

# Agenda

## Planning and regulatory committee

**Date: Wednesday 11 December 2019**

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**Time: 2.00 pm (or on conclusion of the meeting held in the morning if later)**

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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:

**Tim Brown, Democratic Services Officer**

Tel: 01432 260239

Email: [tbrown@herefordshire.gov.uk](mailto:tbrown@herefordshire.gov.uk)

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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 Mark Millmore**  
**Councillor Jeremy Milln**  
**Councillor Paul Rone**  
**Councillor John Stone**  
**Councillor Yolande Watson**

## Agenda

		Pages
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>CHAIRPERSON'S ANNOUNCEMENTS</b></p> <p>To receive any announcements from the Chairperson.</p>	
5.	<p><b>190279 - LAND OFF COTTS LANE, LUGWARDINE, HEREFORD</b></p> <p>Proposed erection of 8 bungalows. Including 5 chalet type and construction of new access road.</p>	11 - 60
6.	<p><b>190032 - LAND TO THE WEST OF B4361, LUSTON, HEREFORDSHIRE</b></p> <p>Proposed development of 8 houses and garages.</p>	61 - 88
7.	<p><b>191276 - LAND AT OLD TRECILLA BUILDINGS, LOWER HERBERTS HILL, LLANGARRON.</b></p> <p>Erection of three dwellings and associated works.</p>	89 - 108
8.	<p><b>DATE OF NEXT MEETING</b></p> <p>Date of next site inspection – 14 January 2020</p> <p>Date of next meeting – 15 January 2020</p>	



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

### **YOU HAVE A RIGHT TO: -**

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

### **Public Transport Links**

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

## **RECORDING OF THIS MEETING**

Please note that filming, photography and recording of this meeting is permitted provided that it does not disrupt the business of the meeting.

Members of the public are advised that if you do not wish to be filmed or photographed you should let the governance services team know before the meeting starts so that anyone who intends filming or photographing the meeting can be made aware.

The council makes official audio recordings of meetings. These recordings are available via the council's website.

The reporting of meetings is subject to the law and it is the responsibility of those doing the reporting to ensure that they comply.

## **FIRE AND EMERGENCY EVACUATION PROCEDURE**

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit and make your way to the Fire Assembly Point in the Shire Hall car park.

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

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

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

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

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

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

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

### **How an application is considered by the Committee**

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

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

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

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

The Committee will then debate the matter.

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

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

The Committee then votes on whatever recommendations are proposed.

### **Public Speaking**

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

- a) the application on which they wish to speak is for decision at the planning and regulatory committee
- b) the person wishing to speak has already submitted written representations within the time allowed for comment
- c) once an item is on an agenda for planning and regulatory committee all those who have submitted representations will be notified and any person wishing to speak must then register that intention with the monitoring officer at least 48 hours before the meeting of the planning and regulatory committee



- d) if consideration of the application is deferred at the meeting, only those who registered to speak at the meeting will be permitted to do so when the deferred item is considered at a subsequent or later meeting
- e) at the meeting a maximum of three minutes (at the chairman's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes will be allowed for public speaking
- f) speakers may not distribute any written or other material of any kind at the meeting
- g) speakers' comments must be restricted to the application under consideration and must relate to planning issues
- h) on completion of public speaking, councillors will proceed to determine the application
- i) the chairman will in exceptional circumstances allow additional speakers and/or time for public speaking for major applications and may hold special meetings at local venues if appropriate.

### **Role of the local ward member**

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

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

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

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



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>11 DECEMBER 2019</b>
<b>TITLE OF REPORT:</b>	<p><b>190279 - PROPOSED ERECTION OF 8 BUNGALOWS. INCLUDING 5 CHALET TYPE AND CONSTRUCTION OF NEW ACCESS ROAD. AT LAND OFF COTTS LANE, LUGWARDINE, HEREFORD.</b></p> <p><b>For: Sweetman Developments Ltd per Mr John Phipps, Bank Lodge, Coldwells Road, Holmer, Hereford, Herefordshire HR1 1LH</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190279&amp;search=190279">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190279&amp;search=190279</a>
Reason Application submitted to Committee – Redirection	

Date Received: 18 January 2019      Ward: Hagley      Grid Ref: 354724,241260  
 Expiry Date: 12 November 2019  
 Local Member: Councillor Paul Andrews

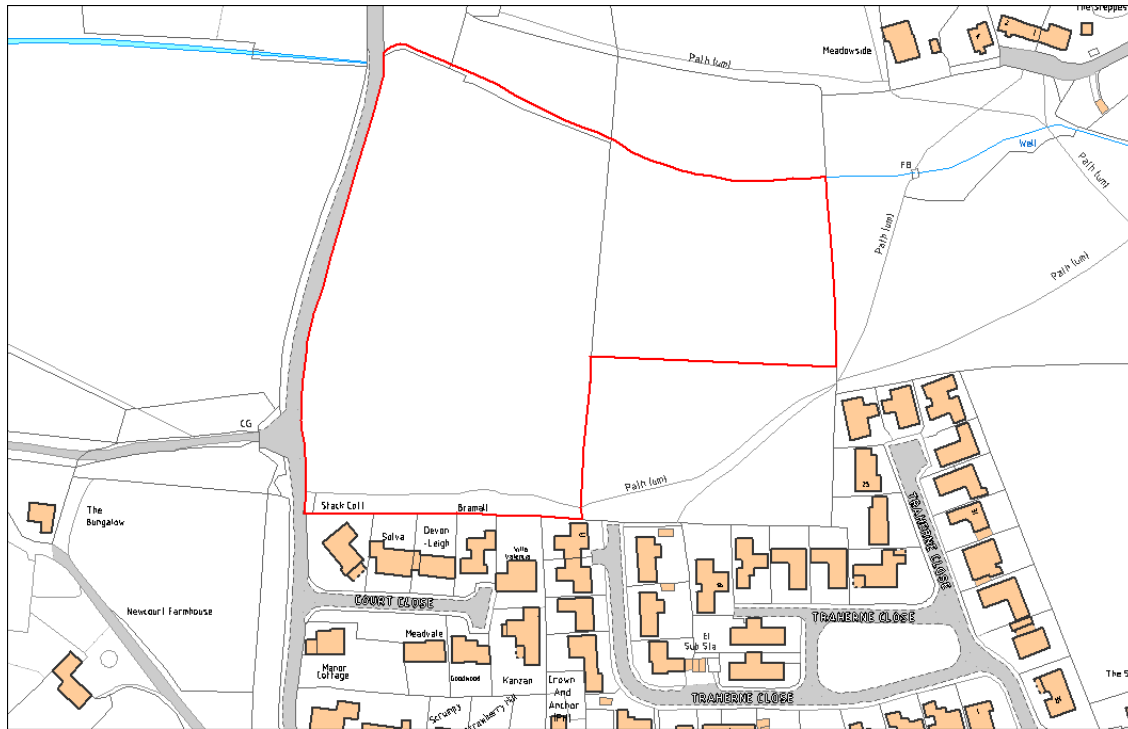
### 1. Site Description and Proposal

- 1.1 The application relates to a site approximately 3.5km to the north west of the city of Hereford on the fringe of the village of Lugwardine. The site is located on the northern edge of the settlement. The total application site comprises of an area of approximately 2 hectares, with the area of the residential development being 0.7 hectares.
- 1.2 The application site adjoins the existing Court Close residential cul-de-sac (to the south of the application site and the extant planning permission at land off Trahernee Close which is currently in the later stages of construction. This development is for the erection of 7 dwellings comprising bungalows and dormer bungalows.
- 1.3 The landscape character type here is Principal Settled Farmlands and historic maps indicate that the two fields and dividing boundary have retained the same pattern since the 19<sup>th</sup> century, forming an open area of land between the parkland of New Court (Unregistered Historic Park and Garden) to the west and the original medieval settlement of Hemhill to the east. The Lugwardine Conservation Area (at Hemhill) abuts the eastern edge of the wider application site (as edged red on the location plans) but is separated from the proposed dwellings by the residential development under construction off Traherne Close, the conservation area contains a Scheduled Ancient Monument (medieval moated site) and some Grade II listed buildings.

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Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882

1.4 The site adjoins Cotts Lane a public highway linking the A438 in Lugwardine (the Hereford to Ledbury road) and the A4103 (the Hereford to Worcester road). The visual character and appearance of the lane is a distinctly rural one to the north of the application site with development abutting the highway to the south as it enters the village. The lane is notably narrow in places and sinuous in its form. Whilst the lane is relatively quiet for much of the day, during certain peak periods Cotts Lane is a cut through for motorists and traffic volumes increase. There is no speed restriction in place and as such the National speed limit applies.



*Application site edged in red*

1.5 The proposal is for the erection of eight dwellings, with a new access off Cotts Lane and associated landscaping. The proposed dwellings include bungalows and dormer bungalows, consisting of three 3 bedroom dwellings and five 4 bedroomed dwellings. A landscaped buffer area is proposed to the north of the residential development and a pedestrian footpath links onto the adjoining Public Right of Way. The new access onto Cotts Lane would have visibility splays of 90 metres in each direction with a setback distance (from the carriageway edge) of 2.4 metres. This will result in the removal / relocation of approximately 120 metres of hedgerow.

1.6 The proposed block plan for the development is included below, along with the elevation plans for the proposed dwellings. Rather than describe the proposal in extensive detail, I refer one to the plans under consideration which are set out below



*Block Plan as proposed (showing entire application site)*



*Elevation plans as proposed for plots 1 to 3*



*Elevation plans as proposed for plot 5*



*Elevation plans as proposed for plot 4*



*Elevation plans as proposed for plots 6 to 8*

Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882

## 2. Policies

### Herefordshire Local Plan – Core Strategy

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

*SS1 - Presumption in Favour of Sustainable Development*  
*SS2 - Delivering New Homes*  
*SS3 - Releasing Land for Residential Development*  
*SS4 - Movement and Transportation*  
*SS6 - Environmental Quality and Local Distinctiveness*  
*RA1 - Rural Housing Strategy*  
*RA2 - Housing in Settlements Outside Hereford and the Market Towns*  
*RA3 - Herefordshire's Countryside*  
*H1 - Affordable Housing – Thresholds and Targets*  
*H3 - Ensuring an Appropriate Range and Mix of Housing*  
*MT1 - Traffic Management, Highway Safety and Promoting Active Travel*  
*LD1 - Landscape and Townscape*  
*LD2 - Biodiversity and Geodiversity*  
*LD3 - Green Infrastructure*  
*LD4 - Historic Environment and Heritage Assets*  
*SD1 - Sustainable Design and Energy Efficiency*  
*SD3 - Sustainable Water Management and Water Resources*  
*SD4 - Wastewater Treatment and River Water Quality*  
*ID1 - Infrastructure delivery*

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/downloads/download/123/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/downloads/download/123/adopted_core_strategy)

Bartestree with Lugwardine Group Neighbourhood Development Plan (made 1 December 2016)

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

*Policy BL1 Criteria for the Design of New Housing*  
*Policy BL3 Infilling and Windfalls*  
*Policy BL4 Settlement Boundaries*  
*Policy BL5 Housing in the Countryside*  
*Policy BL8 Local Green Spaces, Allotments and Rights of Way*  
*Policy BL9 Affordable Housing*  
*Policy BL12 Transport and Highways*

### National Planning Policy Framework (2019)

2.4 The following chapters of the framework are considered to be pertinent to this application:

*1. Introduction*  
*2. Achieving sustainable development*  
*3. Plan Making*

- 4. *Decision-making*
- 5. *Delivering a sufficient supply of homes*
- 6. *Building a strong, competitive economy*
- 8. *Promoting healthy and safe communities*
- 9. *Promoting sustainable transport*
- 11. *Making effective use of land*
- 12. *Achieving well designed places*
- 14. *Meeting the challenge of climate change, flooding and coastal change*
- 15. *Conserving and enhancing the natural environment*
- 16. *Conserving and enhancing the historic environment*

2.5 The Planning Practice Guidance published by the Government at the following link is considered to be a material consideration.

<https://www.gov.uk/government/collections/planning-practice-guidance>

2.6 Further the government's recently published National Design Guide is considered to be material to the consideration of this application, link below.

<https://www.gov.uk/government/publications/national-design-guide>

### **3 Planning History**

3.1 The proposal site itself has not been the subject of any past planning applications. The following applications on the wider site are considered relevant:

151549 - Proposed erection of 7 no. dwellings. (For DOC 3 5 6 7 8 10 & 11) – Approved with conditions

P171157/FH - Application for the modification or discharge of planning obligations – Approved

P174263/AM - Proposed non-material amendment ref 151549 (Proposed erection of 7 dwellings) - Car ports replaced with garages – Approved with conditions

P174505/XA2 - Application for approval of details reserved by condition 3 5 6 7 8 10 & 11 attached to planning permission 151549 – Approved

P183264/AM - Proposed non-material amendment to planning permission ref 151549 (Proposed erection of 7 dwellings) - Change plot 6 from bungalow to chalet bungalow – Refused

P183651/F - Variation of condition 151549/F (Proposed erection of 7 dwellings) - Condition 2 amend drawing 1260.1 with 1260.1A, 1260.2 for plot 6 to 1260.13 and garage 1260-5A – Approved with conditions

### **4 Consultation Summary – as of 29 November 2019**

#### Statutory Consultations

4.1 Welsh Water – No Objection

### Original Comment

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

*We have reviewed the information submitted as part of this application with particular focus on drawing number 1260-20 and the planning application form. We note that the intention is to communicate foul water to the mains sewer and to a network installed to serve the adjacent development.*

*With regards to surface water we note that sustainable drainage systems are to be used, however it is not clear what this will entail. The public sewerage network in the area is designated to receive foul water and therefore we would object to any communication of surface water to the public sewer network.*

*Notwithstanding the above, 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.*

*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.*

*If you have any queries please contact the undersigned on 0800 917 2652 or via email at [developer.services@dwrcymru.com](mailto:developer.services@dwrcymru.com)"*

### Updated Comment

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

*We have reviewed the information submitted as part of this application with particular focus on drawing number 1260-20 and the planning application form. We note that the intention is to*



*communicate foul water to the mains sewer and to a network installed to serve the adjacent development.*

*With regards to surface water we note that sustainable drainage systems are to be used, however it is not clear what this will entail. The public sewerage network in the area is designated to receive foul water and therefore we would object to any communication of surface water to the public sewer network.*

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

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#### *Advisory Notes*

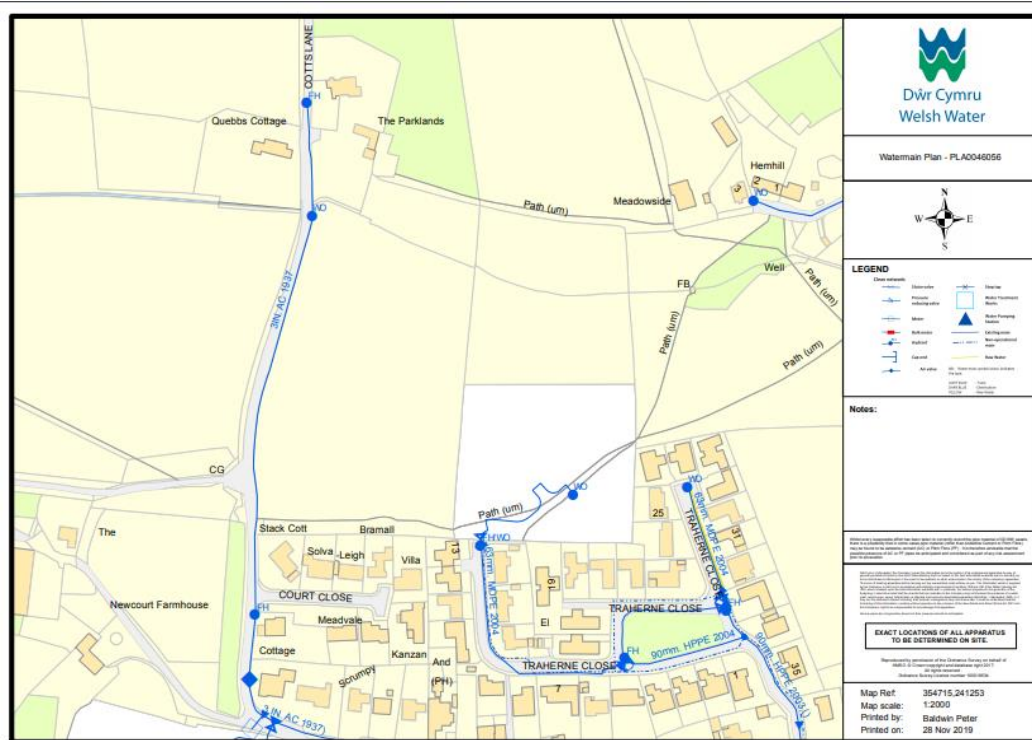
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*The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes 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.*

*A water supply can be made available to serve this proposed development. The developer may be required to contribute, under Sections 40 - 41 of the Water Industry Act 1991, towards the provision of new off-site and/or on-site watermains and associated infrastructure. The level of contribution can be calculated upon receipt of detailed site layout plans which should be sent to the address above. The proposed development is crossed by a 3 inch distribution watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on 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.*

*If you have any queries please contact the undersigned on 0800 917 2652 or via email at [developer.services@dwrcymru.com](mailto:developer.services@dwrcymru.com)*



#### 4.2 Natural England – No Objection

*“Thank you for your consultation on the above dated and received by Natural England on 24 May 2019.*

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

#### **SUMMARY OF NATURAL ENGLAND'S ADVICE NO OBJECTION**

*Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. Notwithstanding the above, your authority should be aware of a recent Ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of Coöperatie Mobilisatie (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17).*

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

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

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

#### **Internationally and nationally designated sites**

*The application site is within the catchment of the River Lugg 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'.*

Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882

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

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have<sup>1</sup> 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 Lugg 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.

#### **Lugg and Hampton Meadows 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.

#### **Other advice**

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

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

#### **ANNEX A**

Natural England offers the following additional advice:

##### **Landscape**

Paragraph 170 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments.

Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

##### **Best and most versatile agricultural land and soils**

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in GOV.UK guidance

Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#) and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

#### Protected Species

Natural England has produced [standing advice](#) to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

#### Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the

England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the [Magic](#) website or as Local Wildlife Sites. List of priority habitats and species can be found [here](#). Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

#### Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

#### Environmental enhancement

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.

Creating a new pond as an attractive feature on the site.

Planting trees characteristic to the local area to make a positive contribution to the local landscape.

- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.

*Designing lighting to encourage wildlife. ●Adding a green roof to new buildings.*

*You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:*

*●Links to existing greenspace and/or opportunities to enhance and improve access.*

*Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips) ● Planting additional street trees.*

*Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.*

*●Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).*

*Access and Recreation*

*Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.*

*Rights of Way, Access land, Coastal access and National Trails*

*Paragraphs 98 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website [www.nationaltrail.co.uk](http://www.nationaltrail.co.uk) provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.*

*Biodiversity duty*

*Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available here.”*

### Internal Council Consultations

#### 4.3 Transportation Manager

##### Original Comments

*“The local highway authority has no objection to the proposals subject to the following being provided:*

*The footway link being continued along Cotts Lane to the existing footway at Court Close.*

*The public footpath running along the southern boundary and linking to Trahernee Close should be provided with a hard surface to enable a connection to the school. A link should be provided from the eastern part of the development close to the turning head to the public right of way.*

*The type of surface should be agreed with the public rights of way officer.*

*A plan showing a swept path analysis of a large refuse vehicle turning into and out of the proposed development (on both directions) and turning around at the turning head.*

*In addition, it is noted that within the visibility splay the ground level of the site is higher than the carriageway. It will be necessary to grade the bank to ensure that no part of the visibility splay is more than 0.6m higher than the carriageway of Cotts Lane. This should be demonstrated on a plan prior to determination of this planning application.*

*Informatives: I11, I45, I08, I05, I43, I35*

*Conditions: CAB, CAC, CAE, CAJ, CAL, CAP, CAT, CAZ”*

## Further Comments

*“The pedestrian connection from the proposed development to the PROW is acceptable, however, discussions should be had with the PROW officer to confirm that a hard surface of at least 2m in width would be acceptable between the development and Trahernee Close and the length and width of the hard surface annotated on the plan.*

*Once this is confirmed the local highway authority would have no objection to the proposals but it is important to stress that pedestrian connectivity to the site from Trahernee Close is key to the acceptability of the development in highway terms.*

*Informatives: I11, I45, I08, I05, I43, I35*

*Conditions: CAB, CAC, CAE, CAJ, CAL, CAP, CAT, CAZ”*

## Final Comments

*“The only comment in relation to the recently submitted landscape plans would be that any boundary treatment (e.g. hedgerow) should be set back at least 1.5m from the back of the visibility splay to allow for growth.”*

### 4.4 Conservation Manager (Ecology)

#### Original Comments

*“Pending sight of the referred to ecology report to allow wider comments; the required habitat regulation assessment can be completed and submitted to natural England for their formal consideration.*

*Subject to formal approval by Natural England a condition is requested to secure approved mitigation*

#### **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 onsite sustainable drainage scheme; unless otherwise agreed in writing by the Local Planning Authority.*

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

*Additional ecology comments can be made once the required/referred to ecology report is made available.”*

#### HRA Screening - Appropriate Assessment (24 May 2019)

#### **“The Conservation of Habitats and Species Regulations (2018)**

#### **Part 6, section 63**

#### **‘Assessment of implications for European sites and European offshore marine sites’**

#### **HRA Screening - Appropriate Assessment**

APPLICATION	190279
NO:	
SITE:	Land off Cotts Lane, Lugwardine, Hereford
DESCRIPTION:	Proposed erection of 8 bungalows. Including 5 chalet type and construction of new access road.

GRID

OS 354724, 241198

REFERENCE:

Link to planning application on Herefordshire Council website:

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=190279&search=190279](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190279&search=190279)

Natural England consultation reference (if available): 273047

Assessment of 'Likely Significant Effects' on:

- River Wye Catchment SAC
- Forest of Dean & Wye Valley Bat SAC (Wigpool Iron Mines SSSI)
- River Clun SAC
- Downton Gorge SAC (SSSI-NNR)
- Other site (SSSI-NNR):

Likely significant effects identified on initial Screening Assessment:

- Foul water
- Surface water
- Emissions
- Construction or Demolition processes
- Other:

Appropriate Assessment information, discussion and proposed mitigation measures:

*The applicant has advised, with confirmation from Welsh Water, that all foul water will be discharged through a connection to the local mains sewer network. Information supplied also confirms that all surface water will be managed through a site specific sustainable drainage scheme (SuDS).*

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

Supporting documents: (insert documents as objects here; or clearly refer to document available on HC website)

Recommended Planning Conditions to secure appropriate mitigation:

*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 onsite sustainable drainage scheme; unless otherwise agreed in writing by the Local Planning Authority.*

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

CONCLUSION:

NO adverse effects on the integrity of the Special Area of Conservation; subject to appropriate mitigation being secured. Habitat Regulations 2018, Part 6, section 63(5)"

## Updated Comments

*“Subject to Natural England having ‘no objection’ to the required appropriate assessment submitted to them a condition to secure the required-agreed mitigation is requested on any consent granted:*

### *Habitat Regulations (River Wye SAC) – Foul- and Surface Water*

*All foul water shall discharge through a connection to the local (Hereford - Eign sewage treatment works) Mains Sewer network; and all surface water managed through onsite sustainable drainage scheme; unless otherwise agreed in writing by the Local Planning Authority.*

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

*Reading the two ecological reports (Andrew Hall and James Johnston Ecology) together all relevant ecological surveys and considerations appear to have been covered and the recommendations, working methods, mitigation and biodiversity net gain features identified in these reports should be secured through a relevant condition.*

### *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 reports by James Johnston Ecology dated August 2019 and Andrew Hall dated June 2019 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation or any biodiversity net gain enhancement features. All fruit tree planting shall utilise ‘standard’ trees grown on fully vigorous or ‘seedling’ rootstocks relevant to the fruit type and be managed such as to create a Traditional ‘standard’ Orchard at maturity.*

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

## 4.5 Conservation Manager (Landscape)

### Original Comments

#### *Further information required*

*Additional drawings and reports have been prepared by the applicant as an outcome of the meeting between the applicant, agent and planning officers on 6/6/2019. Reflecting on landscape notes from this meeting, the applicant has addressed some comments. However, it is felt that with a small degree of modification, the scheme could be strengthened to enhance its position within the community; promote pedestrian and cycle connections; the beautification of the landscape amenity; and contribute in a positive way to the local landscape setting and character.*

#### *Relevant Policies*

*NPPF*

*Chapter 8, 9, 12, 14 and 15*



### Core Strategy

LD1, LD2,LD3, SS6 and SS7

#### Guidance:

Refer to *National Design Guide, Planning Practice Guidance for Beautiful, Enduring and Successful Places*, published by Ministry of Housing, Communities and Local Government, September 2019.

#### Road frontage hedgerow

Refer to the tree officer's report for recommendations to relocate the existing hedgerow and supplement will fill species to create an instant road frontage.

#### Arrival hedgerow understorey and ground flora

The straightening of the hedgerow at the entrance (due to vehicle visibility splay and to maintain a defining hedge structure), has provided a road side and arrival landscape opportunity (Refer figure 3). Plant this space with a suitable wildflower and grass mix, such as Pro flora mix 7 – hedgerows and Pro flora 9 –general purpose or equivalent.

#### Avenue

Replace the *Sorbus* with *Tilia mongolica*/Mongolian lime (Also refer to the tree officer's comments), and space with a rigour and density to form a treed Avenue. It is a well regarded fact that streets with trees improve wellbeing, biodiversity and increase the value of development. This approach also supports the local landscape character (Refer figure 1) and can be a pedestrian and cycle connection to the Park and into the Village (Refer figure 3) with strategic orchestration of the site plan.



Figure 1: Treed Avenue, a distinctive landscape character of the local area. Image taken by author on Cotts Lane near the application site.

#### Pedestrian and cycle connections

Make the development link with the Park and Village in a logical way. Promote and allow for easy and safe pedestrian and cycle connections using neighbourhood streets and paths (Refer figure 2 and 3), rather than direct people (especially elderly and children) along a busy road that is out of the way.

#### Hard landscape and sustainability

Provide material selection and specification of materials, landscape elements and boundary treatments to ensure they are sympathetic with the local landscape character. Considering sustainable sourcing and SuDS.

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Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882

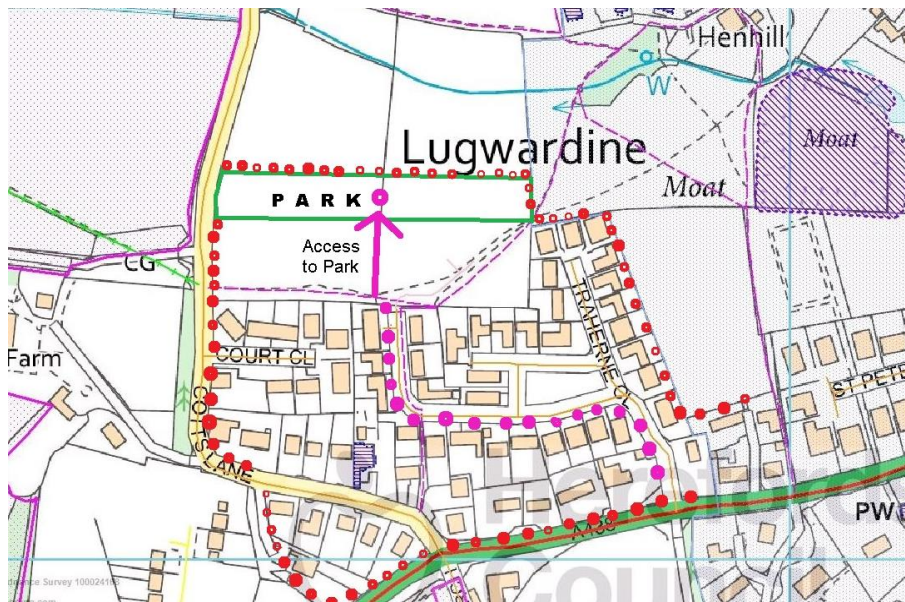


Figure 2: Core Pedestrian and Bicycle Link from village to Park



Figure 3: Core Pedestrian/Bicycle link to Park and into Village from the central development Avenue axis.”

#### Further Comments

*“I have seen the amended drawing, 1260-20, Rev C ‘Red line’ amended, 08.11.2019.*

*There are no landscape comments in relation to this amendment.*

*In relation to landscape, please refer to landscape comments, dated 29.10/2019 based on Proposed Landscape Scheme, Fig 02, 01, Aug 2019.”*

#### 4.6 Land Drainage

##### Original Comments

*“I have reviewed the information provided for application 190279. I note that the site plan demonstrates that foul water will be disposed of via connection to the existing public sewer. There is no information in regards to the surface water drainage strategy. I cannot provide comments on this planning application until a surface water drainage strategy is proposed. We would expect to see infiltration testing undertaken in accordance with BRE365 as part of this*

*submission. We will await the submission of a surface water drainage strategy and then provide formal comments on this application.”*

#### Further Comments

*“It has been confirmed that, if infiltration techniques are not viable, there is the option of discharging surface water runoff into the ditch (as this is also under their ownership). Thus as it has now been explained that there is a viable drainage strategy for this site, we would not object to the development and would request the following information as part of suitably worded planning conditions:*

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

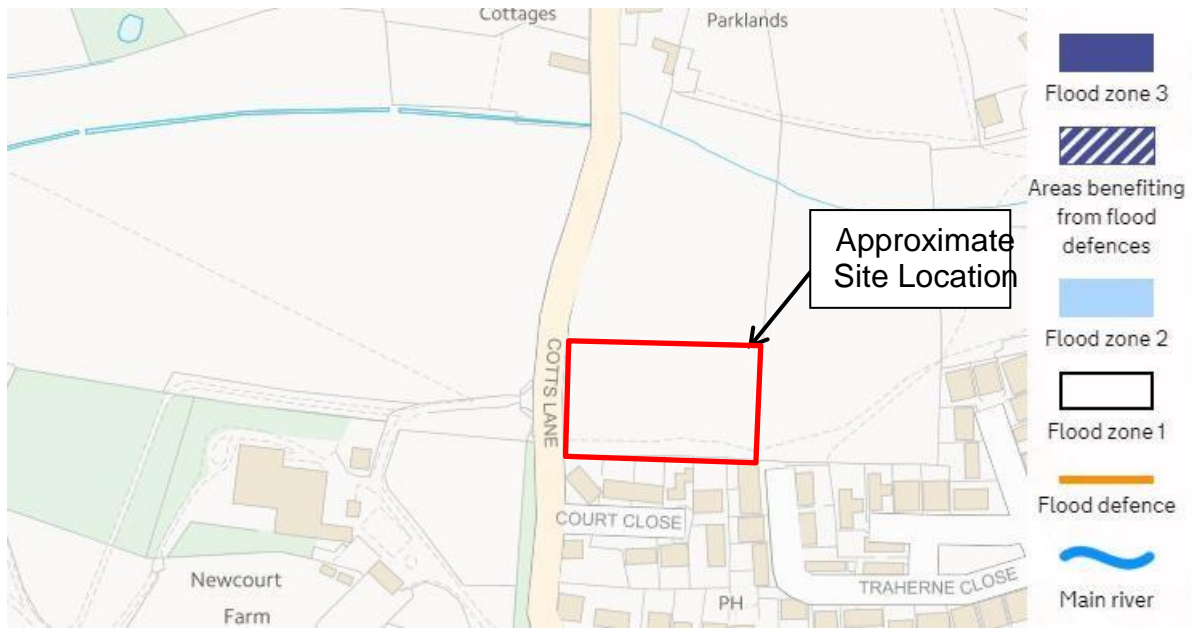
*Please do pass on the following to the Applicant & Agent. For all future submissions that it must be explained that there is a viable option for disposing of surface and foul water development sites. Otherwise we will issue holding objections.”*

#### Final Comments

*“Our knowledge of the development proposals has been obtained from the following sources:  
Application for Planning Permission;  
Site Plan (Ref: 1260-20);  
Correspondence with the Planning Officer in regards to land ownership.*

*Site Location*

**Figure 1: Environment Agency Flood Map for Planning (Rivers and Sea), February 2019**



**Overview of the Proposal**

The Applicant proposes the construction of 8 bungalows and new access road. The site covers an area of approx. 0.80ha and is currently a Greenfield site. An ordinary watercourse flows approx. 112m to the north of the site. The topography of the site slopes down towards the north.

**Flood Risk**

**Fluvial Flood Risk**

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

Table 1: Scenarios requiring a FRA

	<b>Within Flood Zone 3</b>	<b>Within Flood Zone 2</b>	<b>Within Flood Zone 1</b>
<b>Site area less than 1ha</b>	FRA required	FRA required	FRA not required*
<b>Site area greater than 1ha</b>	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 located within an area at significant risk of surface water flooding.

**Other Considerations and Sources of Flood Risk**

Local residents may have identified other local sources of flood risk within the vicinity of the site, commonly associated with culvert blockages, sewer blockages or unmapped drainage ditches.

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**

Infiltration testing has not been undertaken at this site. Infiltration techniques should be used where possible, however we appreciate that the option of disposing of surface water runoff into the watercourse to the north is a viable option as the land between the site and the watercourse will be under the ownership of the Applicant. As there is a solution for surface water runoff

drainage, we would not object to the proposals, however we must again make it clear that infiltration techniques should be used where possible as all new drainage systems for new and redeveloped sites must, as far as practicable, meet the Non-Statutory Technical Standards for Sustainable Drainage Systems and will require approval from the Lead Local Flood Authority (Herefordshire Council).

In accordance with the NPPF, Non-Statutory Technical Standards for Sustainable Drainage Systems and Policy SD3 of the Core Strategy, the drainage strategy should incorporate the use of Sustainable Drainage (SUDS) where possible. The approach promotes the use of infiltration features in the first instance. It should be noted that soakaways should be located a minimum of 5m from building foundations, that the base of soakaways and unlined storage/conveyance features should be a minimum of 1m above groundwater levels, and must have a half drain time of no greater than 24 hours.

If infiltration is not viable, the following should be reviewed for disposal into the watercourse: The rate and volume of discharge 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.

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

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*

Foul water is likely to be disposed of into the public foul sewer. A diversion may be required. This should be discussed with the public sewerage authority.

#### *Overall Comment*

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

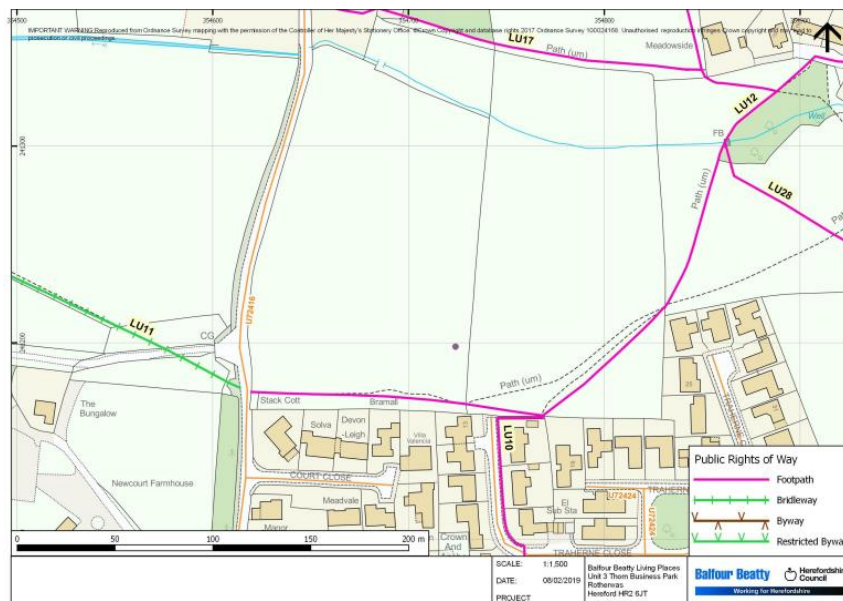
- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- A detailed surface water drainage strategy with supporting calculations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

#### 4.7 Public Rights of Way

##### Original Comments

*"Public footpath LU12 has been shown on plans and the Planning Statement says that The existing right of way' will be 'retained within a 5-8 metre wide buffer'. No objection."*



##### Final Comments

*Public footpaths LU10 and LU12 are under closure due to the current development. PROW do not object to further development but are highly unlikely to agree to an extension of these closures due to a large number of complaints. Therefore any future work must be done while the paths are open and public must be adequately protected from any dangers."*

#### 4.8 Conservation Manager (Trees)

##### *Designations/Constraints Relevant Policy*

##### *NPPF:*

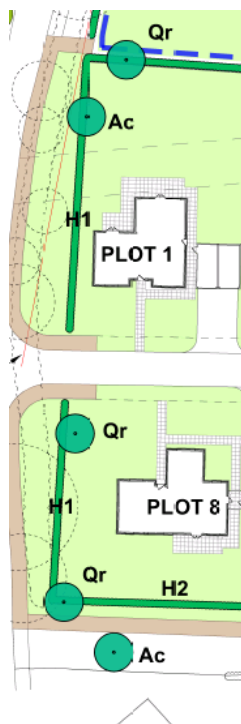
- *Paragraph 15 Conserving and enhancing natural environment*

##### *Core Strategy*

- *LD1*
- *LD3*

#### Arboreal Features:

- The site in its current state is low in tree numbers. Following a site visit I observed the eastern boundary is populated by two mature ash trees of questionable structural and physiological condition.
- The western boundary, adjacent to Cotts Lane is a mature hedgerow containing a mix of native species and a number of individual hedgerow trees which are also native barring a semi mature sycamore.



#### Potential Impacts:

- To achieve the desired vision spay for the access the western hedge will largely be removed along with the trees.
- My preference would be that this hedge is transplanted to the location of the proposed new hedge and any gaps are filled with new plantings of the same species of existing hedgerow.
- I have reservations with the choice of using sorbus at the frontage of the properties. Whilst these are attractive native trees, they are also relatively small which have little visual impact compered to larger species. I would suggest that a more suitable species would be *Tilia mongolica*/Mongolian lime. It is a medium sized tree which won't overcrowd the dwellings but will offer better visual amenity value than Sorbus.

#### Summary & Recommendations:

*I would like to see an amendment to the landscape plan which acknowledges my comments and demonstrates betterment of the site."*

#### 4.9 Neighbourhood Planning Manager

*"The Bartestree with Lugwardine Neighbourhood Development Plan was made on 1 December 2016. It now forms part of the Development Plan for Herefordshire. As the NDP has been made over 2 years, the policies relating to housing provision will be considered out of date as the LPA cannot demonstrate a 5 year housing land supply.*

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Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882

*This is relevant only to the policies concerning the 'numbers and distribution of housing' which could be effected and not policies such as open countryside or local green spaces which could also affect the supply of housing or the associated development management policies.*

*This means that the Core Strategy and neighbourhood plans will still have significant weight. It is only those policies which are directly related to the supply of housing land which are considered 'out of date', not the whole neighbourhood plan. This is a similar position to the Core Strategy housing supply policies which are also deemed 'out of date'. Case law has demonstrated that 'significant weight' should be given to the general public interest in having plan-led planning decisions.*

*The weight of the neighbourhood plan will be determined by a number of elements including the contribution already met to achieving proportional growth and site allocations. As of April 2018 Bartestree with Lugwardine Neighbourhood area has exceeded their proportionate growth of 152 target by 3, from April 2011-April 2018. 40 dwellings have been built and 115 have been granted planning permission"*

#### 4.10 Open Space

##### *"Supporting Policy*

##### *National Planning Policy Framework:*

*Paragraph 96: Open Space and Recreation: provision of what open space, sports and recreational opportunities required in a local area should be based on robust assessments of need.*

##### *Core Strategy*

*OS1: Requirements for Open Space, Sports and Recreation Facilities*

*OS2: Meeting Open Space and Recreation Needs*

*In accordance with policy requirements open space, sport and recreation facilities will be sought from all new residential development on a site by site basis in accordance with all applicable set standards.*

##### *Neighbourhood Development Plans*

*Bartestree and Lugwardine Neighbourhood Development Plan 2016 (Adopted)*

*Policy LB8*

##### *Evidence Base and standards*

*Local Evidence: Herefordshire Open Space Study 2006 (data for amenity public open space has not changed significantly and it is still considered to be accurate).*

*This recommends POS should be at a rate of 0.4ha per 1000 population.*

*Local Evidence: Herefordshire Play Facilities Study and Investment Plan 2012 and National Evidence: Fields in Trust Guidance:*

*These recommend children's play at a rate of 0.8ha per 1000 population.*

*Of this 0.25ha per 1000 population should be formal equipped play.*

*On Site POS: This application is for 8 bungalows. In accordance with Core Strategy Policies OS1 and OS2 and it is considered too small a development to provide any on site open space in accordance with standards used by the council which would be of a usable size for recreation purposes.*

*In lieu of on-site provision in accordance with the SPD on Planning Obligations Herefordshire Council has agreed that housing sites of 10 and less are exempt from planning obligations.*



*Therefore provision of POS on sites of less than 10 is not requested as either an on or off site contribution*

*Drawing no. 1260-20 Location and Block Plan, shows a large area to the north of the proposed development to be “gifted” to the Parish Council as community open space, size not specified. The applicant has acknowledged that this is significantly more than would be achieved from a development of this scale. The applicant also describes the land in terms of the benefit it would bring in providing public open space.*

*The open space offered with this application is not a requirement of policy but has been included as part of the applicants wishes.*

*Whilst this is a generous offer, the applicant has offered no supporting evidence in terms of its need locally or how it will be used and managed. All good quality open space need to be in the right location, needed and sustainable otherwise under used areas can quickly become no go areas and subject to anti social behaviour.*

*Evidence of need: Lugwardine is closely connected to Bartestree and both villages lie along the A438 separated by only a few fields. As such the Bartestree and Lugwardine Neighbourhood Development Plan (NDP) includes both settlements.*

*The NDP through Policy LB8 seeks to protect existing local green spaces but does not identify the need for additional facilities other than allotments for leisure. This would indicate that only allotments for leisure use was identified as a local need during the consultation process carried out for the NDP.*

*This is supported by the Play Facilities Study and Investment Plan evidence base which does not identify the need for additional play facilities.*

*NDP Policy LB8 does acknowledge that land has previously been secured to facilitate the provision of additional recreation and sports facilities in accordance with the Playing Pitch Assessment and Outdoor Sports Investment Plan for Bartestree and Lugwardine and in response to local need. An area of land was gifted to the Parish Council south of the A438 adjacent to existing facilities at Bartestree Village Hall and Recreation Area as part of planning application 143720/O in support of creating a sustainable sports and recreation hub for both villages.*

*The applicant has suggested that the land would be gifted to the Bartestree and Lugwardine Parish Council. The only identified requirement is for allotments for leisure as described in NDP Policy LB8. This policy requires any proposals to meet the request of allotment for leisure to not conflict with other policies in the plan.*

*It is noted that the Parish Council has resolved to object to this proposal in being contrary to policy BL4 of the NDP in that the proposed development would be outside the settlement boundary.*

*In conclusion:*

*NDP Policy LB8 identifies allotments for leisure as the only new green space required.*

*There is no identified need for additional play facilities in accordance with the Play Facilities Study and Investment Plan Additional land has previously been secured in Bartestree to meet existing deficiencies in accordance with the Playing Pitch Assessment and Outdoor Sports Investment Plan. The proposal is not supported locally by the Parish Council who would potentially be in receipt of the land.”*

## 5 Representations

### 5.1 Lugwardine & Bartestree Parish Council

#### Original Comments

*“Bartestree with Lugwardine Group Parish Council RESOLVED to OBJECT to this application for the following reasons:*

- 1: The proposed development would be outside the settlement boundary as shown in Policy BL4 of the Bartestree with Lugwardine NDP 2016.*
- 2: Bartestree with Lugwardine has made a worthy contribution to the housing supply in the county by already exceeding its minimum target number of houses, which have approval, with twelve years of the current planning period remaining. Importantly the majority of these houses have already been constructed or are currently under construction.*
- 3: Whether the proposed development is considered under NDP policy BL3 Windfalls or BL5 Housing in the Countryside, it does not comply with BL3 iv) because it would not have a safe and suitable access. The proposed access via the unclassified U72416 Cotts Lane is unsuitable for any increase in traffic. It is very narrow, mainly single track with passing places and with a very sharp bend at the southern end.*
- 4: The proposals also fail to comply with NDP Policy BL12 Transport and Highways: Section i): No safe access to adjacent roads Section iv): The site would not and could not be linked to the village by an existing or new footway/cycleway due to the lack of space and so could not provide safe passage to village facilities including bus stops.*
- 5: There are limited opportunities within the settlement boundary without resorting to development outside of the boundary.*
- 6: Access is onto an unclassified road. Highways have previously refused access for development of Quarry Field on to Cotts Lane. This lane is not suitable for additional traffic.*
- 7: Despite the development which has already taken place, there are no new facilities, indeed there has been a reduction in the bus service.*
- 8: The local schools are full, with no room for extension at the primary school.”*

#### Final Comments

*Bartestree with Lugwardine Group Parish Council RESOLVED to continue OBJECT to this application for the following reasons:*

- 1: The proposed development would be outside the settlement boundary as shown in Policy BL4 of the Bartestree with Lugwardine NDP 2016.*
- 2: Bartestree with Lugwardine has made a worthy contribution to the housing supply in the county by already exceeding its minimum target number of houses, which have approval, with twelve years of the current planning period remaining. Importantly the majority of these houses have already been constructed or are currently under construction.*
- 3: Whether the proposed development is considered under NDP policy BL3 Windfalls or BL5 Housing in the Countryside, it does not comply with BL3 iv) because it would not have a safe and suitable access. The proposed access via the unclassified U72416 Cotts Lane is unsuitable for any increase in traffic. It is very narrow, mainly single track with passing places and with a very sharp bend at the southern end.*
- 4: The proposals also fail to comply with NDP Policy BL12 Transport and Highways: Section i): No safe access to adjacent roads Section iv): The site would not and could not be linked to the village by an existing or new footway/cycleway due to the lack of space and so could not provide safe passage to village facilities including bus stops. 5: There are limited opportunities within the settlement boundary without resorting to development outside of the boundary.*

- 6: *Access is onto an unclassified road. Highways have previously refused access for development of Quarry Field on to Cotts Lane. This lane is not suitable for additional traffic.*
- 7: *Any increase in traffic using Cotts Lane would add to the danger for motorists already using the lane. It is not suitable for the traffic using it at present let alone an increase in the future.*
- 8: *Despite the development which has already taken place, there are no new facilities, indeed there has been a reduction in the bus service.*
- 9: *The local schools are full, with no room for extension at the primary school.*
- 10: *The timing of ecological reports was such to show minimal impact to wildlife and were not a true reflection of the significance of wildlife on the site. The field was ploughed in April and the survey done in June.*
- 11: *There is no mention of the use of renewable energy, rainwater harvesting or decreased carbon footprint in the application.*
- 12: *To avoid a conflict of interest, the Parish Council do not wish to consider the offer of a gift of land until a decision has been made on the application.”*

## 5.2 Ramblers Association

*Whereas for the most part footpath Lugwardine LU12 seems to be left in its correct position and possibly enhanced by the natural corridor being created around it. The downside is that at the eastern end, the footpath is routed along the estate road which would seem to be against the recommendations of the DOE Rights of Way Circular 1-09.*

*I ask you to ensure that the developer is aware that there is a legal requirement to maintain and keep clear a Public Right of Way at all times.*

## 5.3 Third Party Representations

The application has received eleven representations to date, two supporting the application, three offering qualified comments and six objecting to the development. The main points raised are summarised below:

- Potable water pressure is already low in the area and the development may further impact this
- The application would result in additional traffic on Cotts Lane, which is a small lane and can not support any additional vehicular movements.
- Cotts Lane is already a severe traffic hazard particularly at times of school pick-ups
- Lugwardine has already delivered plenty of homes, with the village already exceeding its quota and so are any more needed
- The application site is outside of the NDP settlement boundary
- The application will disturb local bats
- The historic character of the field scape will be lost and the views from the Public Rights of Way
- Access for development at Quarry Fields was declined, why can it be allowed for this development
- The lower field floods in times of heavy rain
- The development would offer significant benefits for the village, including the proposed gifted land
- The development is on a green field that benefits from flora and fauna.
- The developer has set each part of the development under ten dwellings to avoid needing any affordable housing
- The development will not cause any noise or nuisance issues as it will attract older people
- The application lacks green efficiency measures
- The development will result in the public footpath being closed for a further prolonged period of time

- The development will not be suitable for people downsizing as they are all at least three bedroomed dwellings

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

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=190279&search=190279](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190279&search=190279)

## 6 Officer's Appraisal

### Policy context and Principle of Development

6.1 The proposal is considered in line with the statutory requirements of Section 70 (2) of the Town and Country Planning Act 1990 (as amended) which requires that when determining planning applications, the local planning authority shall have regard to the provisions of the development plan, local finance considerations (so far as material to the application) and any other material considerations. Following this requirement, Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states the following:

*"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 (taken as a whole) is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework ('NPPF' or 'the framework' henceforth) is also a significant material consideration, but does not constitute a statutory provision, unlike the development plan.

6.3 As is set out at paragraph 30 of the framework and stipulated at Section 38 (5) of the Planning and Compulsory Purchase Act 2004 (as amended), *"if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document"*. In this way should a conflict between the NDP and the CS arise, the NDP will take precedence over the CS unless there are other material considerations that dictate otherwise

6.4 CS Policy SS1 sets out the presumption in favour of sustainable development, which is reflective of the positive presumption enshrined by the current NPPF as a golden thread running through plan-making and decision-taking. Policy SS1 also confirms that proposals which accord with the policies of the CS (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise. Again, this is broadly reflective of Paragraph 11 of the current NPPF.

6.5 CS policy SS2 confirms that Hereford is the main focus for new housing development in the county, followed by the five market towns in the tier below. In rural areas new housing will be acceptable where 'it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community'. Similarly, at paragraph 78 the current NPPF advises that to promote sustainable development housing should be located where it will enhance or maintain the vitality of rural settlements.

6.6 The application at this time must be considered in the context of the Council being unable to identify a five year supply of deliverable housing sites or demonstrate it can meet the

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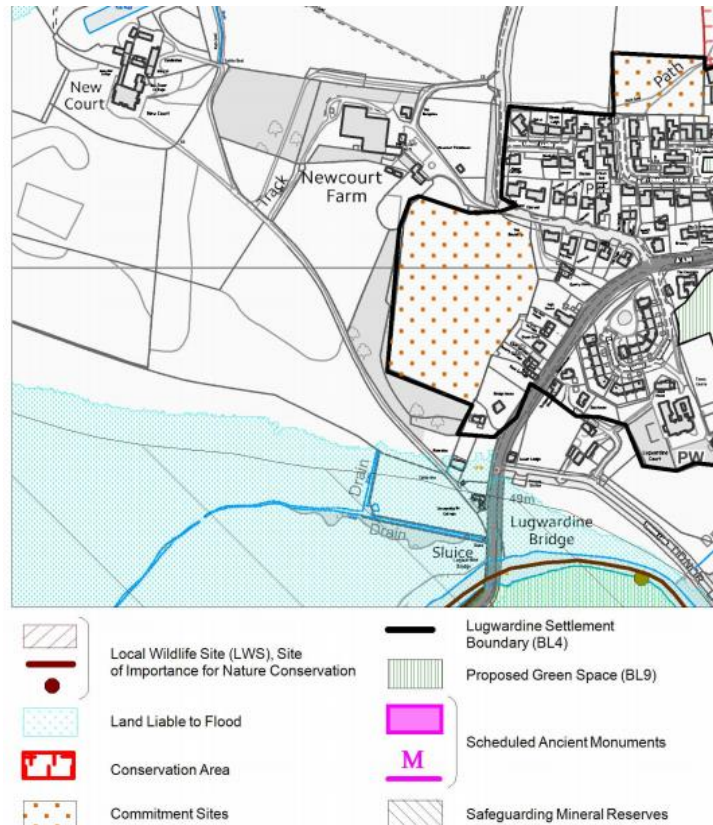
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housing deliverability test. At paragraph 11, the current NPPF confirms that when making decisions the 'presumption in favour of sustainable development' should be applied. It goes on to set out at 11 (d) that where the policies most important for determining the application are 'out-of-date' planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or the application of the policies in the framework provides a clear reason for refusing the proposal. At footnote 7, it is confirmed that a failure to demonstrate a five year supply of housing and requisite buffer in accordance with paragraph 73 will render relevant policies to delivering housing out-of-date.

- 6.7 It is acknowledged that, at this point in the time, the Council is unable to demonstrate a five year supply of deliverable housing sites. A supply statement has recently been published which outlines that at 1st April 2019, the supply position in Herefordshire stands at 4.05 years. As a result, the presumption in favour of sustainable development set out under paragraph 11 of the Framework is fully engaged. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the current NPPF as a whole, or if specific policies in the NPPF indicate development should be restricted.
- 6.8 Notwithstanding this, Supreme Court judgements and subsequent appeal decisions have confirmed that policies relevant for the supply of housing can still be afforded weight in the decision making process, and it is a matter of planning judgement for the decision-maker to attribute the degree of weight to be afforded depending on the context of the decision. Moreover, policies not directly relevant to the supply of housing (such as those dealing with matters of flood risk, highways safety or heritage impacts) still attract full weight.
- 6.9 Policy RA1 explains that the minimum 5,300 new dwellings will be distributed across seven Housing Market Areas (HMAs). This recognises that different parts of the County have differing housing needs and requirements. The policy explains that the indicative target is to be used as a basis for the production of Neighbourhood Development Plans (NDPs). The growth target figure is set for the HMA as a whole, rather than for constituent Neighbourhood Areas, where local evidence and environmental factors will determine the appropriate scale of development. The Core Strategy, leaves flexibility for NDPs to identify the most suitable housing sites, through their policies and allocations.
- 6.10 CS Policy RA2 states that Neighbourhood Development Plans (NDPs) will be the principal mechanism by which new rural housing will be allocated. Where these are absent or not advanced in the process to be afforded weight in the planning balance the main focus for development will be within or adjacent to the main built up parts of the settlement. Lugwardine is identified as a settlement for housing growth under Policy RA2 and associated Table 4.14 of the CS, the policy sets out that it is for NDPs to define the bounds of settlements where considered necessary. The area does benefit from a Neighbourhood Development Plan (NDP), the Bartestree with Lugwardine Group NDP, which was made 1st December 2016, though it is now over two years old.
- 6.11 NDP policy BL4 defines a settlement boundary for the village which the site falls outwith but adjoins and is considered to accord with the spatial aspect policy RA2 of the Core Strategy.

*"Policy BL4 Settlement Boundaries*

*Settlement boundaries for Bartestree and Lugwardine have been defined and are shown on Map B. Within these settlement boundaries, development will be supported in principle."*



*Excerpt of the Lugwardine Settlement Boundary map from the NDP*

6.12 The NDP then goes on to detail the circumstances when housing development outside of the settlement boundary (i.e. in the open countryside) will be acceptable in exceptions criteria detailed under policy BL5.

*“Policy BL5 Housing in the Countryside*

*Residential development outside the settlement boundaries of Bartestree and Lugwardine will be limited to:*

- I. the replacement of existing dwellings that have a lawful residential use and where the replacement is comparable in size and scale and is within the curtilage of the existing dwelling;*
- II. extensions to existing dwellings;*
- III. proposals which accord with Policies BL3 and BL6 of this Plan;*
- IV. rural exception sites in accordance with Core Strategy Policy H2 and*
- V. proposals which are in accordance with Core Strategy Policy RA3.”*

6.13 Policy BL5 is explicit at criteria III that applications which accord with Policy BL3 (the policy relating to ‘Infilling & Windfall’ development) and Policy BL6 (the policy relating to ‘Redundant Rural Buildings’) are acceptable. Policy BL6 is not considered to be relevant for this application, with considerations focusing on Policy BL3.

*“Policy BL3 Infilling and Windfalls*

*Development of infill and windfall sites will be supported provided:*

- I. the development is in keeping with the scale, form and character of its surroundings;*
- II. it does not impact adversely on the amenity of neighbouring properties including loss of daylight, loss of car parking or mature vegetation or landscape screening;*
- III. it is in character with existing dwellings;*

*IV. it has a safe and suitable access to the public highway.”*

- 6.14 For the avoidance of doubt the supporting text for Policy BL3 sets out what the NDP’s interpretation of Infill and Windfall sites.

*“Infill is the filling of a small gap between existing dwellings with usually one or at most two new properties in similar sized plots to those of the neighbouring dwellings.”*

*“A windfall site is any area of land that is suitable for development within the terms of planning policies that has not been specifically identified and allocated within a Development Plan Document.”*

- 6.15 The NDP’s definition of a Windfall Site is noted to broadly mirror that of the framework, as “sites not specifically identified in the development plan”. The application is considered to be an area of land that is suitable for development in the spatial sense as it adjoins the settlement of Lugwardine (which the development plan identifies as a sustainable place for housing growth), the site is relatively unconstrained from issues such as flooding and heritage. The application site is considered to be a Windfall Site in the terms of policy BL3 of the NDP.
- 6.16 The NDP sets out in the supporting text for Policy BL4 that the re-introduction (as part of the NDP) of settlement boundaries will retain the historic identity and distinctiveness of Bartestree & Lugwardine; and protect important views north towards Dinmore Hill and the hills of South Shropshire (among other views) from the intrusion of new development. In this way, I do not consider that the proposed development would result in or lead to a conglomeration or merging of the two settlements, further I do not consider that the application would impinge upon important views to the north from the settlement.
- 6.17 The application site is noted to be outside of the Lugwardine settlement boundary, as identified in the NDP. However, I consider that Policy BL3 of the NDP does allow for development outside of the settlement boundary and the application site is considered to fall within the definition of such a Windfall Site where such development in the open countryside can be considered, subject to a number of criteria. Accordingly I consider the principle of development on this site is acceptable, provided the criteria for development are satisfied.
- 6.18 Notwithstanding all of the above, It is noted that the NDP became part of the development plan over two years ago, thus as the policies most relevant for decision making are considered to be out of date, the housing policies in this instance; the provisions of paragraph 14 of the framework do not apply as the NDP fails to meet all the criteria.

### Design, Character & Appearance

- 6.19 When considering the design and landscape impact of a proposed development, CS Policy SD1 is significant as it requires development proposals to create safe, sustainable, well integrated environments for all members of the community. In so doing, all proposals should take into account the local context and site characteristics. Moreover, new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. Where appropriate, proposals should also make a positive contribution to the architectural diversity and character of the area, including through innovative design. They should also safeguard the residential amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.
- 6.20 The framework is a key material consideration for the proposal, chapter 12 on achieving well-designed places sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, as good design is a key aspect of sustainable development. Decision-making (as directed at paragraph 127 of the framework)

should ensure developments will: function well and add to the overall quality of the area 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 including the surrounding built form and landscape setting (whilst not preventing innovation or change); establish or maintain a strong sense of place creating attractive and distinct places to live and visit; with a high standard of amenity for existing and future users that doesn't undermine quality of life or community cohesion and resilience. Additionally paragraph 98 of the framework sets out that decisions should protect and enhance public rights of way, including taking opportunities to provide better facilities for users.

- 6.21 The framework is clear at paragraph 130 that “*planning permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides.*” The government has confirmed by way of a Written Ministerial Statement (on 1<sup>st</sup> October 2019) that “*in the absence of local design guidance, local planning authorities will be expected to defer to the illustrated National Design Guide*”; the National Design Guide is therefore considered to be a material consideration for consider what achieves good design in proposed developments.
- 6.22 Conversely design should not be concocted as a reason for refusal when proposals accord with the design expectations of the framework and development plan. Additionally at paragraph 131, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in wit the overall form and layout of their surroundings.
- 6.23 The NDP includes a specific policy for the consideration of design for new dwellings at policy BL1:

*Criteria for the Design of New Housing*

*Good design and the maximum possible reduction in carbon footprint will be sought by:*

- i. incorporating locally distinctive features - although new innovative design or features will not necessarily be resisted where they fit sensitively within the particular village frontage and street scene;*
- ii. incorporating eco friendly initial designs that include orientation of buildings, the provision of energy and water conservation measures, cycle and recycling storage, broadband infrastructure and renewable energy infrastructure such as photovoltaic panels or other sustainable renewable energy solutions wherever possible;*
- iii. making proportionate provision for open green spaces which are linked where possible to the wider natural environment and accessible to the public for recreational use;*
- iv. retaining important features such as tree cover, ponds, orchards and hedgerows and adding to the natural assets of the parish where opportunities are available;*
- v. where possible, garages must be built in direct association with the houses whose inhabitants may be expected to use them. They must be of a sufficient size to accommodate modern cars. Proposals for rear or separate parking courts will not be permitted unless alternative provision is impracticable. Sufficient off street parking must be provided to accommodate space for visitor parking for each household;*
- vi. an appropriate size of garden space should be provided in proportion to each new dwelling;*
- vii. on site measures that support energy conservation, such as tree planting and other forms of green infrastructure to provide shade and shelter, the inclusion of sustainable drainage systems, the maximum use of permeable surfaces and*



- minimising the use of external lighting to that which is necessary wherever possible;*
- viii. *assisting offsite measures such as supporting infrastructure to promote sustainable travel and enabling a sustainable drainage system to serve a wider range of properties where appropriate;*
  - ix. *minimising construction traffic and reducing waste;*
  - x. *including, where possible, dwellings that meet standards for lifetime homes”*



Plan showing the layout of the residential development

- 6.24 The application proposes to use materials that are considered to be broadly in-keeping with the pallet of materials used on the adjoining development at land off Traherne Close.
- 6.25 The scale of the dwellings proposed are considered to be in-keeping with the existing dwellings that adjoin the site. The properties adjoining (to the south) on Court Close are predominantly bungalows with dormers, with the dwellings under construction at land at Traherne Close comprising of bungalows and dormer bungalows. Officers consider that bungalows are the most appropriate dwelling type for the site, as the introduction of genuinely two storey dwellings on the site would be awkwardly juxtaposed with the character of dwellings in the immediate vicinity. The ridge height of the tallest dwelling is 6.5 metres to the ridge, with the dwellings (plots 6-8) on the southern side of the development having a lower ridge height. In this manner the scale of the proposed dwellings is not considered to be unduly dominating for the site, given its context adjoining a similar scheme to the east.
- 6.26 On balance, the scale, form, character and appearance of the development as a whole is considered to be policy compliant.
- 6.27 The proposed dwellings are not considered to adversely impact the residential amenity of neighbouring dwellings. This is due to the dwellings on the southern side of the development

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(plots 6-8) comprising of bungalows which are not considered to overlook the neighbouring properties to the south on Court Close, this is aided by the public right of way to the south increasing separation distances (which is between 20-30 metres). Considering the proposed dwellings on the eastern side of the site, the dwellings are also separated by around 30 metres. Whilst the dwellings include balconies, the separation distance is still considered to be acceptable in the context and given the screening. I note the proximity of the balcony at plot 4 to the rear garden of plot three, however the intervening garage is considered to alleviate concerns of overlooking. Plots 1-3 overlook the existing field which will form a landscape buffer. Thus the proposal is not considered to overlook, overshadow or overbear other dwellings or the public right of way and so the application is considered to preserve amenity in the locale.

- 6.28 The application is not considered to result in the loss of car parking. However the application will result in the loss of a portion of vegetation which is landscape screening, this matter is considered under the landscape section of the appraisal below.
- 6.29 Policy BL3 of the NDP requires development to be in keeping with the character of its surrounding and be in character with the existing dwellings. The application site is considered to be adjoined on two sides by residential development, with the site of the proposed dwellings representing a logical rounding off of development in this area. The application takes largely the same layout as that of Court Close (to the south) and as considered above the scale and form is appropriate in this location. The proposed residential development is considered to be of a density that is appropriate for the context of the site (a density of 11 dwellings per hectare). This is noted to be low for a residential development scheme, however the context of the site is one on the fringe of a rural village and I consider a higher density scheme would be out of context in the locale. The application is thus considered to be in-keeping with the character of residential development in the area.
- 6.30 The application is considered to provide an acceptable arrangement for the garages and parking for each dwelling, with there being sufficient for the scale of dwelling proposed.
- 6.31 The application is considered against the criteria for development under policy BL3 of the NDP. The proposal is considered to accord with criteria I & IV of the policy, with the highway considerations of the proposal being considered below. The application is considered to result in the loss of mature vegetation and landscape screening which is considered below.

#### Sustainable Design and Energy Efficiency

- 6.32 CS Policy SS7 sets the strategic objective for all development proposals to include measures which help mitigate the impact upon climate change. This includes locating development in the most sustainable locations; reducing the need to travel; and designing development to reduce carbon production and promote the efficient use of resources. Policy SD1 also states that development will be supported where it utilises physical sustainability features such as orientation of buildings, water conservation measures; cycle storage and renewable energy generation. The NDP emphasises this at policy BL1: Criteria for the design of new housing, this seeks to achieve the maximum possible reduction in carbon footprint.
- 6.33 The applicant has submitted a statement of the sustainability credentials and energy efficiency. This statement refers to the development that adjoins the site as examples of the provisions that the application scheme will include. In this regard the proposed development includes the provision of modern insulation and is expected to be relatively well air sealed thus reducing heat loss. The proposed dwellings will include gas central heating systems and will also include Waste Water Heat Recovery Units (which extract excess warmth from waste water and utilise it to warm fresh potable water before it is put into a heating system, thus reducing energy consumption). The proposal does not include any other renewable initiatives, but it is advised that proposed development will also need to adhere to the national Building Regulation

standards, which in the absence of any more specific policy requirements locally is the limit of planning control on this matter.

- 6.34 In this case, the proposal is considered to adhere to the principles of policy SS7 in the sense that the site is sustainably located with a settlement that offers a range of services, facilities and public transport links – including to the wider range of services found in Hereford. The site offers easy access to services, such as the local public house, which can be readily accessed by foot. There is also a regular bus services into Hereford. The development does not include any commitments to additional renewable measures such as solar panels, ground or air source heat pumps or the like and whilst NDP policy BL1 encourages developments to achieve good design by using such features, I do not consider the absence of renewable energy infrastructure to be contrary to a policy of the development plan.

### Housing Mix

- 6.35 The framework and the CS policies RA2 and H3, seek to ensure that development proposals provide a range of house types and sizes to support the creation of strong, inclusive and vibrant communities. The application site falls within the Hereford Housing Market Area & the Council's Herefordshire Local Housing Market Assessment -2012 (as updated), includes the housing need for the Hereford area. In the Hereford HMA 17% of dwellings are anticipated to be two bedroom properties, 55% three bedroom dwellings and 23% four bedroom dwellings.

**Table 50: Estimated Size and Type of Dwellings Required 2011 to 2031 – Market Housing (Hereford HMA)**

Type/size	Hereford Urban		Hereford Rural		Hereford HMA	
	Number	%	Number	%	Number	%
1 bedroom	166	3.9%	61	5.0%	227	4.2%
2 bedroom	654	15.5%	279	22.9%	933	17.1%
3 bedroom	2,366	56.0%	662	54.5%	3,028	55.7%
4+ bedroom	1,040	24.6%	213	17.5%	1,253	23.0%
<b>Total</b>	<b>4,225</b>	<b>100.0%</b>	<b>1,215</b>	<b>100.0%</b>	<b>5,440</b>	<b>100.0%</b>
Houses	4,081	96.6%	1,204	99.1%	5,285	97.2%
Flats	144	3.4%	11	0.9%	155	2.8%
<b>Total</b>	<b>4,225</b>	<b>100.0%</b>	<b>1,215</b>	<b>100.0%</b>	<b>5,440</b>	<b>100.0%</b>

Source: Housing Market Model

- 6.36 The application is considered to provide a modest mix of dwelling types and sizes, with three dwellings being three bedroomed and the rest (five dwellings) having four bedrooms. This mix is not considered to expressly match the expectations of the HMA directly, however there is undoubtedly a mix and the dwellings are bungalows or dormer bungalows in their form, which are not readily provided by most housing developments. Thus the housing mix of the proposed development is considered to be acceptable and accords with CS policies RA2 and H3.



*Map showing application site (edged red), Unregistered Park & Garden (in green), Public Right of Way (dashed pink) and Conservation Area (light blue)*

## Landscape

- 6.37 Regarding landscape matters, CS Policy LD1 requires that proposals demonstrate that the character of the landscape and townscape has positively influenced the design scale, nature and site selection of the development, as well as the protection and enhancement of the setting of settlements and designated areas. Development proposals should conserve and enhance the natural, historic and scenic beauty of important landscapes and features (specifically designated assets) through the protection of the area's character and by enabling appropriate uses, design and management. New landscape schemes along with their management should ensure development integrates appropriately into its surroundings and maintains tree cover. In wider terms, policy SS6 sets out that development proposals should conserve and the enhance

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environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity, heritage assets, and especially those with specific environmental designations. All proposals should be shaped through an integrated approach to planning to ensure environmental quality and local distinctiveness.

- 6.38 Specifically in regard to landscape, the framework indicates decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity and recognising the intrinsic character and beauty of the countryside (paragraph 170). At paragraph 180, decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) on the natural environment (amongst others), as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development, in doing so areas of tranquillity should be identified and protected where they have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason, as well as limiting the impact of light pollution on nature conservation.
- 6.39 The application site is within the open countryside, but on the fringe of the settlement of Lugwardine. The site is adjacent to the Unregistered Park and Garden of Newcourt House, a non-designated heritage asset (which lies to the west of Cotts Lane). The framework sets out at paragraph 197, that in weighing applications that 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.
- 6.40 The application has been supported by a 'Landscape Visual Appraisal' & 'Landscape Statement', the conclusion being that no substantial adverse effects are predicted on local residents or road users once the landscape treatment has become established and the development would not compromise the village character, important views or its landscape setting. It is noted that neither of these documents makes any reference to the adjoining Unregistered Park and Garden.
- 6.41 NDP Policy BL3 states that development outside of the settlement boundary will be supported where it does *'not impact adversely on the amenity of neighbouring properties including loss of daylight, loss of car parking or mature vegetation or landscape screening'*.
- 6.42 The application will result in the loss of a substantial length of hedgerow (approximately 130 metres) that includes a number of hedgerow trees. This includes the removal and regrading of the bank adjoining the highway. This work is necessary to achieve the visibility splays for the new access onto Cotts Lane. The application proposes to replant the hedgerow in a new location at the back of the visibility splays. This stretch of hedgerow is considered to be mature and contributes positively to the character of the area in this rural locale, with the hedgerows providing a sense of enclosure to the lane that is typical of such rural highways. The removal of this section of hedgerow is considered to result in landscape harm which will be evident in the short to medium term. In the absence of any mitigation, this would of itself be contrary to policy BL3 of the NDP and CS policy LD1.
- 6.43 The application is supported by an indicative landscaping scheme and the proposed block plans indicate an area to the north and north east of the residential development to form a landscape buffer area. Whilst the landscaping scheme supplied is indicative, with a condition being recommended to secure it, it shows how planting as part of a landscaping scheme would offer benefits to the development.



Indicative proposed landscaping scheme

- 6.44 The proposed landscaping buffer to the north of the site, along with planting on the boundary of the site and within the development is considered to offer an enhancement. Specifically, the landscaping buffer area, once established is considered to clearly define the bounds of the village in the future; offers an ecological enhancement and will limit the long distance views from the north looking south at the development. This aspect of the application is considered to offer a significant benefit to and is considered positively in the planning balance as it accords with policy BL1 of the NDP and CS policy LD1.
- 6.45 Considering the impact upon the non-designated heritage asset, the Newcourt Unregistered Park and Garden, I consider that the application will only impact on the setting of this heritage asset as the application site is outside of the park and garden. I consider that the benefits of the scheme and the long term landscaping benefits will balance out the initial harm to the setting of the non-designated heritage asset in this instance.
- 6.46 The comments from the Conservation Manager (Trees) are noted and it is recommended that a landscaping scheme is secured via condition, allowing these details to be agreed at a later stage.

**Highways & Pedestrian Connectivity**

- 6.47 The application proposes to create a new access off the public highway. This access includes a visibility splay of 90 metres in each direction with a set back of 2.4 metres. The access point onto Cotts Lane will be onto a stretch of highway with a national speed limit. However the site adjoins the 30mph speed limit which applies to the rest of the village. The highway currently has a modest curve running past the site, with the adjoining hedgerows reducing forward visibility and the application includes a visibility splay that will increase forward visibility on this stretch of the lane. The application site also encompasses a Public Right of Way (LU12), which forms part of the Three Choirs Way. The application including a footpath link from the residential

Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882

development onto the public right of way thus allowing future occupiers to walk via Traherne Close into Lugwardine.

- 6.48 CS Policy MT1 relates to the highways impacts of new development and requires that proposals demonstrate that the strategic and local highway network can absorb the traffic impacts of the of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. It also requires under (4) that developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space
- 6.49 The framework sets out (at paragraph 108) applications for development should ensure opportunities to promote sustainable transport have been taken, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network or highway safety can be mitigated. Further at paragraph 109 the framework sets out 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 impact on the road network would be severe.
- 6.50 The Transportation Manager has commented on the application and has not raised an objection. It is noted that the site access will be onto a stretch of highway with a national speed limit, though this is close to the 30mph speed limit area for the village and the Transportation Manger's consideration of the actual speed of vehicles travelling on the lane clarifies that speeds are substantially below the national speed limit and much closer to 30mph. The highway impact from the development is not considered to be severe in this case and the residual cumulative impact on the road network is also not considered to be severe, given the modest increase in vehicle numbers due to this development.
- 6.51 The application site is noted to be elevated over Cotts Lane, with the hedgerow and bank separating the application site from the highway. The Transportation Manager has accordingly requested details to be secured via condition ensuring that the visibility splay is achieved satisfactorily.



*Site Photos looking across Cotts Lane to the application site*

- 6.52 The proposal includes the provision of a footpath linking the residential development to the existing public right of way that runs through the site. This is considered to provide good pedestrian connectivity to the village via Traherne Close, offering future residents a genuine alternative to using a motor vehicle for local journeys.

## Ecology

- 6.53 The determining authority has responsibilities under Section 63 of the Conservation of Habitats and Species Regulations 2017. The application site lies within the catchment area and Impact Risk Zone for the River Wye - Special Area of Conservation & Site of Special Scientific Interest, as the site is hydrologically linked to the protected assets. The competent authority therefore has a duty to ensure there would be no likely significant effects upon these designated sites as a result of proposed development, this is reinforced in paragraphs 175 & 177 of the framework. It is noted at this point that the area of the River Lugg that forms part of the River Wye SAC is currently failing its conservation objectives, however the River Wye element is not currently failing these objectives. The Council has produced a position statement which addresses this issue and can be accessed at the link below:

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/66/about\\_planning\\_services/12](https://www.herefordshire.gov.uk/info/200142/planning_services/66/about_planning_services/12)

- 6.54 The site is noted to fall within the catchment area for the River Lugg, however the application proposed to connect to a mains sewer operated by Welsh Water, with part of this sewer running underneath the application site. The sewer conveys the foul water to the Welsh Water operated Eign treatment works. The foul water is then treated and discharged into the River Wye, thus the foul water will not impact on the River Lugg.
- 6.55 The proposal has been assessed by the Council's Ecologist and a Habitats Regulations Assessment – Screening and Appropriate Assessment has been undertaken as. This concludes that due to the mitigation included with the proposal and secured via planning conditions, it is considered to mitigate against any 'Likely Significant Effect' on the River Wye Special Area of Conservation. Natural England concur with the Council's HRA conclusions and so have no objection to the proposal. Therefore in this aspect, the proposal is considered to accord with Policies LD2 and SD4 as it will not detrimentally impact on the biodiversity or ecological significance of the River Wye.
- 6.56 The Council's Ecologist has considered the ecology reports that have been submitted and raised no objection with no objections being raised to the proposal from an ecology perspective.

## Drainage

- 6.57 CS Policy SD4 states that in the first instance development should seek to connect to the existing mains wastewater infrastructure network. The application proposes to drain foul water from the dwellings to the mains sewer which in turn drains to the Welsh Water Eign treatment works. Welsh Water have responded to the consultation and have raised no objection to the foul water being managed via the mains sewer. The application is therefore considered to accord with CS Policy SD4 .
- 6.58 The application proposes to manage surface water via a sustainable drainage system. The Council's Drainage Engineer has commented on this arrangement and considers it to be acceptable subject to details being secured via condition.
- 6.59 The representation regarding the water pressure of the potable water supply is noted, however Welsh Water have been consulted on the application and no technical objection has been raised on the basis of water supply, thus the application is considered to be acceptable in this regard.

## Open Space

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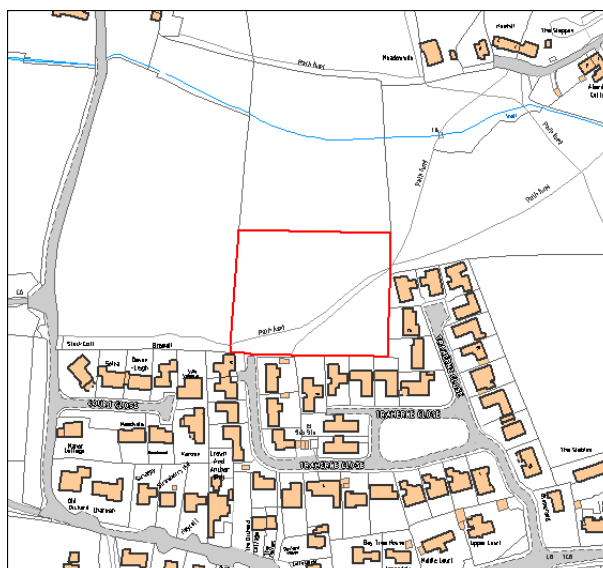
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- 6.60 The consultation response received from the Open Space officer is noted, however it is no longer considered to be pertinent to this application. The application has been amended with the area of 'land dedicated to parish' being removed from the proposed development since it has not been established that there was local support for future maintenance of it. The absence of open space is considered to fail to accord with criteria III of the policy BL1 of the NDP, which seeks 'proportionate provision for open green spaces which are linked where possible to the wider natural environment and accessible to the public for recreational use. However whilst this is a criteria for the design of new housing, I do not consider the conflict to be such that this should warrant a reason for refusal as the land will remain a landscape buffer (thus providing a benefit)
- 6.61 Further whilst the NDP includes a policy supporting the provision of allotments the application is not considered to be contrary to policy BL8, but merely that this benefit can no longer be attached to the application in the planning balance.

### Planning Obligations

- 6.62 CS policy H1 establishes the thresholds and targets for seeking Planning Obligations via Section 106 of the Town and Country Planning Act 1990 (as amended) with: "*All new open market housing proposals on sites of more than 10 dwellings which have a maximum combined gross floor space of more than 1000m<sup>2</sup>*" will be expected to contribute towards meeting affordable housing". The NDP mirrors this threshold for contributions at policy BL9.
- 6.63 The application is for less than ten dwellings, however the combined gross floor area of the eight dwellings exceeds 1000 square metres. Thus under a strict interpretation of the policies, financial contributions for the eight dwellings might have been sought.
- 6.64 However the Council has recently published its Housing Delivery Test Action Plan 2019 (HDTAP) which sets out four key actions which include a CS Review, action in respect of the speed of determination of planning applications, close work with Homes England and not seeking tariff based contributions on developments of 10 dwellings or less. This is specified under action four which states: "*for tariff based contributions system no financial contributions will be required for sites of ten or less dwellings recognising that this matter will be reconsidered as part of the Core Strategy review*".
- 6.65 The HDTAP is a significant material consideration when considering if financial contributions should be sought. In the circumstances and given that it is drafted to increase the delivery of housing, I do not consider it is appropriate to seek contributions in this instance. A position consistent with many others taken by the Council in relation to smaller residential development.
- 6.66 Considering the issue of severance of land or phasing to avoid planning obligations an application was submitted on 21 May 2015 at the land off Traherne Close for seven dwellings (reference 151549). This application was determined on 19 January 2016. Developer contributions were originally secured on this site but were later removed by way of a variation of condition application (ref: 171157), this being as a result of a change in policy expressed in a Written Ministerial Statement and the Planning Practise Guidance (at the time the decision was made. Thus no contributions have been secured on this adjoining site and the development is now nearing substantial completion on this site. The developer for this site and the current application is the same.



Application site at Traherne Close (Ref: 151549)

6.67 The site that forms part of this application for eight dwellings immediately adjoins the development off Traherne Close for seven dwellings.

6.68 The CS includes a 'Planning Obligations – Supplementary Planning Document' which was published in April 2008. The document includes guidance (at paragraph 3.2.8) around the thresholds for contributions for affordable housing which the LPA applies to Planning Obligations.

- *“Where 15 or more houses are proposed in Hereford and the market towns (except Kington) or 6 or more houses are proposed in the main villages (including Kington); or*
- *To all sites of more than 0.5 hectare in Hereford and the market towns and of more than 0.2 hectare in the main villages and also where the Council reasonably considers that development of a site has been phased, or a site sub-divided or parcelled in order to avoid the application of the affordable housing policy, whether in terms of number of units or site size. In these circumstances the whole site will be assessed; or*
- *Where the Council reasonably considers that a development scheme has been specifically designed to fall under the threshold or a site’s potential is not being fully realised; or*
- *If having had a scheme approved, a subsequent proposal for additional housing units brings the cumulative total over the threshold.”*

6.69 The current application is noted to have been submitted a considerable period of time after the approval of the adjoining application for seven dwellings. The application also indicates that the applicant does not own the application site. The applicant has confirmed that the land owner invited negotiations over the current application site following the approval of the adjoining application, with the current application not being considered at the point of determination of the application in 2016. Further the applicant points to the routing of the Welsh Water sewer that has been installed to serve the development off Traherne Close, that runs underneath the current application site and is a clear constraint given its position and the ensuing buffer zone (see block plan for reference).

6.70 In light of the above, Officers consider that there is no evidence of a deliberate attempt to avoid Section 106 contribution application does not amount to the deliberate severance of an application site. The passing of time, routing of the Welsh Water sewer under the applicant site and the access arrangements of entirely separate development site, would indicate that the application is a genuinely later proposal submitted as the existing development nears completion. Thus I do not consider it appropriate to seek affordable housing provision in this instance.

## Housing Supply

- 6.71 The Council is noted to be unable to demonstrate a five year housing land supply at the present time, and so the framework directs that the policies most relevant for the determination of applications should be considered to be out of date.
- 6.72 It is noted that representations indicate that the settlement of Lugwardine has already delivered its quota of housing, and so does not need any more residential development to be granted consent. However the housing growth figure from the development plan is a minimum not a limit.
- 6.73 In relevant case law it is suggested that *“where the development plan upon which the calculation of the five year requirement for a district is based contains a policy distributing development to different areas of the district, the decision-maker may consider such factors as to whether a failure to provide a five year supply in the district is in fact attributable to problems with delivering sites in a discrete part of the district, whether reliance upon the development proposed to address the shortfall would breach the objectives of the distribution policy which continue to be soundly justified and whether the shortfall would be addressed within an appropriate timescale by other means which would not breach the distribution policy”* (Edward Ware Homes Ltd v SSCLG & Bath and North Somerset Council [2016] EWHC 103 (Admin)).
- 6.74 The group parish of Bartestree & Lugwardine is planned to have 18% growth as a minimum over the Core Strategy’s plan period (2011-2031), this level of growth would result in 152 new dwellings, as shown in the table below. To date there have been commitments to or completions of 158 dwellings in this area, thus delivering six additional dwellings over the minimum figure, with under twelve years left to run in the plan period.

Parish / Group parish	Number of households in parish	% growth in CS	Number of new houses to 2031	Completions 2011-19	Commitments as at 1 April 2019	Site allocations within NDPs at April 2019	Residual (minus is still to find)
Bartestree & Lugwardine Group	846	18	152	85	73	Nil	6

- 6.75 The framework is clear at paragraph 11, that where an authority is unable to demonstrate a five year housing land supply, the policies most relevant to the determination of applications should be considered to be out of date. The most relevant policies for this application are consider to be the restrictive policies around the supply of housing; however it is for the decision maker to consider and attribute the weight to these out of date policies. Whilst the group parish has delivered more dwellings than the minimum so far through the plan period, this is not considered to outweigh the housing policies being out of date and is not considered to amount to a reason for the refusal of an application.
- 6.76 On the basis that the Council cannot demonstrate a five year housing land supply, and that it is otherwise accepted that the site is sustainable in all other respects, the addition of a further eight dwellings in this location is not considered to represent disproportionate growth and the fact that the minimum target has been slightly exceeded is not; in this particular instance, reason to withhold planning permission.

## Planning Balance and Conclusions

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Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882

- 6.77 The National Planning Policy Framework has at its heart a presumption in favour of sustainable development which is echoed in CS policy SS1. Sustainable development is considered to consist of three key elements, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives): , :
- a) An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
  - b) A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and
  - c) An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting
- 6.78 Though the three objectives of sustainable development are not criteria against which every decision can or should be judged, with decisions planning any active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 6.79 Development proposals that are considered to represent sustainable development, meet the first test and are considered to be sustainable development, thus benefiting from a presumption in favour of the development. The second half of Paragraph 11 of the NPPF applies the presumption in-favour of sustainable development for decision-making; 11 c) outlines that development proposals in accordance with an up-to-date development plan should be approved without delay; 11 d) outlines that where the development plan is silent or the policies most relevant for the determination of the application are out-of-date (those being the housing policies), permission should be granted unless either of the following criteria are met.
- 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.
- 6.80 The restrictive policies set out at Paragraph 11 are set out at Footnote 6 of the framework, they include protected areas or assets such as Special Areas of Conservation, Sites of Special Scientific Interest, Local Green Space, Areas of Outstanding Natural Beauty, designated heritage assets or areas at risk of flooding. None are considered to apply in this instance.
- 6.81 Officers consider that the application does represent a sustainable form of development. Spatially the site adjoins Lugwardine, a settlement that has services with the development offering pedestrian connectivity to the village. The highway access arrangements are considered to be satisfactory and whilst there would be some short to medium term harm to the immediate landscape, the proposal includes landscape enhancements that would offer a

medium to long terms enhancement. Thus the proposal is considered to represent sustainable development.

- 6.82 As the application is for housing and in light of the housing land supply deficit, the policies most relevant to housing are considered to be out of date and so permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole.
- 6.83 In this instance Officers consider that the restrictive housing policies of the development plan are the most important policies for determining the application. These include policies RA1 and RA2, as well as Policies BL3, BL4 and BL5 of the NDP. Further the provisions of paragraph 14 of the framework are not considered to apply in this case as the NDP was made over two years ago.
- 6.84 The appraisal has identified some conflict with the provisions of the development plan and harm arising from the loss of hedgerows on Cotts Lane which is considered to detrimentally impact the landscape character of the locale. However, this harm is not considered to significantly and demonstrably outweigh the benefits of providing eight houses in this instance, when considered against the provisions of the framework as a whole. Therefore, on balance the application is recommended for approval as per the recommendation below.
- 6.85 The recommendation is contingent on the remaining period of the public consultation passing with no further representations being received on additional material planning considerations.

**RECOMMENDATION:**

**Subject to no further objections raising additional material planning considerations being received by the end of the consultation period 12<sup>th</sup> December 2019, the officers named in the Scheme of Delegation to Officers be authorised to approve the application subject to the following conditions and any further conditions considered necessary by officers.**

1.	<p>The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</p> <p>Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990</p>
2	<p>The development shall be carried out strictly in accordance with the following approved plans, Drawing Numbers:</p> <p style="padding-left: 40px;">1260-20, Rev C – Location &amp; Block Plan 1260-21 – Plots 1-3 1260-22 – Plot 4 1260-24 – Plot 5 1260-23 – Plots 6-8</p> <p>except where otherwise stipulated by conditions attached to this permission.</p> <p>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.</p>
3	<p>With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls and roofs have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.</p>

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	<p><b>Reason: To ensure that the materials harmonise with the surroundings 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.</b></p>
4	<p><b>The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity net gain enhancements, as recommended in the ecology reports by James Johnston Ecology dated August 2019 and Andrew Hall dated June 2019 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation or any biodiversity net gain enhancement features. All fruit tree planting shall utilise ‘standard’ trees grown on fully vigorous or ‘seedling’ rootstocks relevant to the fruit type and be managed such as to create a Traditional ‘standard’ Orchard at maturity.</b></p> <p><b>Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats &amp; Species Regulations 2018 (as amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006.</b></p>
5	<p><b>All foul water shall discharge through a connection to the local (Hereford - Eign sewage treatment works) Mains Sewer network; and all surface water managed through onsite sustainable drainage scheme; unless otherwise agreed in writing by the Local Planning Authority.</b></p> <p><b>Reason: In order to comply with Habitat Regulations (2018), National Planning Policy Framework (2019), NERC Act (2006) and Herefordshire Council Local Plan - Core Strategy (2011-2031) policies LD2, SD3 and SD4.</b></p>
6	<p><b>Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 90 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, placed, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.</b></p> <p><b>Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy (2011-2031), Policies BL3 &amp; BL13 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</b></p>
7	<p><b>The construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.</b></p> <p><b>Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy (2011-2031), Policies BL3 &amp; BL13 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</b></p>
8	<p><b>Prior to the first occupation of any of the dwellings to which this permission relates an area for car parking shall be laid out within the curtilage of that property, in</b></p>

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	<p>accordance with the approved plans which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any other purpose than the parking of vehicles.</p> <p>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 the Herefordshire Local Plan – Core Strategy (2011-2031), Policies BL3 &amp; BL13 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</p>
9	<p>Development shall not begin in relation to any of the specified highways works until details of the highways access works have been submitted to and approved by the local planning authority in writing following the completion of the technical approval process by the local highway authority. The development shall not be occupied until the scheme has been constructed in accordance with the approved details.</p> <p>Reason: To ensure the safe and free flow of traffic on the highway and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy (2011-2031), Policies BL3 &amp; BL13 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</p>
10	<p>Development shall not begin until details and location of the following have been submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved:</p> <ul style="list-style-type: none"> <li>- A method for ensuring mud is not deposited onto the Public Highway</li> <li>- Construction traffic access location</li> <li>- Parking for site operatives</li> <li>- Construction Traffic Management Plan</li> <li>- Construction working hours</li> </ul> <p>The development shall be carried out in accordance with the approved details for the duration of the construction of the development.</p> <p>Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy (2011-2031), Policies BL3 &amp; BL13 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</p>
11	<p>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.</p> <p>Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy (2011-2031), Policies BL3 &amp; BL13 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</p>

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12	<p>With the exception of site clearance and ground works, no development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first use occupation of any dwelling hereby approved.</p> <p>Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.</p>
13	<p>Prior to the first occupation of any of the residential development hereby permitted written evidence / certification demonstrating that water conservation and efficiency measures to achieve the ‘Housing – Optional Technical Standards – Water efficiency standards’ (i.e. currently a maximum of 110 litres per person per day) for water consumption as a minimum have been installed / implemented shall be submitted to the Local Planning Authority for their written approval. The development shall not be first occupied until the Local Planning Authority have confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation. Thereafter those water conservation and efficiency measures shall be maintained for the lifetime of the development.</p> <p>Reason: To ensure water conservation and efficiency measures are secured, in accordance with policy SD3 (6) of the Herefordshire Local Plan – Core Strategy (2011-2031), Policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</p>
14	<p>With the exception of site clearance and groundworks, no further development shall commence until a landscape scheme shall be submitted and approved in writing by the local planning authority. This landscaping scheme must include the provision of the landscape buffer area as indicated on dwg. No. 1260-20 Rev C (&amp; as indicatively illustrated on Fig.02 ‘Proposed landscape scheme’). The scheme shall include a scaled topographic plan identifying:</p> <ul style="list-style-type: none"> <li>a) A plan showing existing and proposed finished levels or contours, specifically including the grading of the bank that forms part of the visibility splays.</li> <li>b) Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.</li> <li>c) Trees and hedgerow to be relocated.</li> <li>d) Trees and hedgerow to be removed.</li> <li>e) All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.</li> <li>f) All proposed hardstanding and boundary treatment.</li> <li>g) An implementation programme</li> </ul> <p>Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan – Core Strategy (2011-2031), Policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</p>

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15	<p>The hard and soft landscape works shall be carried out in accordance with the approved details before any part of the development is first occupied into use in accordance with the agreed implementation programme. The completed scheme shall be managed and /or maintained in accordance with an approved scheme of management and/ or maintenance.</p> <p>Reason: To ensure implementation according to the hard and soft landscape works plan agreed with local planning authority and in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan – Core Strategy (2011-2031), Policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</p>
16	<p>Before the development is first occupied or brought into use, a schedule of landscape maintenance for a period of five years shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with this approved schedule.</p> <p>Reason: To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan – Core Strategy (2011-2031), Policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</p>
17	<p>With the exception of ground works and site clearance, a detailed specification and plan for the surfacing of the public right of way which crosses the site and the footpath link (as indicated on dwg. No. 1260-20 Rev C), for a width of at least 2 metres shall be provided to and agreed in writing by the Local Planning Authority. The surfacing and works to the public right of way and footpath link shall be completed and confirmed in writing to the Local Planning Authority, prior to the occupation of the fourth dwelling on the development.</p> <p>Reason: To ensure the Public Right of Way and footpath link is surfaced to a satisfactory standard. In order to conform with policies MT1 of the Herefordshire Local Plan – Core Strategy (2011-2031), Policy BL13 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</p>
18	<p>Details of any external lighting proposed to illuminate the development shall be submitted to and approved in writing by the local planning authority before prior to the installation of said lighting. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.</p> <p>Reason: To safeguard local amenities and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy, Policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan (2011-2031) and the provisions of the National Planning Policy Framework.</p>

**INFORMATIVES:**

1.	IP2 Application Approved Following Revisions
2.	The developer should be aware that a 3inch watermain may cross the application

Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882

	site and the watermain may need to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.
3.	I11 Application Approved Following Revisions
4.	I45 Works within the highway
5.	I05 No drainage to discharge to highway
6.	I43 Protection of visibility splays on private land
7.	I35 Highways Design Guide and Specification
8.	<p>In regard to condition 12 which relates to the provision of a surface water drainage strategy, the Local Planning Authority anticipates that the following details need be provided as part of an acceptable drainage scheme:</p> <ul style="list-style-type: none"> <li>• Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;</li> <li>• 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;</li> <li>• 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;</li> <li>• 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;</li> <li>• Results of infiltration testing undertaken in accordance with BRE365 and confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice;</li> </ul>

Decision:

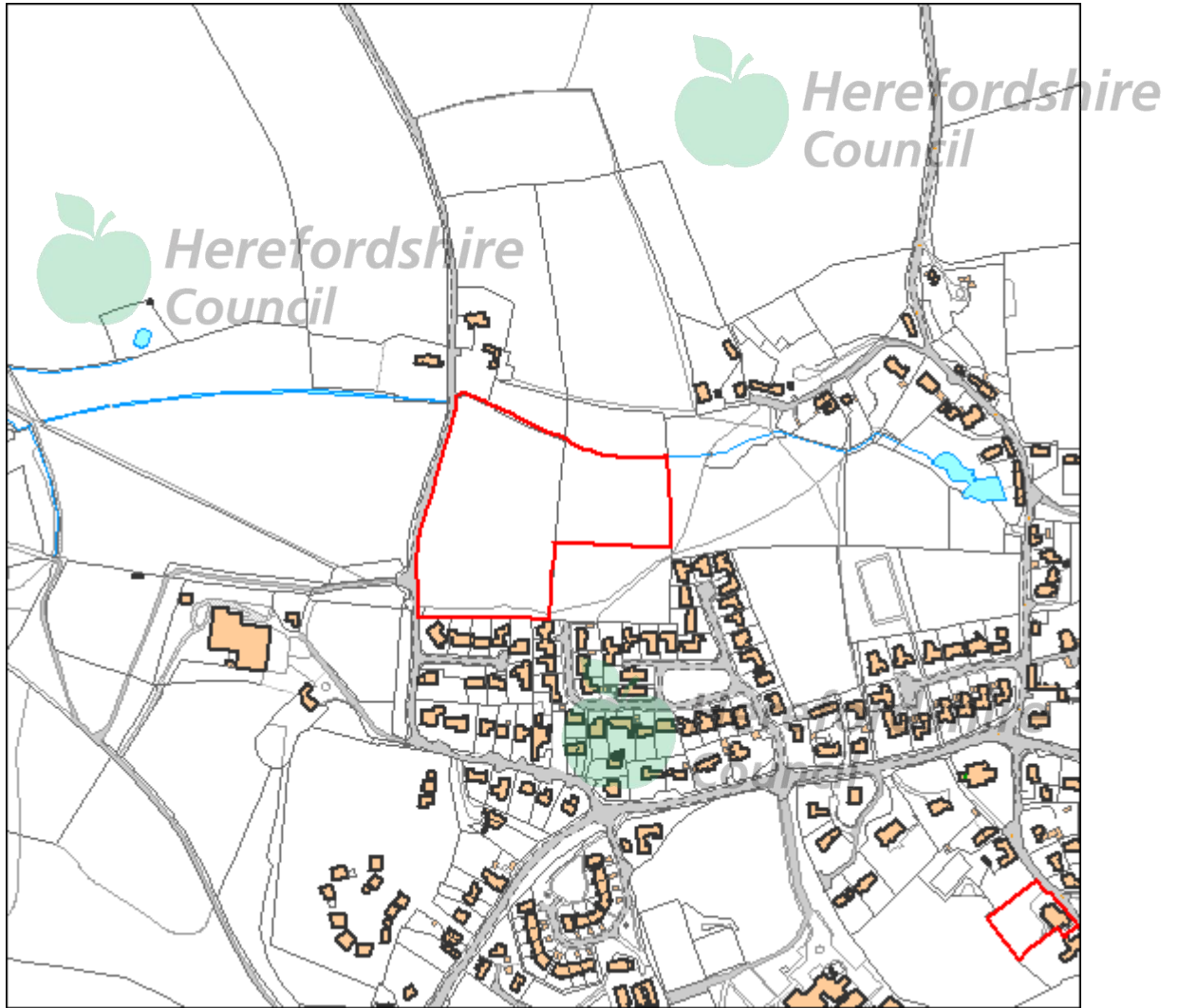
Notes:

Background Papers

Internal departmental consultation replies.

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Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882



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APPLICATION NO: 190279

**SITE ADDRESS :** Land off Cotts Lane, Lugwardine, Hereford

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Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>11 DECEMBER 2019</b>
<b>TITLE OF REPORT:</b>	<b>190032 - PROPOSED DEVELOPMENT OF 8 HOUSES AND GARAGES. AT LAND TO THE WEST OF B4361, LUSTON, HEREFORDSHIRE.</b>  <b>For: Mr Brechtmann per Mr Edward Brechtmann, Kingsland Sawmills, Kingsland, Leominster, Herefordshire HR6 9SF</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190032&amp;search=190032">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190032&amp;search=190032</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

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

**Ward: Bircher**

**Grid Ref: 348644,262710**

Local Member: Councillor Sebastian Bowen

## 1. Site Description and Proposal

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



**Figure 1: Site Location Plan**

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



**Figure 2: Application Site**

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



**Figure 3: Proposed Site Layout Plan**

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

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

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

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



**Figure 4: Proposed Street Scene Section**

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

## *Procedural Note*

- 1.9 Members are advised that this application was originally scheduled to be heard at the meeting of the Planning and Regulatory Committee on the 16th October 2019. Members will recall conducting a Site Inspection on the 15th October in advance of the meeting. However, the application was subsequently withdrawn from the meeting's agenda following concerns over amended plans and materials that had been received by Members which had not been sent to Officers or formally consulted upon. For clarity, those materials do not form part of the application that is currently being considered. In essence the proposal before Members today is the same as that which was due to be presented to the Committee for consideration on the 16th October; with the exception of an amended Design and Access Statement which has now been formally supplied to the planning authority by the applicant. The following report is provided in light of this additional information

## **2. Policies**

### **2.1 Herefordshire Local Plan – Core Strategy (2015)**

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

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
RA1	-	Rural Housing Strategy
RA2	-	Housing in Settlements Outside Hereford and the Market Towns
RA3	-	Herefordshire's Countryside
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
ID1	-	Infrastructure delivery

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

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

### **2.2 The Luston Group Neighbourhood Development Plan (made 2nd January 2018)**

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



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

[https://www.herefordshire.gov.uk/directory\\_record/3083/luston\\_group\\_neighbourhood\\_development\\_plan](https://www.herefordshire.gov.uk/directory_record/3083/luston_group_neighbourhood_development_plan)

### 2.3 National Planning Policy Framework (February 2019)

1. Introduction
2. Achieving sustainable development
3. Plan Making
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

### 3. **Planning History**

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

### 4. **Consultation Summary**

#### Statutory Consultations

#### 4.1. **Natural England** – Qualified Comments / Objection

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

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

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

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

#### European site - River Wye SAC

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal, in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory

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

consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

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

Regulation 63 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site, subject to the exceptional tests set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017 (as amended). As the conclusion of your Habitats Regulations Assessment states that it cannot be ascertained that the proposal will not adversely affect the integrity of the European site, your authority cannot permit the proposal unless it passes the tests of Regulation 64; that is that there are no alternatives and the proposal must be carried out for imperative reasons of overriding public interest.

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

#### 4.2 **Welsh Water – No Objection**

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

##### SEWERAGE

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

##### Conditions

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

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

##### WATER

Dwr Cymru Welsh Water has no objection to the proposed development

##### Internal Council Consultations

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

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

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

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

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

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

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

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

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

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

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

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

#### 4.5 **Transportation Manager – No objections**

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

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

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

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

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

CAE (Vehicular Access Construction Details)

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

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

#### 4.6 **Arboricultural Officer** – No Objections

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

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

The proposal is in the south-western corner of Luston Conservation Area, and also within the settlement boundary. This part of the conservation area is characterised by the farm buildings across the road, the road itself and detached dwellings of various ages in good sized plots. Boundaries are tall mature hedgerows and trees which give an enclosed feeling to the road. The older buildings which enhance the character of the conservation area are further into the village, and new housing here will not overly dilute the experience of these older buildings. The proposals are for detached houses in their own plots which is in keeping with the general density of development within the conservation area.

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

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

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

Therefore, we have no objection to this proposal.

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

*Habitats Regulations Assessment / Appropriate Assessment Comments 4<sup>th</sup> October 2019*

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

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

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

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

#### *Comments in Respect of Ecology Report*

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

#### Nature Conservation – Ecology Protection, Mitigation and Protected Species

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

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

#### 4.9 **Land Drainage** – No objections

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

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

- Evidence that the Applicant has sought and agreed permissions to discharge foul water from the site with the relevant authorities;
- Demonstration that appropriate pollution control measures are in place prior to discharge;
- Confirmation of the proposed authority responsible for the adoption and maintenance of the proposed drainage systems.

#### 4.10 **Waste Management – General Comment**

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

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

### 5. **Representations**

#### 5.1 **Luston Group Parish Council – Support**

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

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

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

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

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

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

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

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=190032&search=190032](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190032&search=190032)

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

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

## 6. Officer's Appraisal

### *Policy context and Principle of Development*

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

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

6.2 In this instance the adopted development plan comprises the Herefordshire Local Plan – Core Strategy (CS) and the Luston Neighbourhood Development Plan. The latter was formally 'made' as part of the statutory development plan in January 2018. The National Planning Policy Framework (NPPF) is also a significant material consideration.

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

6.4 The presumption in favour of sustainable development and how this should be applied to planning decisions is discussed in more detail at paragraph 11 of the NPPF. At 11 (d), the framework states that where the policies most important for determining the application are 'out-of-date' planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or the application of the policies in the framework provides a clear reason for refusing the proposal. At footnote 7, it is confirmed that a failure to demonstrate a five year supply of housing and requisite buffer in accordance with paragraph 73 will render policies relevant to delivering housing out-of-date.

6.5 The matter of housing land supply has been the subject of particular scrutiny and it has been consistently concluded that the Council is not able to demonstrate a 5 year supply of housing land. The most recent supply statement outlines that the supply position in Herefordshire stands at 4.05 years as of April 2019. Owing to this shortfall in the five year supply, the housing relevant policies of the development must be taken to be out-of-date and the presumption as set out at Paragraph 11d is fully engaged.

6.6 Notwithstanding this, the absence of a 5 year housing land supply does not render policies related to the supply of a housing an irrelevance for the purposes of decision taking. Indeed, recent case law (Suffolk Coast DC v Hopkins Homes [2016 – EWVA Civ 168]) has reinforced that it is a matter of planning judgement for the decision-maker to attribute the degree of weight to be afforded depending on the context of the decision.

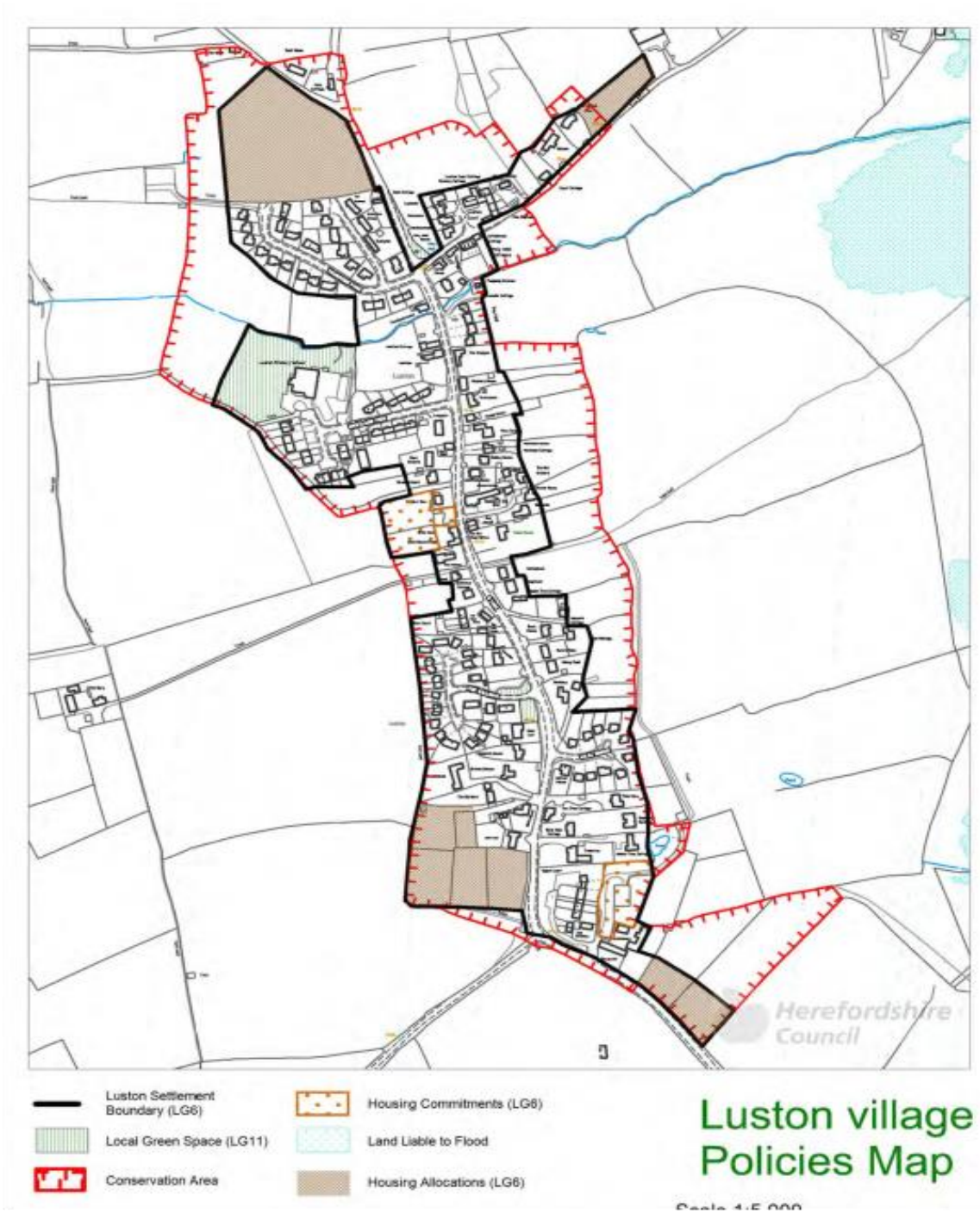
6.7 Moreover, it should be noted that Paragraph 14 of the Framework directs that in situations where the presumption at 11d) applies to applications involving the supply of housing, the adverse impact of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply;

- a) *the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made*
- b) *the neighbourhood plan contains policies and allocations to meet its identified housing requirement*
- c) *the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and*

d) *the local planning authority's housing delivery was at least 45% of that required over the last three years.*

- 6.8 In this case, all of the criteria above are satisfied. The Luston Group NDP has been part of the development plan for less than two years; the plans contains policies and allocations to meet the identified housing need; the Local Planning Authority has over a three year supply of housing land (4.05 years); and the housing delivery test exceeds 45% (74%). Notwithstanding the 5 year supply issue therefore, Paragraph 14 directs that the adverse impacts of approving development which conflicts with the Luston Group NDP is likely to significantly and demonstrably outweigh the benefits.
- 6.9 Core Strategy policy RA1 sets out the general approach to housing in the rural areas and states that 5,300 new dwellings will be provided across seven Housing Market Areas (HMAs). The application site in this instance lies within the Leominster HMA, which has an indicative growth target of 14% across the plan period. For the Luston Group Parish, this equates to providing a minimum of 55 new dwellings over the period to 2031.
- 6.10 CS policy RA2 goes on to state that within the county's rural areas housing growth will be directed to existing settlements in order to support sustainable patterns of development. The policy identifies the settlements where housing growth is considered to be appropriate at Figures 4.14 and 4.15. The village of Luston is identified in Figure 4.14 as a settlement to be the main focus for proportionate housing growth. The settlement has been identified as a sustainable location for housing which provides a good range of services and facilities, including a primary school and public house, and good access to additional services in the nearby market town of Leominster. The policy also sets the expectation that, where appropriate, settlement boundaries or reasonable alternatives for the identified settlements will be defined by either Neighbourhood Development Plans or Rural Areas Sites Allocations DPD.
- 6.11 The status of Luston as a settlement for proportionate growth is reflected in the policies of the NDP and the approach to meeting the group parishes' housing needs is set out at Section 5.3 of the plan. The supporting text outlines that the parishes housing needs will be met by retaining sites which already have planning permission as commitments; allocating land for development; and making a small allowance for windfall development based upon past trends. Policy LG6 then sets out the approach to development within Luston itself as the parish's main settlement. The policy defines a settlement boundary for the village and states that new residential development will be supported on sites within the boundary which are either allocated for development, are an infill site, or involve the conversion of an existing building. The village policies map is shown in Figure 5 below;





**Figure 5: Luston Village Policies Map**

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



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

6.13 As can be see in the map above, the proposal site lies within the settlement boundary for Luston and it is noted that it forms part of a parcel of land which is allocated for residential development through policy LG6. In a purely locational sense therefore, the principle of new residential development on this site is acceptable.

6.14 In order to gain full support however, the application must be considered against the detailed policy requirements of the CS, NDP and guidance contained within the NPPF. In the view of Officers there are two primary issues in this regard, which are discussed further below.

#### Under-Utilisation of Allocated Housing Land

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

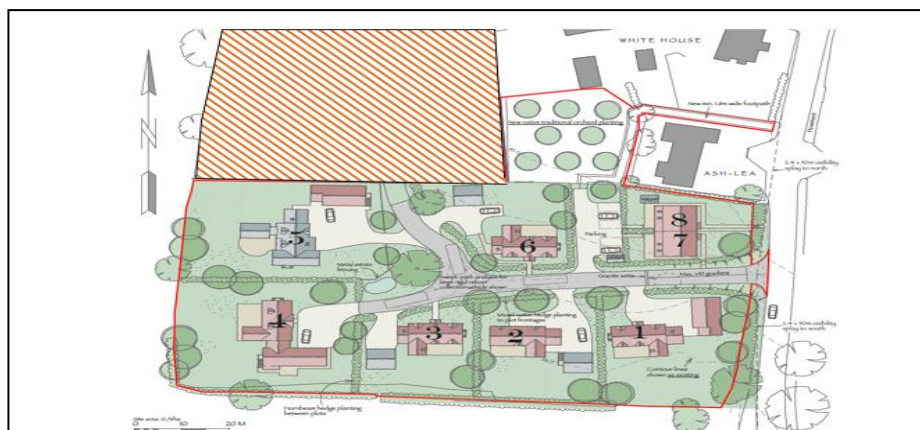
6.16 In the context of the current shortfall in the county's five year housing land supply, the advice set out at Paragraph 123 is also particularly pertinent. This states that;

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

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

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

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



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

- 6.20 The issues stemming from the omission of the allocated site are considered to be two-fold.
- 6.21 First, in omitting part of the allocated site the proposal fails to make use of the site's full potential and deliver the indicative number of houses the land has been allocated for by policy LG6 of the Luston NDP. This is in direct conflict with the advice contained with the NPPF in terms of ensuring that development makes optimal use of the potential of each site in order to meet the Government's aim of significantly boosting the supply of housing. Moreover, in the context of the current housing land supply shortfall at a county level the failure of the scheme to make efficient use of an allocated site to deliver housing is a significant dis-benefit that weighs heavily against the scheme. It also leads to conflict with policies SD1, RA2, H3 and LG6 in terms of making efficient use of land and providing housing to meet local needs.
- 6.22 With regards to housing numbers, it is noted that the Parish Council support the application for 8 units and that there has been much discourse throughout the application process between the applicant, the Parish Council and Local Planning Authority regarding the interpretation of policy LG6 and its allocation of the site for an 'indicative' 11 dwellings. It is argued by the applicant that the use of the word 'indicative' means that the figure of 11 is not an absolute requirement; a minimum; or indeed a maximum which is to be delivered on the site. In order to understand the significance of the chosen figure however, it is important to understand how it was established in the first instance. Referring back to the draft version of the NDP which was submitted for Independent Examination in 2016, it is noted that policy LG6 as originally drafted sought to set an upper limit of 5 dwellings to any one site. The Examiner noted at Section 4.51 of their report however that this was an overly restrictive policy which was not based on robust evidence, and hence that reference was removed from the plan. The specific land parcel to which the current application relates (136/212) was also originally put forward as an allocation for 5 units in the Examination version of the NDP; however again the Examiner noted that no evidence had been submitted to support this and justify the provision of such a low density that was equivalent to just 5 units per hectare. At Section 4.52-3 of their, the Examiner noted that the site allocation 136/212 is;
- '...sufficiently large to be developed for 10 or more dwellings and would therefore provide scope for a mix of house types and sizes and the inclusion of some affordable homes should the need be demonstrated.... A more realistic indicative number of dwellings should be included for sites 136/212 [and 136/214] and the background text should explain that the figures are indicative only and not maximum figures'*
- 6.23 There was clearly a concern on the Examiner's part therefore that the original allocation on this site failed to make efficient use of land. At 1 hectare in area, the allocated site was considered to be of ample size to accommodate 10 units or more; provide a mix of housing; and provide some affordable housing as needed. Presumably, it was these comments from the Examiner which led to the inclusion of the indicative number of 11 units in the final version of policy LG6 which was subsequently passed at local referendum and adopted as part of the development plan. Officer's would agree with the findings of the Inspector that this site is readily capable of accommodating 10 units or more, and are also of the view that the current application does not offer any convincing reason which would justify departing from the NDP's indicative figure of 11 and delivering a lesser number of dwellings which does not make use of the site's full potential.
- 6.24 Moreover, even if the omitted part of the allocated site is taken out of the equation the scheme as deposited still presents a very low density of development equivalent to 10 dwellings per hectare. This in itself is still considered to represent an inefficient use of land. For the sake of comparison, an assessment of the existing developed areas of land within the settlement boundary against registered address points shows that Luston village has an existing density of approximately 14 dwellings per hectare. However, it is noted that this calculation includes large areas of historic buildings within large curtilages and a review of more recent residential

developments shows higher densities again. The nearby development at The Willows for instance has a density equivalent to 22 units per hectare, whilst developments at Brick House and Lilac Grove have densities equivalent to 18 and 16 units per hectare respectively. Based on existing patterns therefore, there is clearly scope for the site to accommodate a higher number of dwellings without causing adverse impacts upon the character of the village.

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

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

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

Source: Housing Market Model

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

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

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

per hectare it could support a further 3 units; which would bring the scheme up to 11 units given as a indicative figure in policy LG6 of the NDP. It is entirely possible that the remaining area of the allocation may come forward in the future; but granting planning permission for the current scheme of 8 dwellings would sterilise the site's ability to provide any affordable housing and deprive the community of this significant benefit.

- 6.28 In considering the scheme's liability to provide affordable housing, is noted that the supporting D&A makes reference to Paragraph 64 of the NPPF. This paragraph sets the expectation that where major development involving the provision of housing is proposed, planning policies and decisions should seek a minimum of 10% of homes to be provided for affordable home ownership. The applicant however draws attention to the exceptions offered by Paragraph 64, specifically point C) which advises that exceptions to the 10% requirement should be made where the site is proposed to be developed by people who wish to build or commission their own homes. The D&A statement therefore concludes that a self build scheme would be exempt from affordable housing obligations. However, Officers are of the view that Paragraph 64 has limited relevance to the current application and that the Applicant's interpretation of this paragraph is incorrect in any case. With the proposal being for eight dwellings, the scheme falls below the threshold of major development and therefore Paragraph 64 is not applicable to the determination of the current application. Moreover, even if it were engaged the Applicant's interpretation of Paragraph 64 fails to recognise that it only refers to affordable home ownership. No references (or indeed exceptions) are made to other permutations of affordable housing, such as affordable rented, which would suggest that self-build schemes would be wholly exempt from providing any form of affordable housing. Indeed, Footnote 29 makes it clear that the requirement referenced in Paragraph 64 to provide 10% of dwellings for affordable home ownership should form part of the 'overall affordable contribution from the site'. Overall, it is not considered that Paragraph 64 provides any reason to justify why the allocated site has been subdivided and no affordable housing subsequently provided.
- 6.29 In summary of the above, it is the view of Officers that the scheme as deposited fails to make efficient use of land by omitting part of a site which has been allocated for residential development and in doing so it fails to provide the number of dwellings which could reasonably be accommodated on the land; including the provision of affordable housing for which there is a local need. By consequence the proposal is contrary to policy LG6 of the NDP, policy RA2, H3 and SD1 of the CS, and the guidance set out at Chapters 5 and 11 of the NPPF.

#### *Housing Mix*

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

2011-2031. The site in the case is within the rural part of the Leominster HMA and the table below sets out the estimated requirements for Open Market Housing in this region;

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

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

Source: Housing Market Model

**Figure 9: Estimated market housing needs in the Leominster HMA**

- 6.33 The Needs Assessment indicates that the greatest area of need for open market housing within the Leominster Rural area is for three bedroom dwellings at 59.1%. This is followed by a 25.8% need for two bedroom properties and a 9.2% need for dwellings which have four bedrooms or more.
- 6.34 The scheme in this case provides 5 three bedroom dwellings which are delivered as three larger detached units and two smaller semi detached units. They make up the equivalent of 62.5% of the scheme and this is broadly in line with the requirements highlighted above. The remaining three units, however, provide four bedrooms or more and make up the equivalent of 37.5% of the scheme as a whole. By contrast, the estimated requirement for units of this size is just 9.2%. There is not any provision in the current scheme for two bedroom units; despite this making up the second greatest area of need in the HMA at 25.8%.
- 6.35 The under provision of smaller units in the current scheme and over provision of larger ones is considered to be such that the proposal fails to deliver an appropriate mix of housing types and sizes to meet local needs. The over provision of 4+ bedroom units in particular fails to address the disproportionately high number of larger dwellings in the Parish's existing housing stock which has been identified by the NDP, whilst the absence of any smaller and more attainable units compounds the issue identified previously in terms of no affordable housing being provided. For this reason the scheme as deposited is considered to be contrary to the requirements of policy LG6 e), RA2 (4) and H3 and the guidance set out at Chapter 5 of the NPPF.

#### *Self and Custom Build Housing*

- 6.36 The amended D&A which supports the application highlights the contribution that the scheme would make towards addressing local needs for self and custom build plots. It is understood that the six detached units would be offered as custom build plots whereby future owners would commission their own homes through the developer, whilst the two semi-detached units would be completed by the developer and sold through the open market.
- 6.37 Paragraph 61 of the NPPF (supplemented by Footnote 26) explains that planning policies should contain provision which reflects and seeks to meet the different needs in the community. This includes, amongst others, those who wish to build or commission their own homes. This obligation is embodied in the Self Build and Custom Housebuilding Act 2015 which requires Local Authorities to keep a register of individuals or groups who are seeking to acquire a serviced plot in the area for those purposes. The Authority also has a duty under sections 2 and

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2A of the Act to have regard to this register and to give enough suitable development permissions to meet the identified demand. The NPPG provides the following clarification on what this 'duty to grant planning permission' means;

*Relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period.*

*Paragraph: 023 Reference ID: 57-023-201760728*

6.38 The NPPG then goes on to provide a definition of 'serviced plots of land'. It states;

*A serviced plot of land is a plot of land that either has access to a public highway and has connections for electricity, water and waste water, or, in the opinion of a relevant authority, can be provided with access to those things within the duration of a development permission granted in relation to that land.*

*Access to a public highway can include sections of private or unadopted road, it does not mean that the plot has to be immediately adjacent to the public highway just that there is the guaranteed right of access to the public highway.*

*Connections for electricity, water and waste water means that the services must either be provided to the boundary of the plot so that connections can be made as appropriate during construction or adequate alternative arrangements must be possible such as the use of a cesspit rather than mains drainage.*

*For example a plot of land alongside an existing public highway that is an infill between existing dwellings would count as being serviced. There is no expectation that services must be physically connected to the plot at the time of granting planning permission*

*Paragraph: 026 Reference ID: 57-026-201760728*

6.39 A review of the Local Planning Authority's register shows that there are currently 587 entrants who have formally registered their interest in building or commissioning their own homes in Herefordshire (recorded across 5 annual 'base periods'). The Authority's monitoring figures show that in the first three base periods alone, permission was granted for 679 plots which meet the definition of self build or serviced plots. With the number of permissions granted exceeding the number of entries on the register, it is clear that the Local Planning Authority has already fulfilled its duty under the Self Build and Custom Housebuilding Act 2015 to give enough suitable development permissions to meet the identified demand. In light of this, it is considered that the benefits of the current scheme in terms of providing self build plots can be given only limited weight as sufficient permissions have already been granted elsewhere to meet the recorded need.

*Design, character and appearance*

6.40 CS Policy RA2 requires that the design and layout of new development within identified settlements should reflect the size, role and function of the location. Schemes should result in high quality, sustainable developments which are appropriate to their context and make a positive contribution to the surrounding environment. Policy SD1 supports this insofar as it directs that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, proportions and massing of surrounding development. LD1 is also of relevance in so far as it relates to the impact of the development upon the landscape and townscape. At a local level, policy LG2 sets out a range of principles for the design of new development in the Luston Group Parish. Amongst other things, it requires that developments



contribute to local identity and sense of place, respect the character and setting of Luston Conservation Area, and have an active frontage which relates well to the surrounding street scene. These all embody the tenets set out in the NPPF with regards to achieving well designed places.

- 6.41 The site in this instance is well related to the existing built up form of the village and the allocated land forms a natural extension of the settlement to the south west. The topography of the surrounding land and vegetation features at its boundaries also mean that the site is reasonably well contained within the wider landscape and hence the potential for adverse impacts in this regard is fairly limited. Whilst the dwellings would be slightly elevated within the street scene on account of the sunken nature of the road in this location, this characteristic is typical in this area of the village and Officers are satisfied that the frontage of the development would not appear as unduly prominent or overbearing. The design of the dwellings themselves is also broadly appropriate, with the use of locally distinctive features and materials being seen throughout the scheme. On the whole therefore, the design of the scheme is not considered to create any significant tension with development plan policy.
- 6.42 Policies SD1 and LG1 also both require that all developments achieve good standards of residential amenity for existing and future occupiers and avoid any potential for adverse impact through means such as overlooking, overshadowing, overbearing, noise or nuisance. This accords with the principles of the NPPF to achieve well designed places and high standards of amenity. In this case, Officers are satisfied that the proposal adheres to these principles. The proposal is compatible with neighbouring land uses; the amenity of existing residents is safeguarded; and good standards of living would be delivered for future occupants of the dwellings. No conflict with SD1 or LG1 is therefore found in these terms.

#### *Sustainable Design and Energy Efficiency*

- 6.43 SS7 of the CS also sets the strategic objective for all development proposals to include measures which help mitigate the impact upon climate change. This includes locating development in the most sustainable locations; reducing the need to travel; and designing development to reduce carbon production and promote the efficient use of resources. Policy SD1 also states that development will be supported where it utilises physical sustainability features such as orientation of buildings, water conservation measures; cycle storage and renewable energy generation. In this case, the proposal is considered to adhere to the principles of SS7 in the sense that the site is sustainably located within a settlement that offers a range of services, facilities and public transport links – including to the wider range of services found in nearby Leominster. In terms of the details of the scheme, the Design and Access Statement highlights that the dwellings will be constructed using sustainably grown oak framing and these will be pre-fabricated within a 5 mile radius of the site. The statement also confirms that the dwellings will be built to high levels of efficiency and insulation which will reduce demand upon ‘conventional’ energy sources and natural resources. Whilst no specific details have been provided with the proposal, the statement also advises that the properties are capable of incorporating solar panels and air source heat pumps if required. Any future dwelling will also be required to meet the minimum standards of energy efficiency as required by Building Regulations. On the whole therefore, it is not considered the proposal creates any significant conflict with SS7 or SD1.

#### *Potential for Impact upon Designated Heritage Assets*

- 6.44 The proposal site in this case is within the Luston Conservation Area and as such Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon the Local Planning Authority to have special attention to the desirability of preserving or enhancing the character or appearance of that area. Grade II listed buildings are also found nearby at the White House and the barns at Bury Farmhouse, and therefore Section 66 of the Act places a

similar duty upon the Local Planning Authority to have special regard to the desirability of preserving the buildings or their setting.

- 6.45 These duties are manifested through policies LD4, LD1, LG2 and LG3 of development plan. The policies broadly require that development proposals affecting heritage assets and the wider historic environment should protect, conserve, and where possible enhance heritage assets and their settings. The NPPF contains guidance for considering proposals affecting heritage assets at Paragraphs 193-196.
- 6.46 The proposal site in this instance lies at the fringes of the conservation area where the character of the settlement transitions from built up form to undeveloped countryside. It is the view of the Council's Conservation Officer that the scheme respects this setting and he advises that no adverse impact would occur upon the Conservation Area as a result of what is proposed. In a similar vein, it is also considered that the degree of separation, topography and visual screening between the site and nearby listed buildings is such that no harm or adverse impacts are identified upon their settings. There is hence no conflict with relevant conservation policies and the duties placed upon the Local Planning Authority by Sections 66 and 72 of the 1990 Act are fulfilled.

#### *Highways and Pedestrian Connectivity*

- 6.47 Core Strategy Policy MT1 relates to the highways impacts of new development, and requires that proposals demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. It also requires under (4) that developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space. Similar principles are found in policy LG1 of the NDP, and both policies are reflective of Chapter 9 of the NPPF. Of particular relevance is Paragraph 109, which advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact upon highways safety, or the residual cumulative impacts on the road network would be severe.
- 6.48 The application here proposes the creation of a new access onto the B4361 to the east of the site which would require the removal of a section of roadside hedgerow and ground works to accommodate the change in levels between the site and the highway. The plans indicate that the new access would deliver visibility splays of 2.4m x 50m in each direction. An Automated Traffic Count (ATC) survey has also been undertaken and the Council's Transportation Manager confirms that the visibility splays are appropriate for the recorded traffic speeds on the adjacent highway. The internal layout of the site also ensures that adequate manoeuvring space is available for a range of vehicles, and adequate parking is provided with the curtilage of each dwelling to ensure there would be no overspill onto the public network. The Transportation Manager consequently confirms he is satisfied the proposal would have no adverse impact upon the highways network and thus no conflict with MT1 or LG1 is found.
- 6.49 In terms of pedestrian connectivity, the application proposes the creation of a new footpath link onto the B4361 to the north of the site between the existing dwellings at the White House and Ashlea. Limited details of this footpath have been supplied, however, the Transportation Manager is satisfied that the solution is appropriate subject to full details of the crossing point on the B4361 being secured by condition. The path would facilitate pedestrian access from the development to the existing village footway network which provides access to services and facilities such as the school and public house. The scheme therefore promotes the use of sustainable transport modes, and accords with MT1 and SS4 in this sense.

#### *Ecology and Green Infrastructure*

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

#### *Drainage*

- 6.53 It is proposed to manage foul water from the development through a connection to the mains sewer network. This is an appropriate solution in principle which would accord with the hierarchal approach required by CS policy SD4. Welsh Water confirm that there are no capacity issues and they have no objection to the connection being made, hence there is no conflict with the requirements of LG1 (h) in particular. The Habitats Regulations impacts of the proposed drainage arrangements are considered at 6.55.
- 6.54 In respect of surface water, the scheme proposes the use of soakaways within each individual plot to manage additional runoff. The Council's Land Drainage Team have reviewed the context of the site and have not identified any critical drainage issues. In principle therefore there are no objections to the proposals and the use of SuDS features accords with the principles set out in policies SD3 and LG5. It is recommended that full technical details of the scheme be secured by condition if permission is granted.

#### *Habitats Regulations Matters*

- 6.55 The site in this instance also lies within the catchment of the River Lugg which, in turn, is a sub-catchment of the River Wye Special Area of Conservation (SAC). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value. Under the Conservation of Habitats and Species Regulations 2017, Herefordshire Council has a legal duty to assess the potential impact of new developments in this area by undertaking an 'Appropriate Assessment' (AA) which must be able to determine with scientific certainty that there would be no 'likely significant effects' upon the

designated site. The obligations are embodied with CS policies LD2 and SD4, as well as the guidance of the NPPF.

- 6.56 The River Lugg, which is a tributary of the River Wye and forms part of the SAC designated site, is currently failing its conservation targets on phosphate levels. This as a result of water pollution from 'point' source, particularly sewage outlets, and 'diffuse' source, particularly from agricultural run-off.
- 6.57 The proposal in this case would generate additional phosphates through foul water. Whilst foul water is to be managed through the mains system, some phosphates will remain in water discharged post-treatment and therefore there is potential pathway for the development to have an adverse impact upon the River Wye SAC. Until recently, the approach taken by Herefordshire Council and Natural England has been that there is a route for development to be able to proceed in the River Lugg catchment, even when it may add to the existing phosphate levels in the river as above, as any increases would be mitigated by the River Wye's Nutrient Management Plan (NMP). The NMP is a partnership project developed to reduce phosphate levels in the Wye catchment, including the River Lugg, to below the target level by 2027 in line with the Water Framework Directive. The NMP is managed by the Nutrient Management Board (NMB), comprising Herefordshire Council, Powys Council, Natural England, Natural Resources Wales, the Environment Agency, Dwr Cymru Welsh Water, CABA (WUF), National Farmers' Union and the County Land and Business Association.
- 6.58 However, this situation regarding development with potential phosphate impacts in the Lugg catchment is currently under review following Natural England's advice to Herefordshire Council, on 22nd July 2019, and through subsequent further advice in August 2019, that, in light of the interpretation of the recent 'Dutch Case', a ruling in July 2018 by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive, from which the Habitats Regulations arise in UK law, in the case of Cooperatie Mobilisation (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17).
- 6.59 Natural England have advised that following the Dutch Case, that where a site is failing its water quality objectives, and is therefore classed as in unfavourable condition, there is limited scope for the approval of additional damaging effects and that the future benefit of measures cannot be relied upon at Appropriate Assessment, where those benefits are uncertain at the time of the assessment. Natural England have advised that for any plans or projects with a significant effect (on phosphate levels in the River Lugg) and which require Appropriate Assessment, the effects are currently uncertain, as in their opinion there remains reasonable scientific doubt as to whether the NMP can provide appropriate mitigation (based on how much certainty this currently demonstrates). Natural England have therefore advised that they will not, in the short term, provide advice on such planning applications that require Appropriate Assessments, while they seek legal advice. The Council is also seeking its own advice on this matter.
- 6.60 It is noted that the Council's Ecologist initially undertook the required AA in February 2019 and this concluded that the scheme would have no un-mitigated likely significant effects upon the River Wye SAC. Natural England, as the relevant statutory consultee, confirmed they had no objections shortly after. As above however, the circumstances have changed considerably since the initial AA was undertaken and therefore a further assessment was undertaken on 3rd October 2019 in light of recent developments and advice from statutory consultees. The revised assessment finds that the scheme would lead to the generation of additional phosphates through foul water and that there would be a pathway for these phosphates to enter the River Lugg through discharge from the mains sewerage treatment network. It consequently concludes that the development would have a likely adverse effect on the integrity of the River Lugg and River Wye SAC and hence permission should not be granted at the present time. This assessment has been presented to Natural England and they have confirmed that they agree with its conclusions. The proposal is not considered to have any imperative public interests which would justify overriding this.

- 6.61 It is understood that the Applicant has explored alternative means of foul water management, specifically a package treatment plant and soakaway field, in response to the identified HRA issue. However, policy SD4 states that developments should connect to the mains wastewater infrastructure in the first instance and alternative options should only be considered where a mains connection is not practical. It is not impractical for the scheme here to connect to the mains system given that there is a sewer proximal to the site and it is noted that EA General Binding Rules would restrict the installation of a treatment plant as the site is within 30m of a mains sewer in any case. The use of a package treatment plant to manage foul water in lieu of a mains connection is therefore not supported by SD4 and this would not be an appropriate response to the HRA issue.
- 6.62 Owing to this potential for adverse effects on the integrity of the River Lugg and the River Wye SAC, the proposal fails to meet the requirements of the Conservation and Habitats and Species Regulations 2017 and would also be in conflict with policies LD2 and SD4 of the CS. It is also noted that Paragraph 177 of the NPPF is engaged insofar as it directs that;

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

#### *Planning Balance and Conclusions*

- 6.63 The application here is to be considered in the context of the presumption in favour of sustainable development as set out by Paragraph 11 of the National Planning Policy Framework. In light of the identified shortfall in the Council’s five year housing land supply, Paragraph 11 d) directs that planning permission should be granted unless;
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.64 The restrictive policies which are referred to at Paragraph 11 i) are set out at Footnote 6 of the NPPF. They include those relating to habitats sites, which the glossary of the Framework confirms includes Special Areas of Conservation (SAC). The proposal in this instance has been identified through an Appropriate Assessment as having an adverse impact upon the integrity of the River Lugg / River Wye SAC through the generation of additional phosphates through foul water. This adverse impact would be contrary to the requirements of the Conservation and Habitats and Species Regulations 2017 and Policies LD2 and SD4 of the CS. Moreover, Paragraph 175 a) directs that if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Paragraph 177 also directs that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site. Given an adverse effect has been identified on the River Wye SAC in this case, the proposal does not benefit from the positive presumption and the policies of the Framework provide a clear reason for refusing the proposal.
- 6.65 Notwithstanding the above, it is also considered that there are a number of fundamental issues with the proposal as deposited which ultimately stem from the omission of part of the land which has been allocated for residential development through policy LG6 of the Luston Group NDP. In omitting part of the allocated site from the current application, the proposal fails to utilise the site allocation to its full potential and deliver the indicative number of houses which have assigned to it by the NDP. Permitting the proposal for a fewer number of dwellings would therefore

potentially compromise the ability of the NDP to achieve its minimum housing growth requirements, and in the context of the current shortfall in the Council's housing land supply the under-delivery of housing on an allocated site would represent a significant harm which goes against the Government's objective to substantially boost housing supply. In this regard, it is noted that Paragraph 123 of the NPPF directs that where there is a shortage of land for meeting housing needs, Local Planning Authorities should ensure that developments make optimal use of each site and refuse applications which they consider fail to make efficient use of land (123 c)).

- 6.66 Moreover, Officers consider that they have not been presented with any reasonable justification for the omission of part of the allocated site from the current application and therefore the only conclusion that can be reached is that it has been used as a mechanism to artificially keep the scheme below the threshold whereby affordable housing provision and financial contributions would be due. Whatever the reason may be, the failure to deliver any affordable housing - for which there is an identified local need – is again a significant harm which weighs against the proposal and would compromise the achievement of the social dimension of sustainable development as defined in the NPPF. It also brings the proposal into conflict with the requirements of Core Strategy policies RA2 and H3 and NDP policy LG6 e), which broadly are that schemes should provide of an appropriate mix of housing, including affordable, to meet the needs of all sectors of the community.
- 6.67 Placing the issue above aside, it is also considered that the deposited scheme for 8 market houses fails to provide an appropriate mix of dwellings sizes and types to meet local needs. The scheme is predominantly comprised of larger 3 and 4+ bed units, and there is no provision of any smaller 2 bed units which make up the second largest area of need (25.8%) within the Leominster HMA. Further conflict is identified with policies RA2 and H3 and NDP policy LG6 e) for these reasons.
- 6.68 Overall, despite the five year supply issue the policies of the Framework clearly direct that the application in this case should be refused in light of the identified adverse impact on the River Wye SAC. Because of this, Paragraph 177 also directs that the presumption in favour of sustainable development does not apply. In any scenario, the adverse impacts identified as result of the underutilisation of an allocated housing site and the policy conflict this creates is also considered to significantly and demonstrably outweigh the limited benefits of the scheme.
- 6.69 It is therefore recommended that the application be refused for the reasons set out below.

## **RECOMMENDATION**

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

- 1. The application site lies within the River Lugg sub-catchment of the River Wye Special Area of Conservation (SAC) and the nature of the proposal triggers the requirement for a Habitat Regulations Assessment to be undertaken. Under the Regulations there is a requirement to establish with certainty, and beyond all reasonable scientific doubt, that there will not be any adverse effect on the integrity of the River Wye SAC. The River Lugg sub-catchment however suffers from the effects of point source and diffuse water pollution and phosphate levels in the river have already exceeded conservation objectives. The proposal in this case would add to this through the generation of additional foul water / phosphates and as such the Local Planning Authority is unable to conclude that the development would not have an adverse effect on the integrity of the River Lugg / River Wye SAC. As a result, the proposal has failed the Appropriate Assessment required by The Conservation of Species and Habitats Regulations 2017 and is hence contrary to Policies LD2 and SD4 of the Herefordshire Local Plan Core Strategy, the Natural Environment and Rural Communities (NERC) Act 2006 and the guidance set out at**

## **Paragraphs 174-177 of the National Planning Policy Framework**

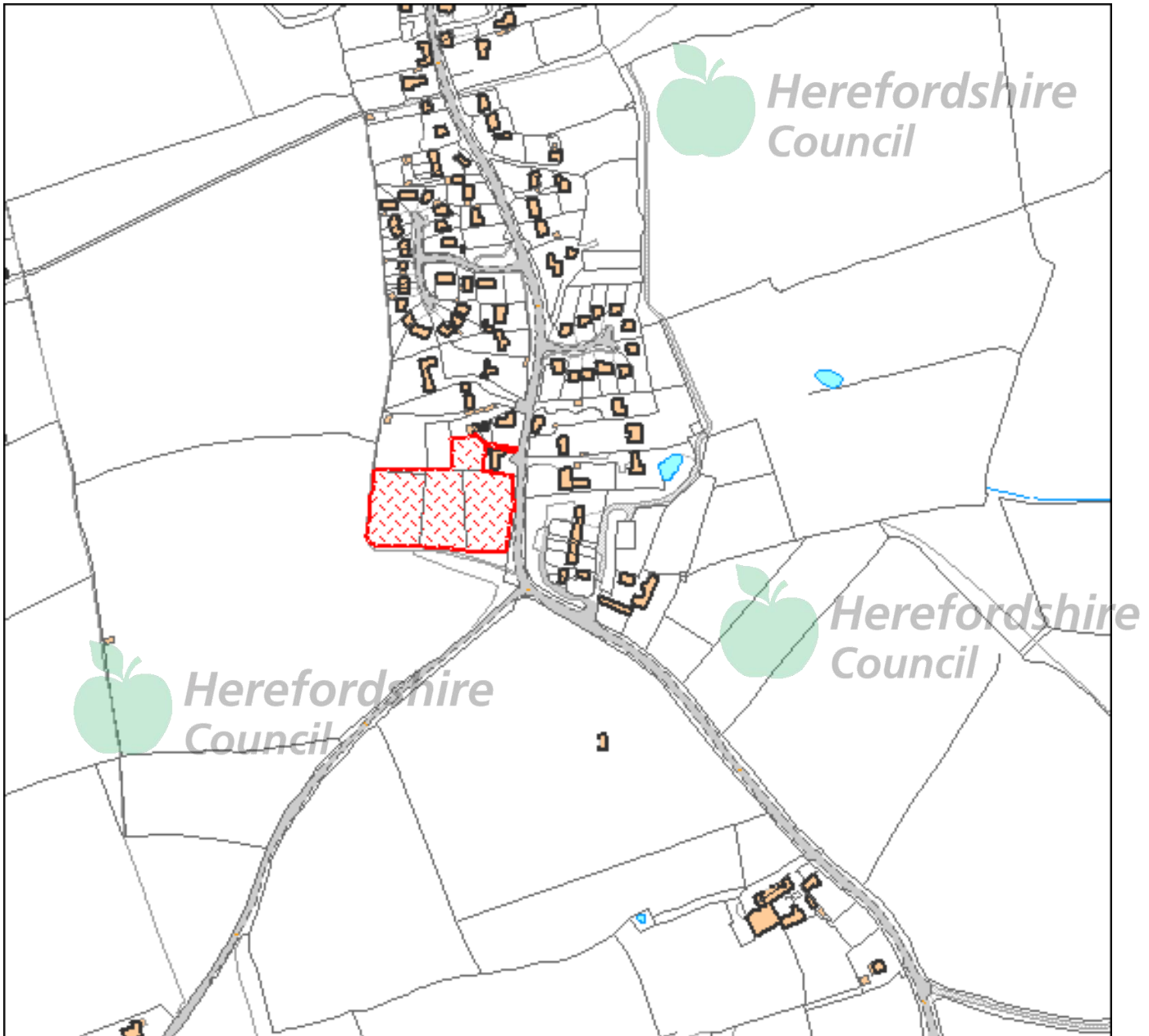
- 2. By omitting a large portion of land parcel 136/212 which has been allocated for an indicative 11 dwellings through Policy LG6 of the Luston Group Neighbourhood Development Plan, the Local Planning Authority considers that the scheme as deposited represents an underutilisation of land which fails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

### **Informatives**

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

### **Background Papers**

Internal departmental consultation replies



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**APPLICATION NO:** 190032

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

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



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>11 DECEMBER 2019</b>
<b>TITLE OF REPORT:</b>	<b>191276 - ERECTION OF THREE DWELLINGS AND ASSOCIATED WORKS AT LAND AT OLD TRECILLA BUILDINGS, LOWER HERBERTS HILL, LLANGARRON.</b>  <b>For: Mr &amp; Mrs Farr per Mr Matt Tompkins, 10 Grenfell Road, Hereford, Herefordshire, HR1 2QR</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191276&amp;search=191276">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191276&amp;search=191276</a>
<b>Reason Application submitted to Committee - Redirection</b>	

Date Received: 9 April 2019

Ward: Llangarron

Grid Ref: 352908,221340

Expiry Date: 4 June 2019

Local Member: Councillor Elissa Swinglehurst

## 1. Site Description and Proposal

- 1.1 The application site comprises a rectangular 0.35 hectare plot forming part of a larger field that extends to the north and west. The site occupies an elevated position to the east of the C1250 which links the village to Herberts Hill, Three Ashes and St Weonards further to the north-west.
- 1.2 The roadside (southern) boundary is currently defined by a mature hedgerow sitting atop a high embankment. To the east, at lower level, and opposite an existing shared access road, serving the properties and an agricultural building, are Wagoners Cottage, Barn House and Owls Nest which face the application site. Box Bush Cottage is a Grade II listed property which is accessed direct from the C1250.
- 1.3 Planning permission is sought for three detached dwellings (1 no. 3 bed and 2 no. 4 bed units) that would each have a detached double garage. The 4 bed units (Plots 1 and 3) would have a ridge and eaves height of 6.8 metres and 3.6 metres respectively and would have a footprint of 16 metres by 6 metres. The 3 bed unit (Plot 2) would have a ridge and eaves height of 7.2 metres and 4.6 metres respectively and a footprint of 13 metres by 6 metres.
- 1.4 The dwellings would be set back from the shared private road by between approximately 25 metres (Plot 3) and 29.7 metres (Plot1) and Plot 1 would be set back from the C1250 by approximately 14 metres. The distance between the proposed new dwellings and the nearest property would be 42 metres (Plot 3 to Wagoners Cottage). The distance between Plot 1 and the Grade II listed Box Bush Cottage would be 47 metres approximately.
- 1.5 The layout proposed follows a linear form with Plots 1 and 2 presented parallel to the shared private road and Plot 3 at right angles. The external treatment of all the dwellings can be described as a contemporary barn with simple rectilinear footprints. Materials comprise natural slate, Siberian larch cladding and white render (aluminium doors and windows, galvanised

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

aluminium guttering and downpipes are specified on the materials key together with solar PV panels on the garages).

- 1.6 Two new accesses are proposed. Plot 1 would have its own access and drive positioned more or less opposite the access serving Owls Nest. Plots 2 and 3 would have a shared access and driveway, slightly offset from the access serving Wagoners Cottage. The driveways would be cut into the existing embanked boundary with the existing shared access road. Additional native species hedgerow and tree planting would extend to define the entire length of the new northern and western boundaries of the site and the boundaries of the garden curtilages for the 3 plots.
- 1.7 The application is accompanied by a Design and Access/Planning Statement, a Speed Survey and Visibility Statement; a Preliminary Ecological Appraisal; a Flood and Drainage Strategy and a Sustainability Statement. A Landscape and Visual Impact Appraisal submitted in support of a previously refused application has also been submitted.

## 2. Policies

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

Herefordshire Local Plan Core Strategy (CS)

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

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

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

- 2.3 National Planning Policy Framework (NPPF)
- 2.4 National Planning Policy Guidance (NPPG)
- 2.5 The Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

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

### 3. Planning History

- 3.1 P181343/F Proposed erection of 8 No. 2 storey dwellings (comprising of 4 No. 2 bed houses, 1 No. 3 bed house & 3 No. 4 bed houses) with associated highways and landscaping works. Refused

### 4. Consultation Summary

Statutory Consultations

#### 4.1 Welsh Water – No Objection

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

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

#### 4.2 Natural England – No Objection

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

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

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

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

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

#### **Internationally and nationally designated sites**

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

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

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

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

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

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

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

#### River Wye SSSI - No objection

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

#### Internal Council Consultations

#### 4.3 Transportation Manager – Initial Comments (28/5/19)

No objections to the proposals after the reduction of the number of dwellings. The number of movements associated with the proposed development would not be classed as severe and therefore would not be deemed as having road safety implications.

The access should be built to HC highways design guide to adoptable standards. A vehicle crossing licence is required from BBLP.

Please condition as follows: -

CAB Eastbound - 60m x 2.4m, Westbound 38 x 2.4m  
CAE, CAH, CAJ, CAL, CAS, CAT, CB2, CAZ

I09, I45, I11, I05, I47, I35

#### Further comments (11/10/19)

The updated visibility splay plan shows that the visibility from the access is achievable. The visibility splay is also achievable within highway land.

Due to changes in the standard conditions. Please condition as follows.

CAB Eastbound - 60m x 2.4m, Westbound 36 x 2.4m

CAE, CAH, CAJ, CAQ, CAT, CB2, CAX

I09, I45, I11, I05, I47, I35

#### 4.4 Conservation Manager (Landscapes) – Updated Comments (4/11/19)

I note the amendments to the block plan and the street scene as submitted on 26/9/2019. I am content that the revisions to the ground level will ensure that plot 1 will not dominate the existing built form.

I would recommend the submission of landscape plans and a supporting 5 year management plan via condition.

#### Conservation Manager (Ecology)

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

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

All foul water shall discharge through connection to new plot specific private foul water treatment systems with final outfall to soakaway drainage fields; and all surface water shall discharge to appropriate SuDS or 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

The supplied ecology report is noted and although the finally submitted layout is substantially different to that assessed against the basic site level ecology assessment appears appropriate and relevant. The generic working methods and CEMP should be secured through condition.

The biodiversity enhancement plan as supplied in the ecology report is no longer appropriate due to the full change of layout – and a condition is requested to secure required biodiversity net gain enhancements.

#### **Nature Conservation – Ecology Protection, Mitigation**

The ecological protection, mitigation, compensation and working methods as recommended in the ecology report by europaeus land management services shall be implemented and hereafter maintained 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 Habitats & Species Regulations 2018 (as amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006

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

## Nature Conservation – Biodiversity and Habitat Enhancement

Prior to first occupation evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least THREE Bat roosting enhancements, THREE 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. All tree and shrub planting shall only consist of locally characteristic, native species. 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.

### 4.5 Conservation Manager (Building Conservation)

No objections to the scheme on heritage grounds. Whilst we note that the adjacent listed building is situated on the edge of the settlement and this forms part of its setting, it is felt that the density, set back and design of the proposals is such that the harm to the setting is minimal and would not trigger section 196 of the revised NPPF.

Background to recommendations:

Adjacent and to the South of the site, lies Box Bush Cottage, a grade 2 listed C17 timber framed cottage, ref 1099448. The building is significant historically due to age of surviving fabric and the evidence this provides, and architecturally as a picturesque rural cottage. An aspect of its setting which contributes to its significance is the rural aspect of the site and its location on the edge of settlement. It is felt that the contemporary rural design of the proposals, their low density and set back, would mean that the appreciation of the building is not harmed to any degree.

It is felt that the distance from the Church of St Deinst is such that its appreciation and understanding would not be affected by the proposals.

### 4.6 Conservation Manager (Trees)

Having viewed the documents I can confirm that I do not have any objections to the proposals or require any arboreal reports.

However, the soft landscaping details contained within the proposed plan are too vague.

Further information is required to demonstrate which species are going where, what nursery size will they be and how will they be maintained.

In Summary, a soft landscape plan is required which will contain the following:

- Species
- Locations
- Size
- Protective Measures

### 4.7 Land Drainage

Flood Risk

Fluvial Flood Risk

Review of the Environment Agency's Flood Map for Planning (Figure 1) indicates that the site is located within the low risk Flood Zone 1. As the proposed development is less than 1ha and is located within Flood Zone 1, the planning application does not need to be supported by a Flood Risk Assessment (FRA).

### **Surface Water Flood Risk**

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

### **Other Considerations and Sources of Flood Risk**

Overland Flood Exceedance Routes have been demonstrated on the drainage layout plan. It has been ensured that flows will be directed away from buildings.

Review of the EA's Groundwater map indicates that the site is not located within a designated Source Protection Zone or Principal Aquifer.

### **Surface Water Drainage**

The surface water runoff generated by the development is proposed to be managed by soakaways serving individual dwellings and porous paving will be used for the access roads and car parking areas. An infiltration rate of  $1.24 \times 10^{-6} \text{m/s}$  has been used in the calculations for sizing the soakaways for the roof runoff. The soakaways have been designed to cope with the 1 in 100 year + 40% climate change event; however a safety factor of 1.5 has been used.

We request that a safety factor of 2 (or 3) is used (taken from Table 25.2 of the CIRIA SuDS manual) and the soakaway sizes are recalculated with this updated parameter.

We also see that permeable paving is proposed for the access road and car parking areas. This has been designed to cope with the 1 in 100 year + 40% climate change also. The shallow infiltration rates established through ground investigations revealed low rates, however still acceptable.

### **Foul Water Drainage**

The foul water disposal proposals are to provide individual package treatment plants served by individual drainage fields. A  $V_p$  value of 31 has been established. We have applied the formula in the Building Regulations used to convert  $f$  to  $V_p$ :  $f = 10^{-3/3} \cdot V_p$ . Using the  $f$  values established, this would give a  $V_p$  value of approx. 268. The testing results have not been provided, thus we are unsure about the  $V_p$  value. Values between 12 and 100 are considered acceptable. We request that the results are provided to ensure that the  $V_p$  values have been correctly calculated.

We also request that the calculations for the sizing of the drainage fields are provided. This should be in accordance with BS6297.

It has been previously suggested and agreed that the drainage fields will be installed at a minimum of 1:4 slope ratio standoff from the adjacent road (i.e. where the road is 2m lower than the site, the standoff would be a minimum of 8m) to prevent lateral flow through the soil onto the adjacent road bank.

It is understood that the responsibility of the individual systems will be with the respective homeowners.

## Overall Comment

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

- An updated surface water drainage strategy using a safety factor of 2 for the soakaways;
- Results of infiltration testing undertaken in accordance with BRE365 and confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice;
- Results of percolation testing undertaken in accordance with BS6297 and calculations to demonstrate the sizing of the drainage field

## 5. Representations

### 5.1 Llangarron Parish Council

#### Original comments

Llangarron Parish Council SUPPORT planning consultation 191276 Land at Old Trecilla Buildings Lower Herberts Hill Llangarron for the erection of three dwellings and associated works, and make the following comment: There are concerns from local residents regarding traffic and increased risk along the road

#### Comment following first re-consultation

Llangarron Parish Council considered the above re-consultation at a meeting on 9th September and it was resolved to support the application subject to the height of Plot one being lowered.

#### Comment on second re-consultation

Llangarron Parish Council met on 16th October 2019 and resolved to unconditionally support the above application in the knowledge that the height of Plot One has been lowered.

- 5.2 A total of 40 objections have been received from third parties and 15 supporting comments have been received. A number of these include follow up comments from the same individuals but and the nature of these comments is summarised as follows:

#### Objections

- Llangarron has already met its housing growth requirement
- Significant concerns about localised surface water flooding (a number of video clips have been provided evidencing the existing conditions during the recent heavy rainfall)
- Inadequate road infrastructure - too narrow, limited visibility in places and frequently blocked
- Danger to pedestrians and school children walking to and from bus stop
- Unacceptable increase in traffic movements
- Significant harm to setting of Box Bush Cottage and loss of views of Church
- Development would unduly impact upon privacy and outlook of box bush cottage
- Significant overbearing effect due to change in levels
- Overdevelopment would spoil the setting and character of the village
- Scale and design of dwellings is uncharacteristic, visually dominant and alien to the village
- No amenities available in Llangarron and no regular bus service
- Number and size of dwellings should be reduced
- Determination should be delayed pending the outcome of the NDP process

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



- Concerns over future maintenance of package treatment plants due to elevated position
- No justification for loss of prime agricultural/greenfield land
- Precedent for future development linking site to Oaklands Paddock
- Timber cladding totally inappropriate and out of keeping
- Inadequate mix of housing - smaller more affordable homes are required
- Likely glare from large areas of glazing
- Speed survey out of date and inaccurate representation
- Adverse impact on ecology

#### Supporting Comments

- Demonstrable and recorded need for more housing
- Growth need to support services and allow community to develop
- Small scale incremental growth is the correct approach
- Proposal has responded positively to previous refusal reasons
- Development will not increase risks of surface water flooding – no evidence to substantiate these concerns
- Impact on nearby occupiers unfortunate but villages should not be preserved in aspic
- Plot sizes are generous and houses well set back
- New families likely to live in these homes will be a welcome addition to the village
- Small scale development will not result in significant change to current traffic conditions
- No reason why development of the site would exacerbate existing surface water flooding
- Road network is no different from many rural village
- Site is well positioned in relation to existing services within the village
- Site is identified in the draft NDP
- Dwellings have been sensitively and tastefully designed

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=191276&search=191276](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191276&search=191276)

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

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

## **6. Officer’s Appraisal**

### Policy context and Principle of Development

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

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

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

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

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

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

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

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

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

- 6.5 At this moment in time, the Council is unable to demonstrate a five year housing land supply. It is therefore acknowledged policies relating to the supply of housing are out of date, as identified within Paragraph 11d of the Framework. Paragraph 11d effectively echoes the approach set out in CS Policy SS1.
- 6.6 In the context of the above, the overall assessment is whether the proposal represents sustainable development, taking account of its three dimensions (social, economic and environmental). In order to assess this reference should be paid to the NPPF as a whole.
- 6.7 In locational terms, the NPPF seeks to restrict development in isolated locations (Paragraph 79) but acknowledges that in rural locations it may be the case that development in one village supports the services in another nearby.
- 6.8 The CS recognises that proportionate growth is required in rural areas for social and economic purposes. It is with this in mind that the proposal is assessed under CS policies alongside the NPPF, notwithstanding the 'out of date' nature of the housing policies.
- 6.9 Policies SS2 (Delivering new homes) and SS3 (Releasing land for residential development) of the CS clearly set out the need to ensure sufficient housing land delivery across the County. In order to meet the targets of the CS the Council will need to continue to support housing growth by granting planning permissions where developments meet the policies of the CS, and, where relevant, policies in other Development Plan Documents and Neighbourhood Development Plans. Policy SS2 states that a supply of deliverable and developable land will be identified to secure the delivery of a minimum of 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. 6,500 of these will be in Hereford, where it is recognised that there is a wide range of services and consequently it is the main focus for development.
- 6.10 Outside of Hereford City, and the market towns, CS Policy RA1 identifies that Herefordshire Rural areas will need to find a minimum of 5,300 new dwellings between 2011 and 2031 to contribute towards the county's housing needs. The dwellings will be broadly distributed across the seven Housing Market Areas (HMA's). Llangarron is within the Ross-on-Wye HMA, which is earmarked for an indicative 14% indicative housing growth and is listed in Figure 4.14 as a settlement which will be the main focus of proportionate housing development. This percentage increase translates to 1150 new dwellings over the plan period. In terms of the Llangarron Neighbourhood Area it must be acknowledged that it has performed well in relation to its proportionate target of 64 dwellings during the Plan period. Indeed based upon the latest

published figure from April 2019 there have been 27 new dwellings built and there are 48 Commitments (accounting for the recent granting of permission for 4 dwellings at Oaklands Paddock), an exceedance of 11 dwellings. However it must also be acknowledged that the target represents a minimum growth expectation and that presently, proposals must be considered in light of the inclusion of Llangarron as a settlement where proportionate growth is appropriate and the tilted balance in favour of sustainable development as directed by the NPPF.

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

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

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

- 6.12 Policy RA2 goes 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.

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

- 6.14 Officers are fully aware of the progression of the LNDP process and recognise that many objection letters refer to its relevance. In this context, there is no desire to undermine this process, however, whilst the LNDP in its original form has reached Regulation 14, the further

work being carried out on the document, with regard to defining settlement boundaries has not been published, and as such the Neighbourhood Development Manager has opined that whilst limited weight can be given to the original Regulation 14 version, the AECOM report which has been prepared by consultants working for the Parish Council is not a material consideration as it has not been shared with Herefordshire Council. Notwithstanding the above and for the avoidance of doubt, the original version of the Regulation 14 document envisaged the delivery of 5 houses on land adjacent to Farr Cottages, with the currently described allocation including the site under consideration. In this context and in common with the CS, the ongoing inability of the Council to demonstrate the required 5 year housing land supply, renders the settlement strategy related policies out of date and as such, Members are advised that it is the requirements of CS policy RA2 that carry the most significant weight in this particular case.

- 6.15 Both the policy and pre-ambles accompanying RA2 specify the need for the site to be located within or adjacent to the main built up area. The application site is located at the western edge of the village, positioned opposite Box Bush Cottage, Owls Nest, Barn House and Wagoners Cottage, with the residential cluster at Herberts Hill being in a more elevated position further to the west. In locational terms, it is considered that the application site is well related to the existing built form and the linear layout responds to the form of the and is within ready walking distance of the village hall, Church and the Garron Centre which are the only community facilities currently available. Having regard to these characteristics and the lack of any local policy that can be afforded more weight, it is maintained that the broad principle of residential development can be supported and that the acceptability or otherwise of the proposal must be considered on the basis of the tilted balance described by the NPPF.

#### Landscape and townscape

- 6.16 CS policy LD1 requires new development to achieve the following:
- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
  - Conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management.
- 6.17 CS policy SD1, amongst other criteria, requires development proposals to incorporate the following requirements:
- Ensure that proposals make efficient use of land – taking into account the local context and site characteristics;
  - New buildings should be designed to maintain local distinctiveness.
- 6.18 Officers have reviewed the content of emerging LNDP Policies SUS1, ENV1 and ENV2 and consider them to be broadly consistent with the objectives of the CS policies referred to above and as such limited weight is attached to these policies.
- 6.19 The application site extends to some 0.35 hectares and forms part of a field owned by the applicant. It has a significant frontage to the shared private road of some 84 metres with the roadside boundary with the C1250 measuring some 44 metres. Both boundaries are defined by a mature hedgerow that is recognised to make a positive contribution to the rural character at the edge of the village.
- 6.20 The proposal would entail the formation of two new access points off the private road to the site which would require the combined removal of approximately 19 metres of the well established and characterful hedgerow and the groundworks required to form the driveways/embankments and level plots will have a significant, although localised, impact when viewed from the public

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highway and footpath that skirts the edge of Herberts Hill (PRoW LG3) in the immediate vicinity of the site. By reference to the submitted Site Section, the floor level of Plot 1 will be approximately 3.5 metres above the level of the private road and some 5 metres above the level of the C1250. Despite this relatively elevated position, it is considered that in the wider landscape, the impacts will not be significant since the combination of the retained hedgerow, the context of rising land towards Herberts Hill and the set back nature of the plots would largely mitigate the visual impact when viewed from further afield. Furthermore in views from the public footpath LG3 to the north and west, the proposed development would be seen in conjunction with existing residential development beyond the application site. In this respect, it is considered that the visual impact will not be at a significant level and it is clear that the reduction in the level of Plot 1 has now secured the support of the Parish Council. In terms of settlement character, the low density and disposition of the proposed dwellings to the road access are broadly characteristic of the settlement which would therefore be preserved. In combination with the commitment to substantial native tree and hedgerow planting along the new field boundary and between the plots and having regard to the comments from the Conservation Manager (Landscapes), it is considered that the proposal demonstrates that the landscape and townscape context has positively influenced the layout in a manner consistent with the aims of CS policies LD1 and SD1 (and to the extent reasonable at this stage in proceedings, LNDP policies SUS1, ENV1 and ENV2)

#### Design and amenity

- 6.21 The detailed design of the dwellings is assessed by reference to CS policy SD1 (and to a limited extent by LNDP policies ENV1 and ENV2). In essence these policies state that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.
- 6.22 The proposed dwellings have the same simple rectilinear format and have been designed with a contemporary agricultural building aesthetic. The distinct reservations of many objectors as to the suitability of this design approach are noted and whilst there are potentially alternative solutions available, the approach adopted is considered to respond to the agricultural context that prevails at the edge of the village and since the village does comprise a wide range of architectural styles, it is not considered necessary to incorporate these in order to successfully integrate the development. Given that views of the development are essentially localised and recognising that the elevated nature of the site will make the rooves more visible in the wider landscape, the choice of natural slate will provide a material that does complement the locality whilst the more individual use of timber cladding will provide both a relevance to the agricultural context and contrast with more established historic properties.
- 6.23 As such, it is considered that the design approach would not adversely affect the character and setting of Llangarron.
- 6.24 With regard to residential amenity impacts, the existing dwellings potentially affected by the proposal are Box Bush Cottage, Owls Nest, Barn House and Wagoners Cottage. Taking these in turn, Box Bush Cottage would be some 47 metres from the principal elevation of Plot 1, Owls Nest and Barn House (a semi-detached pair) would be 47 metres from plot 2 and Wagoners cottage would be 40 metres from the end gable of Plot 3. These distances would ensure that acceptable levels of privacy would be maintained and whilst there would be additional traffic movements up and down the shared private access road these would not, in your officer's opinion, result in unacceptable impacts upon existing living conditions
- 6.25 Accordingly whilst recognising that the impact of the development will be felt by those living in the immediate locality it is not considered that there would be harm to living conditions warranting the refusal of permission. A Construction Management Plan and restriction on working hours would minimise impacts during construction.

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6.26 CS policy SD1 also encourages the incorporation of on site renewable energy generation linking to policy SS7 which seeks to mitigate the impact on climate change. The application has been accompanied by a Sustainability Statement which refers to 4 specific commitments:

- *Sustainable Materials – construction materials will be locally sourced, including natural timber. Advantages include fewer “construction miles” and less energy expended in the conversion of raw materials into construction products as with the stock globalized materials common in many housing developments.*

- *Energy Efficient Building Envelope: The building envelope is anticipated to achieve the following elemental U-Values, which are greater than those specified in the Building Regulations:*

- *Roof 0.12 W/m<sup>2</sup>K*
- *Walls 0.15 W/m<sup>2</sup>K*
- *Floors 0.12 W/m<sup>2</sup>K.*

- *Renewable Energy: Solar panels will be used on the roofs to provide hot water to each dwelling. Air Source Heat Pumps will be provided for each new dwelling, to provide power for heating the individual properties.*

- *Landscaping: A considerable amount of trees will be planted around the site, to increase bio-diversity and improve the absorption of carbon dioxide.*

6.27 In the absence of any more specific local policy, it is considered that these commitments represent a positive response to the aim to move towards reducing carbon emissions as part of the overall commitment to address the effects of climate change.

#### Heritage Impacts

6.28 Llangarron does not have a Conservation Area but is characterised by a number of historic buildings focussed upon the centre of the village (around the crossroads) that have both designated and undesignated heritage status. In this regard Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty to have special regard for preserving the character and setting of listed buildings. A duty which is enshrined in CS policy LD4 (and to a limited extent LNDP policy ENV2) which requires development proposals to protect, conserve and where possible enhance heritage assets. Box Bush Cottage is the closest to the proposed development and as a Grade II listed property represents a designated asset and is afforded statutory protection. The impact of the proposed development upon this designated asset, those further afield and other adjacent undesignated assets has been fully assessed in the context of CS policy LD4 and the heritage impact assessment prescribed at paragraph 193-197 of the NPPF.

6.29 It is acknowledged that the field upon which this development is sited does form part of the rural setting of Box Bush Cottage. A view which is primarily reached having regard to public view from the public right of way but having regard to the comments from the Conservation Manager the low density and set back nature of the scheme are such that the setting is preserved

6.30 Accordingly, having considered that there would be no harm to the setting of either designated or undesignated heritage assets, it is considered that the statutory duty of the decision-maker would be fulfilled should permission be granted and that there would be no requirement to assess the public benefits of the proposed development in the context of its impact of heritage assets. In this regard CS policy LD4 (and emerging LNDP policy ENV2) is satisfied.

### Access and parking

- 6.31 Policy MT1 of the CS and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.
- 6.32 The proposed development would be accessed via two new access points off an existing private road used by existing dwellings and agricultural traffic. Visibility at the existing junction with the C1250 has been shown to meet the specific requirements of the Transportation Manager and is deliverable within the extent of the highway. It is recognised that one of the main concerns raised in local responses to the application relates to the suitability of the local road network in terms of its narrowness; the speed and volume of vehicles using the C1250; its use by school children and pedestrians; a pinch point and bend in the road adjacent to 1 and 2 Trecilla Cottages and on road parking at times when the Church/Garron Centre and village hall are in use. With regard to the cumulative highways impacts as a result of the proposed development, this was one of the main reasons why the previous scheme for 8 dwellings was refused. This much reduced scheme has been carefully scrutinised by the Transportation Manager has considered the Speed Survey and Site Visibility Assessment and concluded that the addition of 3 new dwellings would not result in highways impacts that would be classed as severe. The double garages and other hardstanding proposed more than meets the requirements of the Council's Highways Design Guide.
- 6.33 Whilst acknowledging the many concerns expressed in relation to the suitability of the road network, in light of the above, and the lack of objection to the scheme from the Council's Transportation Manager, the proposal is found to be compliant with the aims of policy MT1.

### Ecology

- 6.34 CS Policies LD2 and LD3 are applicable (as is LDNP policy ENV1 to a limited extent) in relation to ecology and the impact on existing hedgerow and identified biodiversity value. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity asset of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure.
- 6.35 The application has been supported by a Preliminary Ecological Appraisal which has been viewed by the Council's Ecologist. The range of protective measures proposed and the mitigation measures proposed to minimise the risks associated with the proposed development are considered appropriate and subject to conditions recommended by the Council's Ecologist being attached to any approval, the scheme will accord with policies LD2 and LD3.

### Drainage

- 6.36 CS Policy SD3 (and LDNP policy ENV3 albeit limited in weight at this stage) states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk and avoid an adverse impact on water quality. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).

- 6.37 In this case, a Flood Risk and Drainage Statement has been provided. This proposes that surface water will be drained to plot specific soakaways installed in the gardens of each proposed dwelling. The associated porosity testing has been scrutinised by the Council's drainage consultant who has raised no objection subject to condition securing final details. The Statement demonstrates that the hierarchical approach required has been carried out and for reasons underpinned by the porosity testing and the space available within each plot individual Package Treatment Plants with secondary drainage fields can also be accommodated within each of the individual plots. Similarly the views of the Council's drainage consultant have been considered and subject to a condition aimed principally at ensuring that the secondary drainage field is appropriately sized, there is no technical objection to this proposal on flooding or drainage grounds
- 6.38 The development has been the subject of an Appropriate Assessment under the Habitat Regulations and Natural England has raised no objection subject to the condition recommended by the Council's Ecologist.
- 6.39 The strategy conforms to CS policies SD3 and SD4 and will have no unmitigated effects upon the River Wye Special Area of Conservation/Site of Special Scientific Interest in accordance with CS policy LD2.

#### Loss of Agricultural Land

- 6.40 It is recognised within NPPF guidance and CS policy SS7 that the best agricultural land should be protected for both its intrinsic character and beauty and for its associated economic value. In this instance it has been established that the site lies within an area defined as Very Good (Agricultural Land Classification). For the purposes of this assessment it has been assumed that the land is classified as Very Good. The best agricultural land would be classified as Excellent by reference to the scale of quality which runs from Excellent, Very Good, Good to Moderate, Poor and Very Poor. It is recognised that the land does have value in terms of its rural character and economic contribution, but the proposal does relate to only part of the wider field which would be retained in agricultural use and would continue to be accessed from the west. It is difficult to make a direct comparison between the terminology used in the CS and NPPF which refer to the protection of the "best" and "most versatile" land and that used on the Agricultural Land Classification which suggests that the site is Very Good but it is considered that the limited loss will not result in significant economic dis-benefits and that this would be outweighed in this context for the economic and social benefits associated with residential development set out below.
- 6.41 Similarly, the loss of this agricultural land in terms of its contribution to the character of the village has been assessed in the Landscape and Townscape section above which concludes that the site can accommodate new development within significant harm.

#### Planning balance and conclusions

- 6.42 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.
- 6.43 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.



6.44 In assessing the three elements of sustainability:

#### Economic

6.45 Economic benefits would be derived from the construction of 3 dwellings and associated infrastructure through both the supplies and employment of the required trades. After completion the occupiers would contribute some disposable income to the local economy and Council Tax revenue and New Homes Bonus would accrue. The impact of 3 new dwellings as proposed would result in modest benefits and this is considered to outweigh any limited economic losses in terms of agricultural production.

#### Social

6.48 The provision of housing, in the context of a shortfall, would contribute to the supply of housing and the social needs of the county. In addition occupiers could contribute to village life at the village hall, Church and Garron Centre, as well as potentially supporting other facilities in other villages in the locality (the primary school and public house at Llangrove for example). It is recognised that this could help to provide the critical mass of population to sustain them and 3 new dwellings would make a modest contribution in this regard.

#### Environmental

6.49 The site is immediately adjacent to the main built up area of the settlement identified as being suitable for proportionate growth and as such is considered to be locationally sustainable within the current policy framework. In landscape terms, the site is not in a protected landscape nor is it the subject of any site specific heritage designations, although the setting of designated and undesignated heritage assets has been carefully assessed. Whilst it is recognised that there is significant opposition to the impact of the proposed development upon the character of the village, there is also some support and it is considered, on balance, that the well screened nature of the site mitigates the visual impact and whilst officers do not consider there to be harm in this instance, were this to be identified, it would not be adverse nor is it considered that it would outweigh the NPPF presumption in favour of development. The Sustainability Statement also makes clear commitments in relation to addressing climate change.

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

### **RECOMMENDATION**

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

- 1. C01 - Time limit for commencement (full permission)**
- 2. C06 - Development in accordance with the approved plans (drawing nos. P1.003 Rev C, P1.10 Rev C, P1.020, P1.100 Rev B, P1.101 Rev A, P1.102 Rev A0, VA002 Rev A, the Sustainability Statement PF 301, 1396 C05 Rev B, the Flood Risk and Drainage Statement – Rev B dated 4 March 2019) and the Preliminary Ecological Appraisal dated March 2018)**
- 3. C13 - Samples of external materials**
- 4. C65 - Removal of permitted development rights (Class E)**

5. **CK3 - Landscape Scheme**
6. **CK4 – Implementation**
7. **CAB - Visibility Splays Eastbound - 60m x 2.4m, Westbound 36 x 2.4m**
8. **CAD - Access gates**
9. **CAE - Vehicular access construction**
10. **CAH - Driveway gradient**
11. **CAI - Parking – single/shared private drives**
12. **CAJ - Parking - Estates**
13. **CAT - Construction Management Plan**
14. **CB2 - Secure covered cycle parking provision**
15. **CBK - Restriction of hours during construction**
16. **Prior to the occupation of any of the dwellings hereby approved details of a foul and surface water system incorporating an updated surface water drainage strategy using a safety factor of 2 for the soakaways; results of infiltration testing undertaken in accordance with BRE365 and confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice; results of percolation testing undertaken in accordance with BS6297 and calculations to demonstrate the sizing of the drainage fields shall be submitted to and approved in writing by the local planning authority. The implementation of the drainage system shall be carried out in accordance with the approved details and maintained thereafter.**

**Reason: To prevent pollution of the water environment and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

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

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

19. **The ecological protection, mitigation, compensation and working methods scheme including the europaeus land management services 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**

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

regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2018 (as amended), Policy LD2 of the Herefordshire Local Plan Core Strategy, National Planning Policy Framework and NERC Act 2006.

- 20. Prior to first occupation evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least three Bat roosting enhancements, three 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.

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.

- 21. CE6 - Efficient use of water

**INFORMATIVES:**

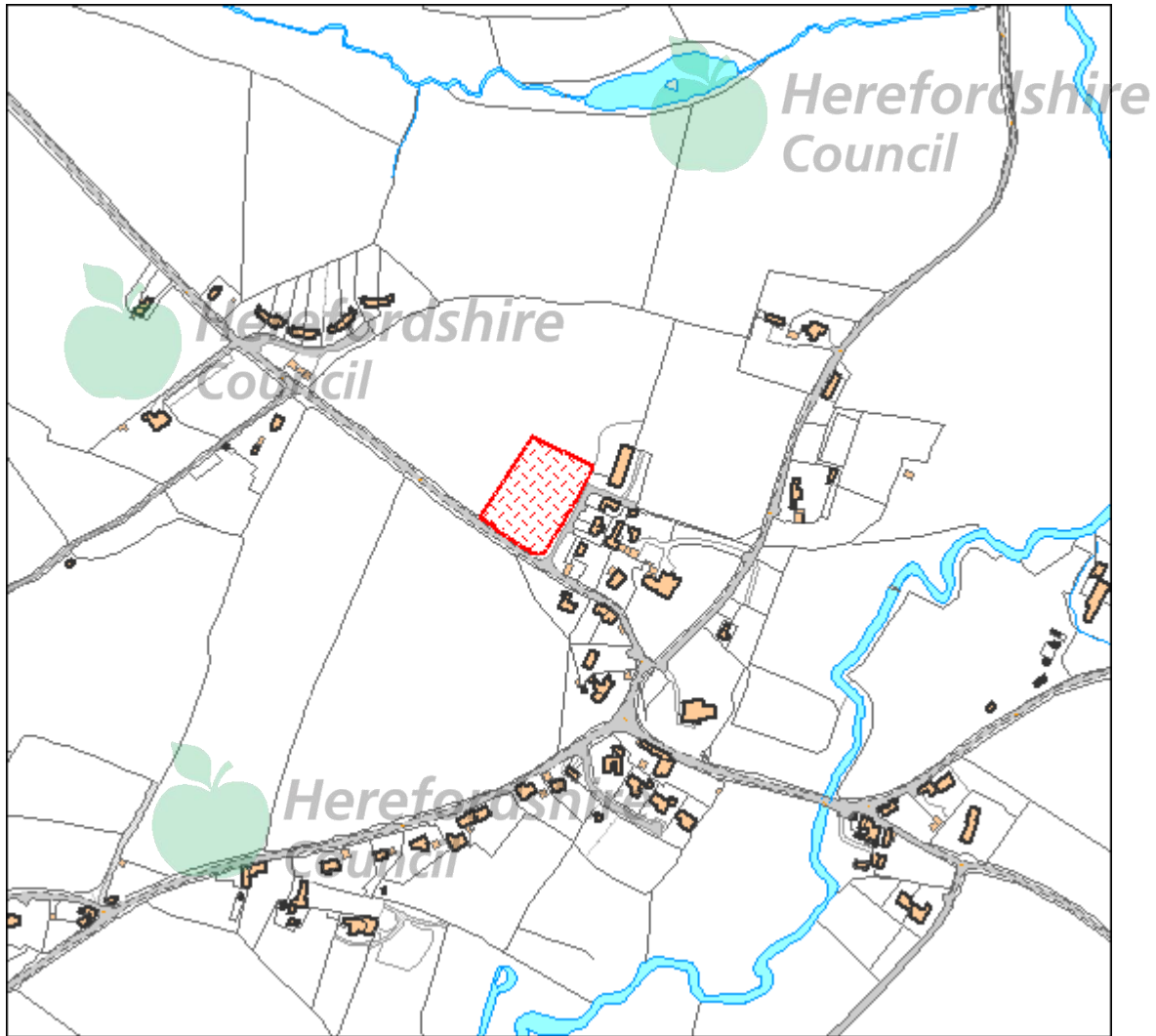
- 1. IP2 - Application Approved Following Revisions
- 2. I11 - Mud on highway
- 3. I09 - Private apparatus within the highway (Compliance with the New Roads and Streetworks Act 1991, the Traffic Management Act 2004 and the Highways Act 1980)
- 4. I45 - Works within the highway (Compliance with the Highways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

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 191276

**SITE ADDRESS :** LAND AT OLD TRECILLA BUILDINGS, LOWER HERBERTS HILL, LLANGARRON

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