dominate nearby settled communities, given this clear break in built form between this site and the junction with Nash End Lane and the B4220, to which a cluster of built form lies.
- 6.21 In environmental terms, the proposal would be acceptable as it constitutes further development or an extension in that regard within an existing site. In terms of the history of the site it was noted in the Delegated Report in respect of application N122734/F that the site and the adjacent paddock was not utilised at the time and that it was somewhat derelict and also on my visit to site, aspects of storage of some materials was evident. The PPTS advises that weight should also be attached to the effective use of untidy or derelict land when considering sites for travellers (paragraph 26) and in general terms the effective use of previously developed land is an overarching core principle of the NPPF. It should be noted that no evidence has been provided that the applicant has neglected the site and officers consider that the effective use and the resulting visual improvement, the scheme incorporates retention of native hedgerow and additional planting, which enhances the site's biodiversity, as shown on the proposed site and landscaping plan. This would accord with the NPPF objective to provide net gains in biodiversity where possible.
- 6.22 Officers consider that the site still continues to afford reasonable access to services and facilities, including health and schools. Appropriate screening and landscaping is included within the proposal, through drawing number TDA.2406.03 Rev B, to protect the local amenity and the environment, including proposed native species hedgerow and tree planting and understorey planting. The site would also continue to promote peaceful and integrated co-existence between the site and the local community. Officers also consider that there is capacity in local infrastructure and services, given the lack of objection from these service providers, and that on-site facilities have been provided which meet best practice for modern traveller site requirements, including play areas, storage, and provision for recycling and waste management. Taking all of these matters into account it is considered that the proposal comprises sustainable development and in principle is acceptable.

### Highways

- 6.23 A significant proportion of the objections received to this application have expressed concern regarding firstly the formation of a new access, in serving the additional pitches proposed, but furthermore, concerns of vehicles alighting onto the B4220. I would accept that the existing access and indeed the additional access has reduced visibility due to the road alignment of Nash End Lane and the position of roadside hedges, which is outside the applicant's control. The visibility which can be visually achieved is shown in the photos below:





*Figures 10 and 11 – Visibility from proposed access*

The highways consultee however, states that consideration should be given with regards to setting. In my view, it is important to note that further on from Nash End Lane, the site provides access to three farmsteads, North Farm; Birchwood Farm and Stone Farm, which on my multiple visits to site, have generated little vehicle movements. Objections have also referred the officer to an application concerning the expansion of the Buchanan Trust, which would also result in increased vehicle movements.

- 6.24 Officers consider an application on the information before them. In this instance, due to the nature of the lane and road geometry and associated vehicle movements at this time, speeds are unlikely to be higher than 15-20 mph. There is a judgement therefore to be taken in considering whether any significant impacts from the development on the highway network (in terms of capacity and congestion), or on highway safety, can be effectively mitigated to an acceptable degree. Based on the rural nature of the lane and the site's proximity to the junction with the B4220, traffic speeds are expected to be significantly lower than 60mph and hence, traffic impacts associated with this development can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development, in accordance with Policy MT1 of the CS.
- 6.25 Similarly the concerns about the safety of the junction of the B4220 are appreciated and have been carefully considered. However, given the planning history of the site and the scale of the development proposed, as well as taking into consideration that the junction is already and continually used by a number of properties, it is viewed that the proposal and the residual harm is not considered to be severe, given the lack of technical objection or conflict with the CS, namely policy MT1, NDP Policy 5, which explains that development should not result in harm to highway safety, or the NPPF, namely paragraph 109 in so that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Conditioning in respect of the development not being brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to the local planning authority in the interests of highway safety is appropriate in this instance.

### Drainage

- 6.26 Foul drainage is to be disposed of via the existing septic tank on site which had been approved previously under N122734/F. The site is in Flood Zone 1 (low probability), described in the NPPF as all areas outside of Flood Zones 2 and 3. A flood risk assessment is not required for developments in Flood Zone 1, unless the site exceeds 1 hectare, and the Technical Guidance to the NPPF states that the overall aim is to direct new development to Flood Zone 1. In terms of flood risk vulnerability and development compatibility all uses are considered to be acceptable, including those classed as highly vulnerable such as caravans, mobile homes and park homes intended for permanent occupation. The site already has areas of unmetalled hard standing originating and the retention of some paddock land to the north of site, will likely further improve the permeability of the site for surface water drainage.

### Living Conditions

- 6.27 The NPPF (core planning principle) and CS policy SD1 require proposals to achieve satisfactory living conditions for existing and future occupiers of developments. In relation to this application this requires consideration of the impact on the existing settled community in the vicinity, specifically the detached dwelling adjacent the site known as 'Cotmeadow'. The proposed pitches would be located towards the north (rear) of the site and are all single storey. Supplementary planting is proposed along this boundary and there are conifers on the neighbour's side of the boundary.
- 6.28 There is no reason to suggest that the proposed use of the site would generate unexpected noise. The scheme does not include a work element, as some traveller sites do. In light of these factors it is considered that the proposal would not materially impact on the living conditions of the neighbouring properties, given the clear break in built form between the application site between nearby farms Birchwood Farm; North Farm; Orchard Farm and Aurals Farm and the cluster of barn conversions forming Nashend House and The Oast House adjacent to the B4220.
- 6.29 The dayroom extension, providing facilities such as a separate bathroom and kitchen/facilities are an accepted part of pitches and have been allowed on other sites throughout the County, subsequently to the granting of permission for use of the site for gypsy and traveller's pitches. This scheme seeks permission for all requirements and given the precedent of granting permission for day rooms on other such sites in the county their inclusion in the scheme is considered to be acceptable.
- 6.30 The proposal also seeks the formation of on-site facilities which accord with modern traveller site requirements, including a play area to the east of the site, adequate storage and provision has been made within the site to accommodate for its changing needs, namely the addition of two utility blocks, given the increase in number of pitches.
- 6.31 The applicant has also proposed recycling and waste management arrangements, which will be managed by site residents. From considering the plans, a bin store has been proposed to achieve this.

### Design

- 6.32 Section 55 1A) of the Town and Country Planning Act 1990 defines development as including 'operations normally undertaken by a person carrying on a business as a builder. The proposed mobile home would not be constructed by a builder whilst the unit would not be attached to the ground.

- 6.33 Section 29 of the Caravan Sites and Control of Development Act 1960 defines a caravan as: *“any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any other motor vehicle so designed or adapted, but does not include a) any railway rolling stock which is for the time being on rails forming part of a railway system, on b) any tent.”*
- 6.34 Elevations and Floorplans for the mobile homes have not been included as part of the application. The standard procedure is that the proposed mobile home would meet the legal definition as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.
- 6.35 The inclusion of an extension to an existing dayroom has been challenged by objectors, as it would comprise a permanent building unlike the other accommodation proposed. Whilst the DCLG Guidance for designing gypsy and traveller sites has been withdrawn by the Government, in the absence of superseding guidance it offers a basis for assessing the provisions proposed. The inclusion of a dayroom, providing facilities such as a separate bathroom and kitchen/dining facilities are an accepted part of pitches and have been allowed on other sites in the County subsequently to the grant of permission for use of the site for gypsy and traveller’s pitches.
- 6.36 The nature of the extension will be visible from the existing site entrance, however, due to the slight setback nature of the extension, it is not considered to cause an unacceptable level of harm in terms of visual or locality impact. Therefore, in regards to scale the proposals are considered to suitably conserve local character and the character of the host dwelling in line with CS policies SD1 and LD1. The proposed extension has been designed in a manner that reflects the host dayroom, utilising similar materials and fenestration to the existing which would be seen to be suitable to ensure they harmonise with the dwelling and not look distinctively out of character. In regards to design and materials, it is therefore considered that the proposal adheres to CS SD1, LD1 and NPPF Paragraph 124.
- 6.37 The nature of the proposal is not considered to impact upon the amenity of the adjacent neighbouring residents, with regard to overshadowing and overlooking with sufficient distance to alleviate any concerns. The windows proposed look directly into parking areas within site and therefore, the proposal is considered to adhere to the requirements of both SD1 of the CS and NPPF Chapter 12.
- 6.38 With reference to the Bosbury NDP, Policy 2 (local character) explains that all new development should respect and conserve the local character; its historic and natural assets, and take every opportunity, through design and materials, to reinforce local distinctiveness and a strong sense of place. Whilst heritage impact is discussed below, officers are content that the design and layout of the proposals are acceptable, effectively ‘rounding off’ the development of this site which reinforces the character of the locality hereabouts and according with this particular NDP policy.

#### Heritage

- 6.39 Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting: *“to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*
- 6.40 Objections have been raised regarding the site being close to a number of designated heritage assets, namely the Grade II Listed Nash End Farmhouse and attached barns and 1 Pow Green. Objections have expressed that this development will negatively affect the county’s historic and environmental heritage receptors. The Council’s Building Conservation Officer raises no objections. Notwithstanding this, in respect of heritage assets, the advice set out at paragraph



193 of the NPPF is relevant, insofar as it requires that great weight be given to the conservation of a designated heritage asset. The more important the asset, the greater the weight should be. Paragraph 194 goes on to advise that any harm to, or loss of, the significance of designated heritage assets should require clear and convincing justification. At paragraph 195, it states that where substantial harm is identified local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 196 goes on to state that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 6.41 The site is located ¼ mile away from the nearest listed buildings at Nash End Farmhouse and Pow Green, and having visited this site on multiple occasions, the site is well screened so that I do not consider that this would result in the loss of the setting of multiple designated heritage assets in a manner appropriate to their significance, reaffirming the Council's Building Conservation Officer in this regard.
- 6.42 As such, it is considered that the proposals would not lead to any harm to the character of the listed buildings. Notwithstanding this, the test set out at 196 therefore applies. No unmitigated potential for harm has been identified, and in accordance with the 196 test, the benefits of the scheme, namely to address a short fall of traveller pitches, are considered to significantly and demonstrably outweigh any harm on the setting of designated heritage assets. The duties imposed upon the Authority by Section 66 of the act are therefore discharged, and the scheme does not give rise to any conflict with policies, namely Policy LD4 of the CS and where relevant, Policy 2 of the Bosbury NDP.

#### Other considerations

- 6.43 From information supplied and images available to the Council, there are no immediate ecology related concerns with this proposal. There are no ecological records for or immediately adjacent to the site. As such, the applicant and their contractors have their own legal duty of care towards wildlife protection under UK Legislation that applies throughout any construction process. Any breach of this legal Duty of Care would be a criminal offence. In this instance this LPA has no reasonable cause to require this information as part of the planning application and an informative can be attached to any approval to grant planning permission.
- 6.44 Matters surrounding the regulation of the site are a material planning consideration. However, the officer considers that there is sufficient separation between the site and nearest neighbouring receptors to the site and that the Council's Planning Enforcement and Licensing sections would investigate any breaches.
- 6.45 An objector has also raised concerns that the proposal is an intrusion in beautiful open countryside and that the negative impact of the site's location would increase Herefordshire's vulnerability to the impact of climate change. Officers are of the view that this is an extension to an existing site and as such, the principle of development has already been established through previous applications being approved on this site.

#### Conclusion

- 6.46 In terms of the overriding principle of the NPPF, to achieve sustainable development, it is considered that the proposal would provide significant social benefits through the delivery of an extension to an existing private Gypsy/Traveller site, which due to its size relative to the local settled community would enable and promote the facilitation of social interaction and creation of a healthy, inclusive community. It is not considered that the extension to the existing site would materially outweigh the settled community, given the established number of dwelling houses lying immediately adjacent to the entrance for Nash End Lane with the junction for the B4220.

- 6.47 Turning to the environmental dimension of sustainable development, it is considered that due to the size of the site, the density and scale of the proposal, alongside the reuse of this brownfield site, improvements to biodiversity and its overall appearance the scheme would not have a materially adverse impact upon the landscape or locality hereabouts. The site is well screened from public vantage points and further appropriate landscaping to further assimilate the site into the locality is proposed.
- 6.48 Having regard to the requirements of the CS, together with the aims of the NPPF and the PPTS, and giving weight to the Council's shortfall in the provision of Gypsy and Traveller sites (as required by the PPTS paragraph 27), the site's location within reasonable distance of services and facilities and the lack of demonstrable harm to the landscape or amenities of the area, it is considered that the proposal is acceptable, subject to conditions. It should also be noted that no reference in policy terms is made to travellers within the Bosbury NDP.
- 6.49 The site is considered to be acceptable to accommodate the additional pitches proposed for travellers. There is no requirement to limit the occupation solely to the applicant, by way of a personal permission, because in light of the shortfall in deliverable sites the applicant's personal circumstances have not been a determining factor when undertaking the balancing exercise.
- 6.50 It should be made categorically clear that this site is not the formation of an additional traveller site, as to which some objectors have raised. It is considered by the officer that the application is an extension to an existing private travellers site, which has not had any enforcement action investigated or taken since the site was established. The site has also been identified by the Council as part of the emerging Travellers DPD plan as a site to meet the shortfall of pitches up to 2022/23. Whilst it is acknowledged that there are concerns at a local level, particularly with respect to highways, the officer has considered the status of the site and its relationship with its surroundings, namely to recognise that the site leads onto a no-through road of which there are only two agricultural farms further along Nash End Lane. To which, an assessment has been considered that the number of vehicle movements is low and that the volume of traffic is very low. Vehicle speeds, due to the rural nature of the road, are also considerably lower than anticipated.
- 6.51 The proposal conforms to relevant planning policies both at a national and local level. It is viewed by the officer that the proposal respects the natural, built and historic environment under Policy 1 of the NDP. The proposal, given its appropriate landscaping, respects the rural character and local landscape quality particularly the open landscape beyond the boundary of the Conservation Area, reinforcing local distinctiveness and a strong sense of place under Policy 2 of the NDP. It is also viewed that the proposal would result in the continued sustained use of local facilities in the vicinity of the neighbourhood area and surrounding, in accordance with Policy 4 and as confirmed by the highways area engineer, the proposal would not result in harm to highway safety, in accordance with Policy 5 of the NDP.
- 6.52 Whilst the objections raised by third parties and the Parish Council are noted, particularly acknowledging that Bosbury does already have a proportion of traveller sites in the locality, it should be clarified that the proposal is an extension to an existing site, and not the formation of an additional site.
- 6.53 Having regard to the lack of objection from technical consultees and the ability to control and mitigate the impact of the development through appropriate conditions attached to the recommendation, it is considered that the proposal is a justifiable form of sustainable development. As such on the basis of the assessment above, approval is recommended for this application.

## RECOMMENDATION

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

1. C01 – Time limit for commencement (full permission)
2. C06 – Development in accordance with the approved plans (drawing numbers: TDA.2406.01; TDA.2406.03 Revision B; TDA.2406.05; TDA.2406.07 and TDA.2406.08).
3. C14 - The materials to be used in the construction of the external surfaces of the dayroom extension hereby permitted shall match those used in the existing building.

**Reason:** To ensure the external materials harmonise with the existing building so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

4. CAH – Prior to the first occupation of the development hereby approved the driveway and 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. Details of the driveway, vehicular turning area and drainage arrangements shall be submitted to and approved in writing by the local planning authority prior to relevant works commencing in relation to the driveway/vehicle turning area.

**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.

5. The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annexe 1, paragraph 1 of the Communities and Local Government "Planning Policy for Traveller Sites" March 2015.

**Reason:** To accord with the requirements of Policies RA3 and H4 of the Herefordshire Local Plan – Core Strategy and the Planning Policy for Traveller Sites (DCLG – August 2015).

6. Any material change to the position of the static caravans, or its replacement by another caravan in a different location, shall only take place in accordance with details submitted to and approved in writing by the local planning authority.

**Reason:** To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7. No more than 7 mobile homes and no more than 7 touring caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed on the site at any time.

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

8. The soft landscaping and habitat creation and planting as proposed in supplied plan reference TCA.2406.03 Revision B dated 16<sup>th</sup> June 2019 shall be implemented in full, any trees or shrubs dying within 5 years of completion of all works on the site shall be replaced like for like and all the site hereafter maintained in full as approved unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework (2018), NERC Act 2006

9. The utility block and day room buildings (as shown on the approved drawing nos. TDA.2406.05 and TDA.2406.07) shall not be used other than as utility block/day room structures ancillary to the use hereby approved. No part of the buildings shall be used as a bedroom or otherwise for sleeping accommodation.

Reason: To ensure that the buildings are not used as separate and independent residential units and to comply with Policies RA3 and H4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework (2019).

10. The 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.

11. The applicant shall be required to enter into a Section 184 agreement under the Highways Act 1980 with the local Highway Authority prior to relevant works commencing in relation to the new access. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.

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

**INFORMATIVES**

- 1. **IP2 – Application Approved Following Revisions**
- 2. **I05 – No drainage to discharge to highway**
- 3. **I11 – Mud on highway**
- 4. **I35 – Highways Design Guide and Specification**
- 5. **I45 – Works within the highway**
- 6. **I30 - Wildlife and Countryside Act 1981 (as amended)**

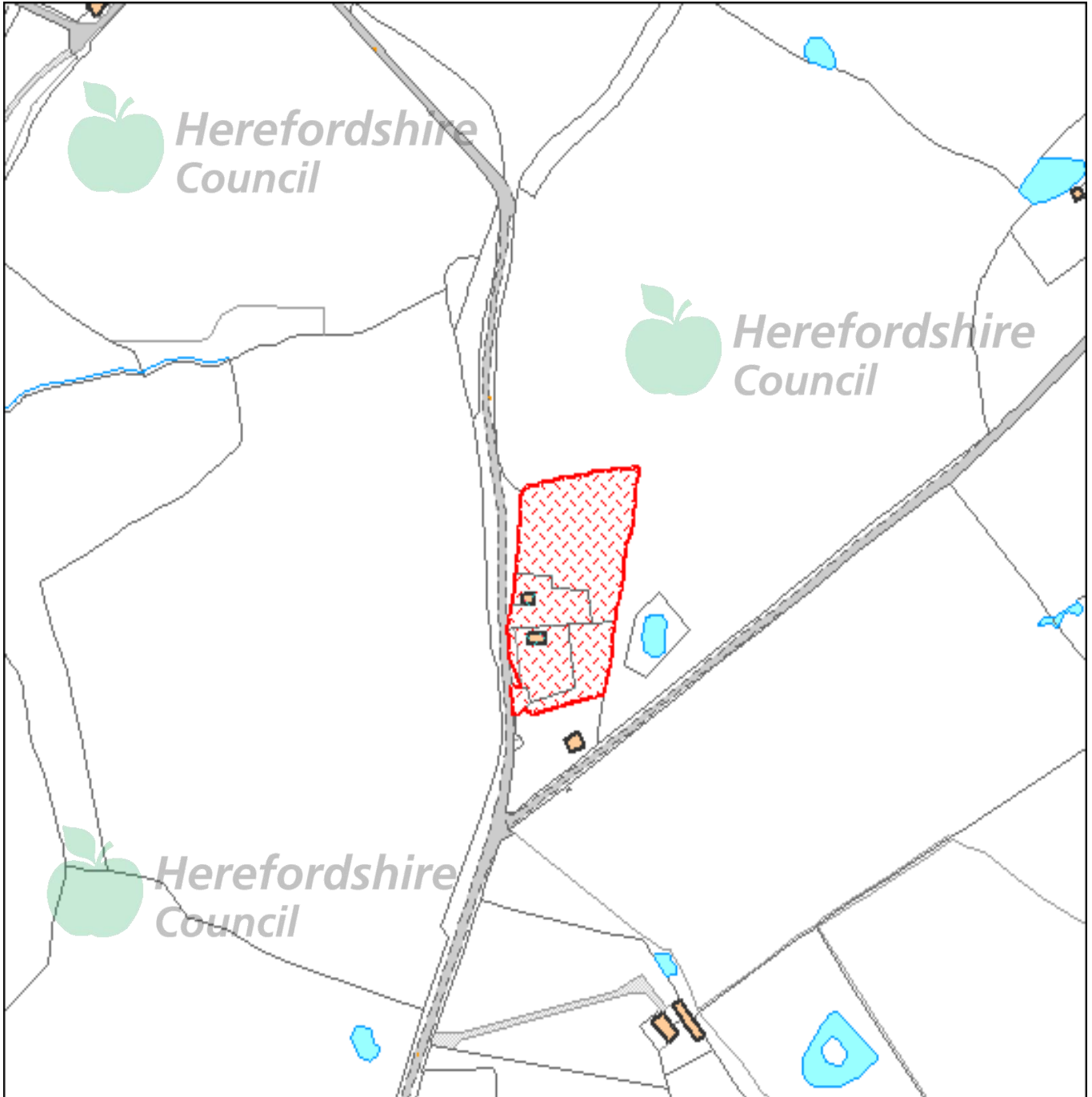
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 183661

**SITE ADDRESS :** OAKFIELD, NASH END LANE, BOSBURY, LEDBURY, HEREFORDSHIRE

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