

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>6 AUGUST 2014</b>
<b>TITLE OF REPORT:</b>	<b>P141489/F - PROPOSED HOUSE WITH GARAGE/WORKSHOP AT LAND ADJACENT TO CAE DUFF, GARWAY COMMON, HEREFORD, HR2 8RF</b>  <b>For: Mr Atkinson per Mr Charles Grylls, 2 Hillcroft Villas, Crofts Lane, Ross-On-Wye, Herefordshire, HR9 7AB</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141489&amp;search=141489">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141489&amp;search=141489</a>

**Date Received: 7 May 2014**

**Ward: Pontrilas**

**Grid Ref: 346613,222731**

**Expiry Date: 2 July 2014**

Local Member: Councillor J Norris

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

- 1.1 The application site is the eastern portion of garden space at Cae Duff, located at the eastern extent of Garway immediately to the north of the C1239. Garway Common is to the south with the main body of the village to the west within which local facilities and services are located. The site is currently a formal garden space, with a few attractive, though not locally important trees within and bounding the land. An outbuilding of a temporary appearance lies between the garden area and Cae Duff.
- 1.2 The application seeks permission for the erection of one two-storey dwelling on the site. The dwelling would be 10.4 metres x 8.4 metres in plan form and 7.7 metres in height. It would be built to meet Passivhaus standards and be clad in timber boarding under a slate roof. Hot water photovoltaic panels would be on the southern highway fronting roof plane.
- 1.3 A small ancillary outbuilding would be to the fore and east of the dwelling and utilised as a workshop and garage. The outbuilding would be 6.5 metres x 5.59 metres in plan form and 4.5 metres in height. It would be clad in locally sourced stone under a slate roof.
- 1.4 The existing outbuilding which relates to Cae Duff would be removed from site. Access to the newly created plot would be via the existing driveway which serves Cae Duff. A separate drive would branch off the communal portion of drive almost immediately after one leaves the highway. 4 trees would be removed with replacement planting taking place to the rear of the site.

## **2. Policies**

### **2.1 National Planning Policy Framework (NPPF)**

The following sections are of particular relevance to this application:

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

Introduction	-	Achieving Sustainable Development
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment

## 2.2 Herefordshire Unitary Development Plan 2007 (UDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
H6	-	Housing in Smaller settlements
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity

## 2.3 Herefordshire Local Plan – Draft Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
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	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geo-Diversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

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

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

2.5 The emerging Core Strategy is at an early stage of preparation not yet having been submitted to the Secretary of State. A number of objections have been lodged against the Core Strategy's rural housing policies. For these two reasons the emerging Core Strategy is attributed minimal weight in the determination of this application in accordance with paragraph 216 of the NPPF.

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

### **3. Planning History**

3.1 None applicable to this application.

### **4. Consultation Summary**

4.1 The Council's Transportation Manager did not object to the application but requested the use of conditions to ensure parking provision was acceptable:

*"The visibility across the frontage is acceptable if the proposed development can accommodate exiting in forward gear. The proposed layout doesn't do this, the new build can be accommodated by minor changes to the layout. The existing is more difficult to ascertain without detailed plans. The scheme would benefit from a shared drive without gates, parking and turning is essential in this location, parking needs to be for the size of development.*

*I believe that a suitable access with parking and turning can be provided though the detail provided does not provide such an access."*

4.2 The Council's Ecologist did not object to the application stating that:

*"I have read the ecological report from Countryside Consultants dated April 2014 and accept its findings. The development would appear to offer a low risk of impact to protected species and the recommendations for mitigation through reasonable avoidance measures for great crested newts. These measures can be implemented as the site is prepared and can be included as a compliance condition if the application is given approval"*

4.3 Herefordshire Nature Trust did not provide comment

4.4 The County Land Agent did not object to the proposal but stated that:

*"The only point that I would make concerns the access across the common: It would appear that the applicant has a vehicular access for all purposes, and as such there is a right for him to have a free access based on his present one to the new house provided that the present one is legal, adequate and does not need widening. If it does need widening then it will be up to the owner of the common whether or not he grants permission. I have been informed that the access is long standing and therefore even if there is no deed of access it will have been gained by prescriptive right, having been used by vehicular traffic for more than 20 years. I do not think there are any other common or access issues."*

### **5. Representations**

5.1 Garway Parish Council neither objected to nor supported the application but did make the following comments:

*"At Garway Parish Council meeting on 16th June 2014 it was agreed that the Parish Council would make the following comments:- The Parish Council raised concerns regarding access to the property over common land and would like confirmation that the Secretary of State has been consulted over this issue. Several houses surrounding this property have dormer windows, the Parish Council commented that Dormer windows in this property would be more in keeping with the area. Eaves of the property to be dropped."*

5.2 2 letters of objection were received from members of the public raising the following concerns:

- Design should be in keeping with surrounding dwellings through the provision of dormer windows, having a lower ridge line with fascias and finishes having minimal impact. It should blend into the existing palette of stone, timber and render.
- That the proposal would result in the loss of large garden space which should be retained in village locations
- That the proposal requires a crossing across the common and there is no declaration on the application form that the land owner has been notified.

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

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

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

### The Principle

- 6.1 The application site is located within the main mass of development which makes up Garway. I consider the main mass of development to be that which flanks either side of the C1239 on an east-west axis before branching off in a north-easterly direction along an unadopted track. The application therefore falls to be firstly considered against UDP Policy H6 which sets parameters for development in small settlements such as Garway.
- 6.2 In the context of the UDP, residential development within small settlements is limited to infill where the gap along the frontage is limited to less than 30 metres, where the plot is less than 350 square metres and where the proposed dwelling would have a floorspace no greater than 100 square metres. The nature of this application site meets none of the aforementioned criteria being 1750 square metres in a gap of 66 metres between frontages. It is therefore contrary to local planning policy.
- 6.3 Having established this conflict with the UDP, it is necessary to determine whether there are any other material planning considerations which indicate that the proposal may be acceptable. The NPPF is a material planning consideration (paragraph 13 and 196) and was attributed full weight in March 2013 (paragraph 214).
- 6.4 The UDP remains the adopted local plan though the weight which can be attributed to each policy is determined by its level of conformity with the NPPF. Paragraph 47 of the NPPF requires local authorities to have a five year supply of land for housing at all times. The Council's published stock of housing land is less than the required five years, a position recently upheld at appeal. The weight which can be attributed to local policies that stipulate the geographical limit of residential development are therefore afforded significantly reduced weight (paragraph 49) and UDP Policy H6 cannot be relied upon in this instance. Instead the principle of residential development is determined by the sustainability of the site with regards its proximity to facilities and services and the sites physical relationship with the local pattern of development.
- 6.5 The Government's definition of Sustainable Development is considered to be the NPPF in its entirety though paragraph 17 lays out a concise set of 'core planning principles'. Amongst these principles are that decision taking should:
- take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; and

- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable.

- 6.6 UDP Policy S1 requires, amongst other things, that development proposals should respect patterns of local distinctiveness and landscape character in both town and country. Policy DR1 similarly requires that development should promote or reinforce the distinctive character of the locality. Policy H13, supported by DR1, requires consideration of the design of residential development and its potential to impact on the locality in terms of neighbouring residential amenity, landscape character, the environment and highways safety. UDP policies H13, DR1 and S1 also require development to include energy conservation and renewable energy generation techniques. These policies are generally consistent with the advice on design and distinctiveness set out in the NPPF (chapter 7) and so continue to attract considerable weight.
- 6.7 As the proposal is for the provision of a dwelling within a residential garden development must be specifically considered in the context of paragraph 53 of the NPPF and whether or not the proposal constitutes 'inappropriate garden grabbing'.

#### Sustainability

- 6.8 The application site lies within a reasonable distance of all facilities within Garway, namely the Pub (120 metres), Primary School (510 metres) and well utilised village hall (550 metres) and as such walking would be an option for some everyday activities. Although a bus stop is located within the village this service only provides two trips a day to and from Hereford and the more extensive facilities therein. Furthermore, the journey time exceeds an hour rendering it unlikely that one would make frequent use of this service.
- 6.9 The pavement through the village of Garway is intermittent and no street lighting is provided. That being said I do not consider that walking through Garway would place residents in any significant danger as the C1239 is not unduly busy with traffic and speeds are not excessive. The route is often used by occupants of existing dwellings throughout the village to access the well utilised local facilities. Furthermore, the road is not overly narrow with tarmacked and grassed verges providing an informal place of refuge if required where a pavement is absent.
- 6.10 The NPPF, paragraphs 29 & 55, acknowledges that in rural areas use of the private motor vehicle will likely be necessary for some journeys. It is inevitable that in this location this will be the case. However, I find there to be a reasonable level of facilities locally and opportunity to access them in a sustainable manner and as such consider the application site to be sustainably located as required by UDP Policies S1 and DR1 and the NPPF where paragraph 17 is of particular pertinence.

#### Local distinctiveness, design and landscape impact

- 6.11 The application site is a prominent location at the easterly gateway to the village. There are four dwellings further east along an unadopted driveway, though these are set well back from the main road running through the village behind dense vegetation. As such, this site would essentially become the 'welcome' to the village increasing the importance of securing a suitable form of development.
- 6.12 Garway is defined by its strong linear form of low density development on an east-west axis flanking either side of the C1239 which then spurs off an unadopted track before terminating after approximately 100 metres. The application site is located along the roadside and represents an opportunity to continue this settlement pattern. The site also sits at the junction between the unadopted track and C1239 so its development would not appear to extend built form into the open countryside in plan form. It would in fact reinforce the concave route of development at this end of the village away from the C1239. I therefore find the proposal to

respect the local settlement pattern as required by UDP Policies S1 and DR1. Furthermore, given the aforementioned and the existing residential use of the site I am content that the proposal would not give rise to further development extending away from Garway and into the open countryside.

6.13 In terms of the local vernacular, development within Garway was historically characterised by stone buildings of modest proportions and a traditional form. Dwellings are predominantly two-storey with gabled roofs but of a low height. More modern development has largely upheld this simple, semi-rural vernacular though render has become the building material of choice. The cluster of brick built houses at the centre of the village is an exception to this and represents a clear departure from the character and history of the village and in my opinion should not be held as exemplars for the design of future development.

6.14 The application proposes a Passivhaus the accepted definition of which is:

*“A building, for which thermal comfort can be achieved solely by post-heating or post-cooling of the fresh air mass, which is required to achieve sufficient indoor air quality conditions – without the need for additional recirculation of air.”*

Essentially meaning the heating requirement in a Passivhaus is reduced to the point whereby a traditional heating system is no longer considered necessary. The exceptional energy conservation credentials of such builds greatly contribute to meeting the NPPF's definition of sustainability, surpassing the qualitative requirements of its environmental dimension.

6.15 The fundamentals of such an approach to residential development make a number of requirements of buildings which can be restrictive to a scheme's layout, siting and detailed design. This can limit the building's ability to conform to the prevailing characteristics of the locality. For example it is necessary to simplify a building's form to minimise potential thermal bridging, a junction between materials where heat may be lost, which may rule out certain building techniques such as the use of dormer windows. Paragraph 65 of the NPPF acknowledges this potential conflict stating that:

*“Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design.”*

6.16 Notwithstanding this, the detailed design of the scheme does draw on the principal features of the local vernacular. The form of the building, with a gabled roof, moderate depth and width, modest height and uncomplicated design ensures that it broadly replicates the form of dwellings in Garway. A traditional gabled porch emphasises the functional centrality of the main entrance and the prominence of the principal elevation, another feature of dwellings in the village. The timber boarding cladding and slate roof upholds the simplicity of the building's form and reflects local material usage.

6.17 The dwelling's siting within the plot is slightly set back from that of Cae Duff. Views of the building would therefore be well filtered by existing vegetation along the site's eastern boundary. A garage would however be forward of the dwelling on a similar building line to Cae Duff. The building would be single storey and of modest proportions sitting subserviently to the dwelling. It would also be clad in a local stone. As the first building seen when approaching the village from the east, this would help provide a representative and suitable 'welcome' to the village reinforcing the distinctiveness and history of Garway as required by the NPPF and UDP policies DR1 and H13.

6.18 The application site is a part of an existing residential garden. However, for the aforementioned reasons and that both the proposed dwelling and Cae Duff would have gardens which are both enjoyable and of a size commensurate local plot sizes I find the

proposed development not to represent inappropriate development of a garden as required by paragraph 53 of the NPPF.

- 6.19 On the basis of the above, the proposed dwelling would sit comfortably within its context relating to and respecting the distinctiveness and historical development of the locality. In attributing the necessary weight to the sustainability credentials of the build, I consider the design of the dwelling to be in accordance with UDP Policies DR1 and H13 and chapter 7 of the NPPF.
- 6.20 The provision of the proposed dwelling would require the removal of 6 trees: 2 Flowering Cherry Trees, 2 Unknown shrubs, 1 Eucalyptus and 1 Ash Tree. The trees to be removed are not integral to the character of the locality and their removal is not objected to on the basis that a further planting of equal or greater biodiversity value will be provided. 4 trees are to be planted within the rear garden along with a hedgerow defining the boundary between the proposed dwelling and Cae Duff. The location and amount of vegetation to be provided is considered acceptable and in accordance with UDP Policy LA6 though the species types and mix will require the Council's later approval.

#### Amenity and privacy

- 6.21 The proposed dwelling would be approximately 15 metres to the north-east of Cae Duff and 25 metres to the south-west of 'The Cottage'. A single paned, modest window would be provided on both side elevations. Given that the proposed dwelling is set back of Cae Duff and forward of The Cottage, there is no opportunity to gain direct sightlines in to either dwelling. This is compounded by the significant distances between dwellings. Dense vegetation and an existing outbuilding further preclude views of The Cottage from the proposed dwelling and vice versa. The proposed dwelling is a sufficient distance from both Cae Duff and The Cottage to ensure that it would not preclude ample daylight from reaching the living space of both dwellings. The amenity and privacy of both the proposed and neighbouring dwellings is therefore acceptable as required by UDP Policies DR1 and H13 and the NPPF.

#### Ecology

- 6.22 The Council's ecologist agrees with the content of the preliminary ecological appraisal submitted with this application. The development would appear to offer a low risk of impact to protected species and the recommendations for mitigation through reasonable avoidance measures for great crested newts. These measures can be implemented as the site is prepared and if members were to approve this application a compliance condition should be attached to ensure these works are undertaken. On this basis, the proposal is compliant with the ecological requirements of UDP Policies NC1, NC6 & NC7 and the NPPF.

#### Highways

- 6.23 The visibility across the frontage is acceptable if the proposed development can allow one to both enter and leave the site in forward gear. The proposed layout doesn't clearly show this though the proposed dwelling can be accommodated by minor changes to the layout. The existing layout is more difficult to ascertain without detailed plans, with drawings provided. A suitable access with parking and turning can be provided though the detail submitted does not meet this requirement. Conditions should be attached to any permission given to ensure that the parking arrangements for both the proposed and existing dwelling are acceptable in terms of vehicle numbers and residual space within which a vehicle can turn.

#### Other matters

- 6.24 The Parish Council and two objectors expressed concern for the necessity for one to traverse Garway Common to access the proposed dwelling. The County Land Agent has stated that he

has no concerns for the proposal with regard the potential Common issue. It is worth noting that the driveway is already in place as it currently serves Cae Duff. Only small alterations would be undertaken to this driveway.

- 6.25 Notwithstanding the above, the issue of whether or not the access would be across the common is a land ownership one and is not itself relevant to the planning process. An informative will, however, be attached to any permission given informing the applicants of their requirements to adhere to Section 194 of the Law of Property Act 1925 which covers Common Land. What I have considered in the above report is whether or not as a result of the works, there would be an ecological or landscape impact; these are planning matters. Given that the drive is in place, there would be no landscape or ecological impact in relation to the crossing of this land to access the proposed dwelling.
- 6.26 On 4 March 2009, the local planning authority temporarily suspended the requirement for residential development of five dwellings or less to accord with the Authority's 'Planning Obligations' Supplementary Planning Document (February 2008) where development would commence within one year of the date of an outline permission being granted. This submission states a preference for a one year permission and as such the requirement of Section 106 contribution is waived.

#### Conclusion

- 6.27 There would be extremely limited environmental harm associated with this application in terms of landscape and biodiversity impacts. In applying the planning balance I find this to be outweighed by the social and economic benefits of the scheme attributed to its modest contribution to the countywide housing supply, the probable increased use of local facilities, the sustainability credentials of the build and the employment of local tradesmen during construction. The application is therefore recommended for approval.

#### **RECOMMENDATION**

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

- 1. A01 Time limit for commencement (full permission) (one year)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. C01 Samples of external materials**
- 4. F14 Removal of permitted development rights**
- 5. The measures for species mitigation and habitat enhancement shall be carried out in accordance with the recommendations set out in Section 6.3 of the ecologist's report from Countryside Consultants dated April 2014. An appropriately qualified and experienced ecological clerk of works shall be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

#### **Reasons:**

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

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



- 6. G10 Landscaping scheme
- 7. G11 Landscaping scheme - implementation
- 8. I16 Restriction of hours during construction
- 9. H06 Vehicular access construction
- 10. H11 Parking - estate development (more than one house)

**INFORMATIVES:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2. HN20 Common land

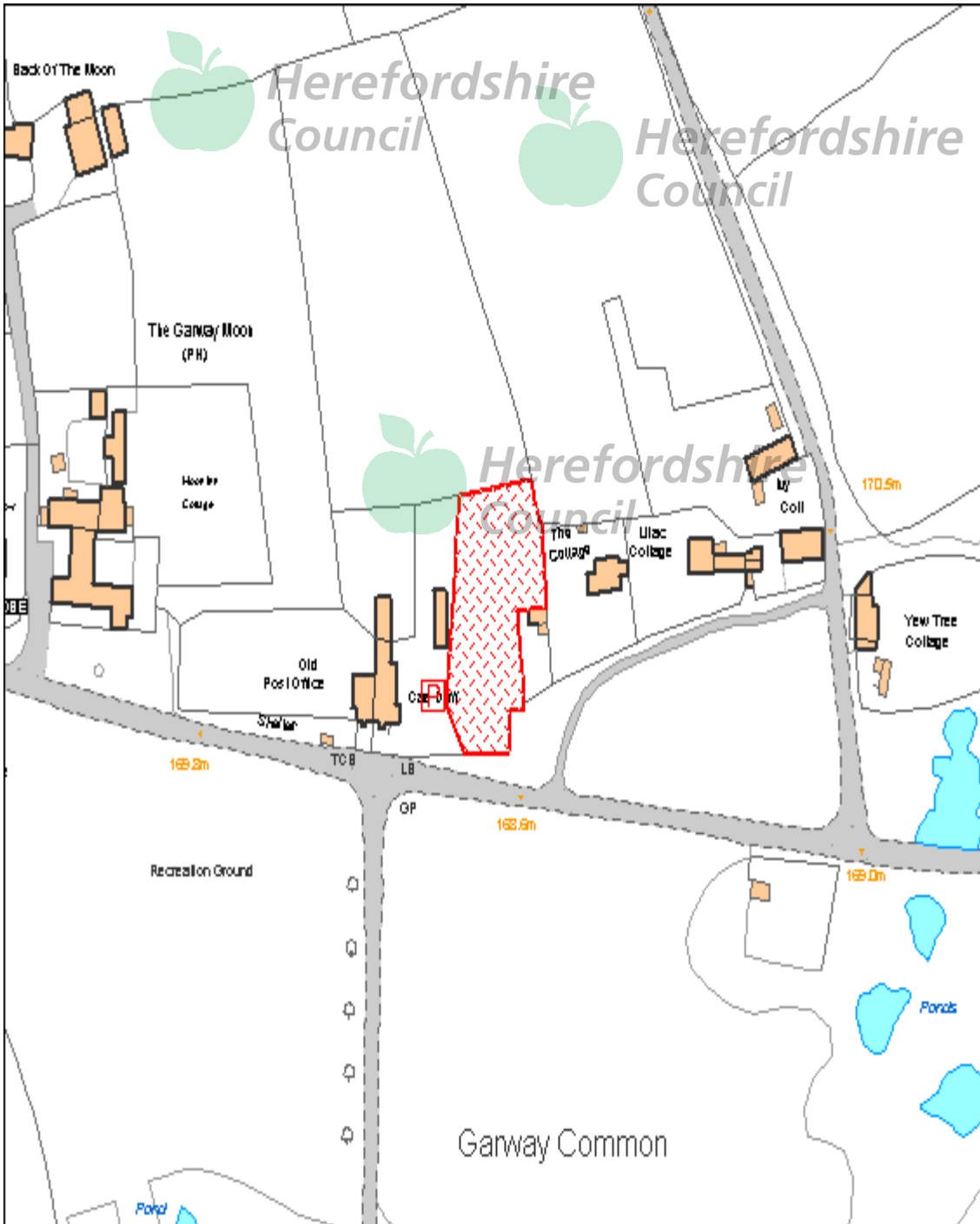
Decision: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 141489/F

**SITE ADDRESS :** LAND ADJACENT TO CAE DUFF, GARWAY COMMON, HEREFORD, HR2 8RF

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