

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>29 OCTOBER 2014</b>
<b>TITLE OF REPORT:</b>	<p><b>P140757/O - RESIDENTIAL DEVELOPMENT OF UP TO 51 NEW DWELLINGS OF WHICH UP TO 18 WILL BE AFFORDABLE ON LAND EAST OF CHURCH HOUSE AND WEST OF A438, BARTESTREE, HEREFORDSHIRE.</b></p> <p><b>For: Braemar Property Developments Ltd per RCA Regeneration Ltd., Unit 6 De Salis Court, Hampton Lovett, Droitwich Spa, Worcestershire WR9 0QE.</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140757&amp;search=140757">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140757&amp;search=140757</a>

**Date Received: 14 March 2014**

**Ward: Hagley**

**Grid Ref: 356749,241006**

**Expiry Date: 17 June 2014**

Local Members: Councillor DW Greenow

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

- 1.1 Outline planning permission with all matters bar access reserved is sought for the erection of up to 51 dwellings on a 2.07ha site to the east of Church House and west of the A438 Bartestree.
- 1.2 The site is in open countryside situated between the two elements of the settlement as defined by the Unitary Development Plan. It is on the west side of the A438 at the eastern approach to the main village. Much of this part of Bartestree is a recently developed community south of the site, centred around the convent which has been converted to residential apartments together with additional adjacent housing delivered in two distinct phases. The Bartestree settlements are separated by approximately 0.5km, this being land with a predominantly rural character comprising agricultural fields, pasture and traditional orchards. The main part of the village begins west of the junction of the A438 and Longworth Lane to the north-west of the site.
- 1.3 The southern part of the site slopes quite steeply to the south east. Its eastern boundary is a tall, mature hedgerow along the A438. Its current use is for horse-keeping: there is a recently-built stable block in the middle of the site. The southern and south-western boundaries follow the hedgerows along an old, narrow lane which joins Longworth Lane to the west.
- 1.4 The site is in 'open countryside' outside the Bartestree settlement boundaries, the northern boundary of the easternmost one lying along the lane at the southern end of the site. The site's landscape character type is Principal Settled Farmlands; these are settled agricultural landscapes of dispersed scattered farms, relic commons, and small villages and hamlets. The key primary characteristic of this type is 'hedgerows used for field boundaries'. In terms of settlement pattern, 'low densities of individual dwellings would be acceptable as long as they are not sited close enough to coalesce into a prominent wayside settlement pattern. Additional housing in hamlets and villages should be modest in size in order to preserve the character of the original

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479

settlement'. The overall strategy for Principal Settled Farmlands is to 'conserve and enhance the unity of small to medium scale hedged fields'.

- 1.5 The proposed vehicular access to the site is via a junction onto the A438 main road. A ghost right turn lane is proposed for vehicles approaching the Hereford direction. A pedestrian route to the village is provided by a new footway from the north-east corner of the site running parallel with the main road up to the bus stop at the cross-roads. Existing access points are located on the western and south-eastern boundaries, with a Public Right of Way cutting across the middle of the site on an east-west alignment. There are hedgerows and trees along the boundary edges - some of which are mature.
- 1.6 Within the site levels descend from the north-west corner to a low-point in the south-eastern corner. The effect is that there are far reaching views from within the site over open countryside to the south. The low-lying land is shown as the location for a surface water attenuation basin. Compensation for the historic removal of the honey-fungus infected orchard trees that used to occupy the southern half of the site is provided on land to the north-west of the site, on land owned by the applicants.
- 1.7 The scheme would provide 35% affordable housing (18 units in total) with 33 open market dwellings. The precise mix has not been defined. The scheme is accompanied by an illustrative master-plan which shows 50, not 51 units, with a central spine road and several private drives and longer cul-de-sacs spurring off from this.
- 1.8 The Design and Access Statement (DAS) confirms the intention that the proposed dwellings would be predominantly two-storey, although reference is made to the inclusion of 3 no. bungalows in the north-western corner.
- 1.9 As well as the DAS, the application is accompanied by the following supporting documents:-
  - Planning Statement;
  - Landscape and Visual Impact Assessment
  - Transport Statement
  - Stage 1 Road Safety Audit
  - Phase 1 Ecology Survey
  - Archaeological Desk-Based Assessment
- 1.10 The Local Planning Authority has adopted a Screening Opinion that confirms the proposal is not development requiring the submission of an Environmental Statement.
- 1.11 Draft Heads of Terms have been agreed and are appended to the report.

## **2. Policies**

- 2.1 National Planning Policy Framework 2012. In particular chapters:

Introduction	-	Achieving sustainable development
Chapter 4	-	Promoting sustainable communities
Chapter 6	-	Delivering a wide choice of high quality homes
Chapter 7	-	Requiring good design
Chapter 8	-	Promoting healthy communities
Chapter 11	-	Conserving and enhancing the natural environment
Chapter 12	-	Conserving and enhancing the historic environment

## 2.2 National Planning Practice Guidance 2014

## 2.3 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable development
S2	-	Development requirements
S3	-	Housing
S7	-	Natural and historic heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning obligations
DR7	-	Flood risk
H1	-	Hereford and the market towns: Settlement boundaries and established residential areas
H7	-	Housing in the open countryside outside settlements
H9	-	Affordable housing
H10	-	Rural exception housing
H13	-	Sustainable residential design
H15	-	Density
H19	-	Open space requirements
HBA4	-	Setting of listed buildings
HBA9	-	Protection of open areas and green spaces
T8	-	Road hierarchy
LA2	-	Landscape character and areas least resilient to change
LA3	-	Setting of settlements
LA4	-	Protection of historic parks and gardens
LA5	-	Protection of trees, woodlands and hedgerow
NC1	-	Biodiversity and development
NC6	-	biodiversity action plan priority habitats and species
NC7	-	Compensation for loss of biodiversity
ARCH3	-	Scheduled ancient monuments
ARCH6	-	Recording of archaeological remains
CF2	-	Foul drainage

## 2.4 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
OS1	–	Requirement for open space, sports and recreation facilities
OS2	–	Meeting open space, sports and recreation needs
MT1	–	Traffic management, highway safety and promoting active travel
LD1	–	Local distinctiveness
LD2	–	Landscape and townscape
LD3	–	Biodiversity and geodiversity
SD1	–	Sustainable design and energy efficiency

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- SD3 – Sustainable water management and water resources
- ID1 – Infrastructure delivery

## 2.5 Neighbourhood Planning

Bartestree and Lugwardine Parish Council have designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council will prepare a Neighbourhood Development Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy. The work undertaken to date has no weight for the purposes of decision taking.

## 2.6 Other Relevant National Guidance:

- Planning for Growth - 2011
- Laying the Foundations - 2011
- Housing and Growth - 2012

## 2.7 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>

## 3. Planning History

On site

### 3.1 DCCE2007/2992/F – Proposed stables and re-siting of existing access: Approved 15<sup>th</sup> November 2007

Relevant Planning History in Bartestree and Lugwardine

### 3.2 140531/O – Erection of 30 dwellings, including 10 affordable on land at Quarry Field, Lugwardine. Refused 23<sup>rd</sup> April 2014. Appeal via written representation received, decision pending.

### 3.3 132536/F – Erection of 50 dwellings on land adjoining Williams Mead, Bartestree: Refused 12<sup>th</sup> March 2014. Appeal via written representation received, decision pending.

### 3.4 140926/O – Outline proposal for the erection of 60 dwellings (including 21 affordable houses) and a change of use of land to form community open space on land to the south of A438, Bartestree. Refused 27<sup>th</sup> August 2014.

## 4. Consultation Summary

Statutory Consultations

### 4.1 Welsh Water: No objection subject to conditions, including the submission of a fully integrated and comprehensive drainage scheme to cover foul, surface water and land drainage.

Internal Consultees

### 4.2 Transportation Manager:

An access of the format shown is likely to be achievable to current standards at the location shown, with 3.5mx118m visibility splays, within land that is in the applicants control and without third party land. The visibility Y distance is based upon 85<sup>th</sup>ile measured vehicle speeds using

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Manual for Streets methodology for calculation of Stopping Sight Distances. Our Design Guide requires a minimum setback of 2.4m for junction visibility and this reflects guidance of Manual for Streets 2 which in Paragraph 10.5.6 indicates that "An X distance of 2.4m should be used in most built up situations, as this represents a reasonable distance between the front of a car and the drivers eye". However this access is not in a built up situation. I consider that the 3.5m visibility setback is considered necessary in view of the proposed hedge immediately to the rear, which, in our experience, will most likely be placed into private ownerships and therefore be likely to be the subject to sporadic if any maintenance. Therefore the greater setback stated is necessary to ensure that vehicles will not need to project into A438 for drivers to gain visibility. The increased visibility only involves an additional 5-8m of hedge translocation/replacement in either direction, and that additional length to the south is already in part required to accommodate the proposed pedestrian path. Furthermore benefits to the visibility to the left from the unclassified road junction by hedgerow removal have been mentioned and would be beneficial as possible incorporation of the unclassified road with the site access has not been taken forward and it is intended to remain.

As previously noted, the full junction design approval can be resolved at Section 278/38 technical approval stage, which will occur at the time reserved matters/full application, but at this time I am unable to approve such layout. I trust that this can be covered by a suitably worded condition.

I would comment that there still appears to be anomalies between the documents and drawings. On the JMP junction drawing, the translocated/replacement hedge is not shown, a pedestrian crossing refuge in the junction is introduced, which does not show on the indicative masterplan, layouts differ in respect of the position of plot 1 and turning head and their proximity to the visibility splay. Also it needs to be ascertained that the translocated hedge can be accommodated within that proposed layout or that the layout will need to be changed accordingly.

The Landscape Visual Impact Assessment in Paragraphs 7.9 and 11.1G refers to minimal visual impact from A438 and the translocation of the hedge to the rear of the visibility splay to minimise impact, this does not appear to be the case on the layout drawings, with a gap introduced to accommodate the turning head of the private drive by plot 11. In my view the hedge should be continuous for the full frontage less that necessary for the junction to avoid confusion from car lights within the estate and on the nearside for drivers on A438 where they would not expect to see them.

Whilst I am aware that the development layout plan is indicative, and can be changed at the time of Reserved Matters/Full Application, such concerns need recording at this stage to make the agent aware and to give precedence to the junction visibility and boundary treatment with A438.

Secure covered cycle parking will need to be provided for each dwelling, and where this is in garages they should be appropriately sized.

Considering Paragraph 32 of the NPPF and on the basis that the above points can be satisfactorily overcome, and with conditioning of the greater (3.5m) visibility setback and with flexibility for any necessary changes to the junction layout to achieve Technical Approval, including assessment of street lighting provision, I would not consider there to be grounds for refusal and I would therefore recommend approval subject to conditions and informatives.

#### 4.3 Conservation Manager (Landscape): Objection

## **PROPOSED DEVELOPMENT AND LIKELY LANDSCAPE EFFECTS**

a. This new, large area of residential development would be inappropriate in this sensitive location in open countryside and would not be in keeping with the landscape character type, especially as it would result in coalescence.

b. In terms of local landscape character, residential development on the site would be in conflict with the rural and historic landscape setting and the traditional dwellings along the lane to the south of the site. Lighting would also adversely affect local landscape character.

c. The site lies outside the settlement boundary on land which functions as a locally important green gap separating the Bartestree settlements.

d. It is not clear how safe access could be achieved without the removal of a significant part of the roadside hedge for sightlines, although the DAS states that it will remain. It is not clear how the levels between the site and the road would work either. Both are likely to have a detrimental effect on local landscape character.

e. The removal of the roadside hedge would also have an adverse effect on views from the A438. Development on the higher part of the site is likely to be visible from the road even if the majority of the hedge was retained.

f. The northern half of the site is in an elevated location and is also potentially visible from Shucknall Hill and longer-distance viewpoints from hills and ridges which are visible from the site, including from the Wye Valley AONB: development could give rise to adverse visual effects from these places.

g. The site will be visible from several public and private viewpoints along the site boundaries as well as from the footpath crossing the site. This is likely to give rise to locally significant adverse visual effects.

h. Whilst the southern half of the site is designated as traditional orchard UK BAP Priority habitat almost all the orchard trees have, probably recently, been removed (see photos used to illustrate DAS with trees still in situ) and the grass sward poached by horses. The site itself is now of relatively low landscape quality and condition. The orchard could, however, be restored.

i. The line of the public right of way is shown to be retained on the indicative plan but public amenity would be adversely affected by the change in character from field to housing estate.

j. The historic character of the local landscape is complex and its quality and interest is reflected in the high number of Unregistered Historic Parks and Gardens in the area including three within close proximity to the site. This indicates the sensitivity of the site and surrounding area to new development, which may give rise to adverse effects on the setting of these parks / gardens as well as historic landscape character generally, and the landscape setting and context of heritage assets.

k. There is also the possibility of adverse cumulative effects with new residential development proposed in Bartestree and Lugwardine.

l. As well as the roadside hedge, the important boundary hedges and vegetation could well be eroded or lost altogether as a result of the development, through pressure from domestic activities etc.

m. As I do not accept the principle of development, I have few comments on the scheme itself, although the layout does not respect the local landscape / villagescape / historic landscape character of the area. Also, the proposed POS is in the same location as the balancing pond,

which could give rise to conflicts of interest, safety concerns, maintenance problems etc. The landscaping shown on the illustrative masterplan is inappropriate and inadequate.

n. A tree survey was requested but this has not been submitted.

o. Hard and soft landscape details, full planting plans, schedules and specifications for planting and protection of both existing and proposed vegetation, and a long term landscape management plan were also requested to accompany the application, not follow on as a condition. These have not been submitted either.

## **CONCLUSIONS**

As set out above, the scheme is inappropriate and is likely to give rise to potentially significant adverse effects, although these have not been assessed by the applicant. It is contrary to the Council's Saved UDP policies LA2: Landscape character; LA3: Setting of settlements; LA4: Protection of historic parks and gardens; and LA5: Protection of trees, woodland and hedgerows.

### **Further comments were received subsequent to the receipt of a Landscape and Visual Impact Appraisal. These are set out below:-**

An LVIA has now been carried out and these comments are an update to my previous ones, based on this new information.

I agree with the use of GLVIA3 as the methodology for the LVIA; however, as no tables setting out the definitions of the criteria employed have been provided, I have used my own professional judgement to interpret what they mean.

In my opinion, the LVIA has not adequately evaluated the effects of development on landscape character and visual amenity. The LVIA concludes, and I agree, that the sensitivity of the wider landscape is Medium to High. It also concludes that the overall sensitivity of the site and local landscape is Medium, although it finds that almost all of the local landscape elements and features are of High value and sensitivity (and does not include the sensitive historic parkland landscapes nearby, which are also High). In my opinion, the sensitivity of the local landscape is therefore Medium to High.

The LVIA goes on to consider the magnitude of effects of the development on specific landscape receptors and concludes that the magnitude will be no more than Low Adverse, apart from on the site itself, which will be Medium Adverse. I strongly disagree with this conclusion and the resultant prediction of the overall significance of effects. For example, the magnitudes of effect of development in relation to the lane, the public right of way crossing the site and the roadside hedgerow are stated to be Insignificant, despite the fact that the character of the first two will be permanently changed from rural to urban and a significant proportion of the third will be removed. I evaluate the magnitude of these effects to be Large, or Very Large Adverse which cannot be effectively mitigated.

Combining a Large Adverse magnitude of impact with a receptor of Medium to High sensitivity gives rise to a Major to Moderate Negative overall significance of effects. Whilst the magnitude of effect will not necessarily be large adverse for all the landscape receptors identified, it still indicates that effects are likely to be far higher than predicted in the LVIA.

In addition, the LVIA does not consider the effects of development in the context of the overall landscape and villagescape character, for example the direct effects of the loss of what was once an old orchard, the change from pastoral land to urban built form, whether it is in keeping with the character type, how it affects the villagescape and its overall context by coalescing and infilling a rural gap (para. 9.1 of the LVIA mentions this in passing, saying: "The proposed

residential development for the site will infill a gap between the two settlement boundaries of Bartestree"), all of which I consider to be locally, significant adverse.

The visual effects assessment has not, in my opinion, followed the correct procedure for evaluating the sensitivity of the receptor. For example it identifies receptors in the AONB as being of Medium sensitivity as a result of their distance from the site; but the sensitivity of the receptor is defined by the nature of the location and status of the viewer and does not change with distance. Distance is factored in to the magnitude of effect. Thus, many receptors in the AONB (tourists, people in residential properties etc.) are in fact High sensitivity receptors. VP2 is on a PRoW; these are Medium or High sensitivity receptors, not Low.

Receptors at VP5 are only considered to be of Medium to Low sensitivity, despite the fact that this is at the point where the PRoW enters the field. Those at VP6 are classified as Low, although users of the lane may be local residents and walkers; these are Medium to High sensitivity receptors.

The magnitude of effect is then given. The same issues as above apply: whilst I agree that the magnitude of effects experienced by visual receptors in the AONB and using the PRoW on Shucknall Hill is unlikely to be significant, I do not agree that it will only be Medium at VP5 and Low at 4 to 6, for the reasons set out above.

The overall significance of visual effects at the viewpoints identified is predicted (in the LVIA) to be Medium Adverse at VP5 and Low at VPs 4, 5 and 6. Instead, I consider it is likely to be Major to Moderate Negative at all these viewpoints.

Effects on views of users of the A438, taking into account the significant amount of hedgerow removal required and the opening up of views into the site through the new access, have not been assessed. Proposed mitigation includes the recommendation that "All existing significant protected trees, native trees and vegetation along the site boundaries should be retained and enhanced", which is not possible at least for the hedge and trees along the A438. In para. 11.1G this is contradicted by the statement that "Some hedgerow removal along the A438 will be necessary to create the new access. The existing hedge should be carefully lifted and replanted along the edge of the new visibility splay to minimise impacts." An arboricultural assessment was requested previously but as far as I am aware, none has been carried out. This would confirm whether such an exercise is feasible and assess its chances of success. Personally, I consider it to be extremely unlikely that this could be achieved. If a new hedge was planted along the boundary to replace the one lost, it may help to reduce the level of effects in the long-term.

Effects on views and landscape character during construction have not been considered. In my opinion, visual effects experienced by many of the receptors identified, in particular local residents and users of the PRoW crossing the site, will be significant adverse, although landscaping could reduce the level of effects, but again, only in the longer term, and, in my view, not enough to reduce the effects to an acceptable level.

The study area for the cumulative assessment appears to have been drawn very close to the site, as it does not identify several large-scale developments proposed in the village and consider the combined effects of these in the overall context of the settlement pattern, villagescape and its associated landscape.

In the light of the above, I fail to see how the conclusion that "A scheme of residential development could offer long term protection and enhancement for the important landscape elements and receptors that currently exist within this village fringe landscape" has been reached.



## Conclusions

I still object to this application for the reasons set out in my original comments, which still apply.

### 4.4 Conservation Manager (Historic Buildings):

The proposal site is located to the eastern end of the village of Bartestree and is currently used for the grazing of horses.

The area is not covered by a conservation area and neither are there any listed buildings or buildings of local interest on the site. However there are three grade II listed buildings within approximately 100m of the site boundary to the west; Bartestree Court, Black and White Cottage and St James' House. To the south of the site lies the grade II Convent of Our Lady Charity with its grade II Presbytery and the grade II\* church. The proposals therefore need to be assessed on the basis of their impact on the setting of the listed buildings, Policy HBA4.

The local topography of the site and its immediate surroundings means that the heritage assets, identified above, would be on the same contours as the upper half of the proposal site and would be approximately 10m above the lowest point of the site.

Clearly the proposed change from open field to housing estate would have an impact on the wider settings of the heritage assets. The distance between the site boundaries and the assets plus the natural landscaping would potentially reduce the impact and may even completely obscure the development from the listed building curtilages.

As this is an Outline Application it is difficult to sensibly assess the impact of the proposal on the surrounding built heritage since the height of buildings is not known nor is their eventual position. However it does appear, from the indicative site layout that the cul-de-sac format prevents the development from fully engaging with the countryside/village into which it is to be placed. The site does not take account of the existing country lane to the west, which forms part of the site boundary, and instead there are shared surface drives that almost collide with the existing hedgerow.

In terms of the built heritage assets in the vicinity it is possible to support the principle of housing on the proposal site on the basis of the current level of intervisibility between them. However it is not possible to reach a conclusion on the significance of that impact on the setting of the listed buildings given the level of information.

### 4.5 Land Drainage Officer: No objection subject to conditions

#### **Overview of the Proposal**

The proposed development comprises approximately 50 residential dwellings and associated highways, landscaping and public open space on a site detailed as being 2.10ha on the application form.

The site lies in Flood Zone 1 and a Flood Risk Assessment (FRA) has been submitted in accordance with National Planning Policy Framework (NPPF). There is deemed to be no significant risk of flooding from fluvial, surface water, groundwater or artificial sources.

Outline details of the proposed surface water management strategy have been provided by the applicant.

#### **Fluvial Flood Risk**

The site lies in the low risk Flood Zone 1 but is greater than 1 ha. Therefore a FRA is required in accordance with the requirements of NPPF. One has been submitted. The applicant's FRA states that the site is located in Flood Zone 1. The River Frome is approximately 1km to the

south east. The 1 in 200 year flood level at that River Frome nearest the site is stated by the applicant to be approximately 70m below the site ground levels.

Fluvial flood risk to the site is deemed to be low.

### **Surface Water Flood Risk**

The applicant states that the EA's surface water flood maps indicate that the site lies in an area of very low risk of flooding from surface water.

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

The applicant states that the site is not believed to lie in an area at risk of flooding from artificial sources. The applicant cites the Strategic Flood Risk Assessment which states that groundwater flooding has not been identified as an issue in the area. The site does not lie in an area designated as a groundwater Source Protection Zone. The land within the site boundary is classified as a minor aquifer overlain by soils with intermediate leaching potential.

### **Surface Water Drainage**

In accordance with the draft National Standards for Sustainable Drainage and Policy DR4 of the Unitary Development Plan, the drainage strategy should incorporate the use of Sustainable Drainage (SUDS) where possible. In line with these requirements, the applicant's outline strategy proposes to include permeable paving and a retention pond for the attenuation and treatment of surface water.

The surface water drainage strategy must be designed to mimic the existing drainage of the site. Infiltration measures are to be used unless it is demonstrated that infiltration is infeasible due to the underlying soil conditions. This should be demonstrated through review of site ground conditions and confirmed by on-site infiltration testing prior to construction. If soakaways are to be used, this should be designed in accordance with BRE Digest 365 and located a minimum of 5m from building foundations. The applicant's FRA states that permeability testing will be undertaken to confirm infiltration rates on site.

The applicant's drainage strategy proposes to attenuate discharge from the site in a retention pond at the QBAR Greenfield rate up to the 1 in 100 year event, including a 30% allowance for climate change. This proposal is deemed acceptable provided infiltration is shown not to be sufficient to discharge surface water into the ground as described above.

The applicant's proposals to attenuate to greenfield rates before discharging to a watercourse are acceptable in accordance with the draft National Standards for SUDS which state that if drainage of the site cannot be achieved solely through infiltration, the preferred options are (in order of preference): (i) a controlled discharge to a local watercourse, or (ii) a controlled discharge into the public sewer network (depending on availability and capacity) where the rate and volume of discharge should be restricted to the pre-development Greenfield values in either case.

The applicant proposes to make a connection to a watercourse 200m away via a piped connection through private land and via a new culvert beneath the A438. The applicant states that rights of crossing and discharge have been agreed with the private land owner but no details have been provided of an agreement with the highways authority that it will be acceptable to make a new culvert beneath the A438.

### **Maintenance and adoption**

The surface water drainage strategy must demonstrate that there is no risk of surface water flooding to the site and no increase to surface water flood risk downstream of the site as a result of development up to and including the 1 in 100 year event and allowing for the potential

effects of climate change. The applicant should submit calculations demonstrating the size of infiltration/attenuation features prior to commencement of construction.

### **Foul drainage**

It is noted that numerous objections to the development have been raised by local residents, partly due to concerns regarding existing wastewater infrastructure. As stated in the FRA, the developer is to fund a detailed study of the existing capacity of the Welsh Water foul drainage infrastructure in the vicinity of the site. The development should not be approved unless it can be demonstrated that adequate provision for the discharge of foul drainage is provided and that the development does not increase the risk of sewer flooding to people and property elsewhere.

### **Overall Comment**

There are no objections in principle on flooding or drainage grounds, subject to the provision of a detailed and robust surface water drainage strategy including the use of SUDS and demonstration that appropriate measures for the disposal of foul drainage are in place.

It is recommended that a pre-commencement planning condition be applied such that a detailed drainage strategy supported by infiltration test results is provided by the applicant, including calculations of infiltration/attenuation storage where necessary, and that these should be approved prior to commencement of construction.

#### 4.6 Conservation Manager (Archaeology): No objection

The applicants have submitted an appropriate geophysical survey of the site. No further information is needed prior to determination. Amongst other things, the geophysical survey indicates comparatively low potential over the majority of the area to be affected. Owing to various practical and operational constraints however, it was not possible for this survey to cover the sensitive central west to east band alluded to below.

Principally for that reason, although I have no objection to what is proposed, the development will still require some archaeological mitigation if permitted. Condition E01 / C47 would be needed under Para 141 of the NPPF.

The appointed consultants are understood to be in active discussions with the developer as regards the possibilities of enhancing the public footpath corridor and accentuating the north south split referred to previously.

#### 4.7 Parks and Countryside Manager: No objection

It is noted that the amended plans make no provision for usable POS or play on site. This is supported as provision on site would be small, offer little in play value and be costly to maintain. We would therefore normally ask for an off-site contribution in lieu of this.

Off-site contribution:

In accordance with the NPPF, provision of what open space, sports and recreational opportunities required in a local area should be based on robust assessments of need. In this instance the requirement should therefore be determined in accordance with the Play Facilities Study (2012).

Although Bartestree is reasonably well provided for a village of its size (1000+), having a medium sized neighbourhood play area and recreation ground at the village hall and a small local play area at Frome Park, in accordance with the Play Facilities Strategy and Investment Plans there is a need to invest in both of them. Both facilities are owned and maintained by the Parish Council:-

- a. Frome Park is a small neighbourhood facility of poor play value for infants and juniors only. It has room to expand and is an elderly facility mostly in need of refurbishment.
- b. Bartestree Village Hall is a medium sized play area within a recreation area of average play value and for infants and juniors only. There is room to expand the area and provide much needed equipment for older children.

Both facilities are within a reasonable distance for older children in accordance with Fields in Trust access standard: The village hall play area can be accessed via the public rights of way network which links to the development and would be suitable for older children. Frome Park which is the nearer of the two could potentially cater for younger children, however it is difficult to see from the amended layout plan whether there is a direct access through the existing residential road which appears to end in a cul-de-sac with a footway leading off it to the lane beyond; if not we would ask that this is considered as part of the application.

The off-site contribution would be used at either or both of these play facilities but on priorities at the time of receiving the contribution and in consultation with the Parish Council. It is calculated in accordance with the SPD on Planning Obligations and from the market housing only as follows:

2 bed: £965                      3 bed: £1,640                      4+ bed: £2,219

Open Space Areas on site: The amended illustrative masterplan shows two small areas of “communal” open space adjacent to housing and car parking. These are only considered to have amenity value with no recreational purpose. The applicant will need to consider future management and maintenance of these areas as they would not be adopted by Herefordshire Council.

SUDS: The on-site SUDs area is shown as mostly a pond area with sloping sides. It is not shown as being suitable as POS and this is supported as it stands. However, the area is not shown to be “fenced off” and with the adjacent property having no boundary between it and the SUDs area, we are concerned that this will be an issue and it should be addressed. The applicant will either need to consider the area as unsuitable for public access or consideration should be given to providing an informal recreation area which would require at a more detailed stage, design that takes account of health and safety and standing water issues. In addition, it will need to be designed in accordance with national SUDs guidance and will require a detailed ecological/site management plan and annual work plan. The Council doesn't as yet have a SuDS strategy and advises developers to use CIRA guidance but with reference to DEFRA's draft of the revised SuDS guidance (currently being finalised) and to reference other useful SUDs and wildlife guidance from the Wildfowl & Wetland/RSPB available from the susdrain website.

Future Adoptions: Suitable management and maintenance arrangements will be required to support any provision of open space. This could be by adoption by Herefordshire Council or a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented.

#### 4.8 Housing Development Officer: No objection

In principle I would be supportive of the site as it meets the 35% affordable housing requirement, subject to detail of exact mix and location of units agreed prior to submission of reserve matters.

The tenure split would be 54% Social rented and 46% intermediate (shared ownership, intermediate rent or low cost market). The units would need to be built to Homes and

Community's Design and Quality Standards, Lifetime Homes and Level 3 of the Code for Sustainable Homes. A local connection, firstly to Bartestree and then to the cascading parishes would be required.

- 4.9 Schools Capital and Investment Officer: A contribution consistent with the Supplementary Planning Document will be required to address capacity issues at Lugwardine Academy and The Bishop of Hereford's Bluecoat School.

## **5. Representations**

### **5.1 Bartestree and Lugwardine Parish Council: Objection**

Prior to the Parish Council considering the planning application, the 33 members of the public in attendance were invited to make constructive comments. Thereafter a detailed discussion took place among the members of the Parish Council.

Resolved: The Parish Council did not support the application with 7 of the 9 Councillors present voting against and 2 abstentions.

They wished to submit the following comments:

A considerable number of the residents of Bartestree and Lugwardine are of the opinion that the villages would lose their current rural feel if further large developments were to take place beyond the considerable number that have taken place in the previous two plan periods. The group parish currently holds the position of third largest village in Herefordshire.

They are also incensed that Herefordshire Council has failed to protect them from the present/imminent development by not being able to demonstrate the five-year housing supply required by the National Planning Policy Framework and thus rendering the saved Unitary Development Plan policies H1 and H4 ineffective.

#### **Location**

The site is not in a sustainable location and is outside the main settlement boundary identified in the UDP. The SHLAA 2009 concluded that the lower part of the site had no potential during the Plan period and was rejected on the basis that it was "Remnant orchard in open countryside, too far removed from the settlement". This part of the site is designated as a 'Traditional Orchard' in spite of the fact that the fruit trees have been removed during the last few years.

#### **Highway Safety/Access**

The proposed site is on a difficult stretch of the A438. There is bend, which restricts visibility and the speed limit of 40 mph is often exceeded. Indeed one parishioner advised that he had lost both his grandfather and grandmother on that road 8 years ago.

It is already acknowledged that residents of Frome Park find it difficult to walk along the A438 towards the village of Bartestree. Should this development go ahead, pedestrian and cyclist access is going to be very poor and very dangerous. There is no footway into the village and the possibility of arranging for one is remote. Therefore, the only safe way into and out of the proposed development would be by car and therefore does not conform to preferred sustainability requirements.

The public right of way (PROW) BJ2 from west to east terminates at the A438 on a grass verge, which is extremely narrow and dangerous should pedestrians try to use it. Despite the application stating the contrary, the line of PROW BJ2 has been diverted to the south by about 20m, which means that it no longer ends opposite the start of PROW BJ3. This means crossing the A438 diagonally or walking along a very narrow grass verge to reach BJ3.

There are also concerns regarding the proposed pedestrian access at the west of the site. This is a long, unclassified narrow road with banks and hedges and no lighting. It is considered by residents that this would be entirely unsuitable for pedestrian access to the site.

#### Traffic

Residents are already concerned about the volume of traffic using the A438 in both directions between 7:30am and 9:30am on weekdays. This varies from 900 to 1200 vehicles daily in that period and any increase in that number as a result of a building development would be of further concern. Residents who live in properties along the A438 already experience delays when attempting to exit their driveways on to the main road. With a potential extra 100 vehicles this would add to the problems.

#### Sewage and Water

There are concerns that the current infrastructure would not support the development in terms of water supply, sewerage and surface water disposal. Correspondence with Welsh Water in relation to other proposed housing developments in the Group Parish indicates that those responsible for giving the go-ahead for these schemes are not fully cognisant of the many difficulties faced by residents in terms of low water pressure, sewage blockages and overflows. Both Lugwardine and Bartestree suffer from raw sewage leakage in bad weather. There are residents in Bartestree who have had to pay to have their drains cleared on a regular basis due to the incapacity of the existing system.

#### Surface Water

The surface water from the proposed development will not be drained by the main sewer. It is proposed that surface water will be taken to a retention pond (SUDS) and then piped under the A438 to a watercourse. Surface water from a modern housing estate of over 50 dwellings is not going to be clean, unpolluted water. Chemicals used for path cleaning, weed killing, car washing etc will be washed down with it, as well as effluent from vehicles and dog soiling and urine. This is bound to have an impact on the environment and will contaminate the Frome Brook into which the surface water will ultimately be directed.

#### Impact on Village

The Group Parish is at risk of becoming one long ribbon development, which is not in keeping and also out of character with the area. This is one of 4 applications for major development in the area.

Bartestree will lose its village character and if the application were granted would open the floodgates for other developments, thereby damaging beyond repair the character of the village setting. There was an ancient orchard on the plot until about 2 years ago. Trees have been taken down and hedges grubbed out – not to assist with farming activities but presumably to make it useless for farming and in readiness for development. The public and the Parish Council feel that the orchard and hedges should be replanted. The Council was aware of the grubbing out activity at the time it took place.

#### Capacity

Given the number of proposed dwellings, there will be a large number of children of varying educational ages who will need to travel to school. There is little or no provision for the range of education that will be required, which will result in there being a greater volume of traffic ferrying them to and from alternative schools. There is no recreation area for children within the site – save a pond, which could be dangerous.

#### Consultation

The developers have given no consideration to the views of the local people. No pre-application consultation was arranged with either the Parish Council or local residents and no information was distributed door-to-door.

### Cumulative Effect

The Parish Council suggests that the cumulative impact of this application should be considered in light of the fact that a refused application for 50 houses is to be taken to appeal, with a likely further appeal relating to 30 houses. There are also 3 live applications and in a very short period of time Bartestree and Lugwardine could face the prospect of a potential increase of 192 dwellings, which would be increasing the number of properties by something approaching 25%. This would effectively destroy the villages of the Group Parish, as we know them.

5.2 73 letters of objection have been received. The content is summarised as follows:-

- The provision of an access would necessitate removal of a significant stretch of hedgerow, a strong feature of the landscape;
- The proposed footway along the A438 is not 2.0m wide for the full length. Manual for Streets guidance suggests that such footways should generally be at least 2.0m wide, with the potential for greater widths adjacent heavily trafficked roads. The A438 is such a road;
- Whilst Welsh Water have not objected, their stance does not tally with the experiences of local residents in Frome Park. Sewerage has emanated from the public sewer in Frome Park and individuals have paid to have the infrastructure pumped;
- The infrastructure in the village simply cannot cope with the additional demand that this and other proposals will bring to bear. The school cannot grow sufficiently, existing pavements are below standard too;
- Respondents to the neighbourhood plan questionnaire have indicated a strong preference for smaller developments as opposed to large estates;
- In combination with other proposals nearly 200 houses have been applied for in Bartestree and Lugwardine. This number is contrary to the proportionate indicative growth targets in the emerging core strategy and prejudicial to the formulation of the Neighbourhood Plan;
- There was no pre-application engagement with the local community. This is contrary to paragraph 188 of the NPPF;
- The bus service locally is not bad, but certainly not good enough to persuade people to use the service instead of the private car. There is no access to local employment. People living on this site would be likely to commute to work and thus increase reliance of the car;
- The buses that exist are over-crowded and don't go anywhere other than Hereford and Ledbury with no co-ordination for onward travel by train;
- The Transport Statement submitted with the application suggests it is safe to cycle to Hereford and also promotes pedestrian use of the unclassified lane as a means of access to the village. Neither option is safe;
- The field is part of a beautiful green area that affords open views both into and out of the site. Development of this site would result in the unwelcome coalescence of the two distinct parts of the Bartestree settlement;
- The development would threaten local water supplies, which already suffer from intermittent issues with pressure;
- The site was an orchard – a Bio-diversity Action Plan priority habitat. Trees were removed several years ago. Compensation for the loss of orchard trees should take place on the site of the original orchard, not where proposed;
- The maintenance of the SUDs system is a cause for concern. Failure to maintain the system could have adverse consequences for water quality in the River Wye/Lugg SAC/SSSI;
- The site is too far removed from the village to be sustainable;
- Common sense should dictate suspension of a decision until the outcome of other applications/appeals is known;
- The 51 dwellings will do nothing to enhance the arrival of visitors to Bartestree from Ledbury. They will replace a traditional orchard with views of a C19th church, farmhouses and other associated buildings;
- The SUDs pond may result in health and safety issues for young children;

- The scheme diverts the PROW so that it no longer exits opposite the PROW on the other side of the A438;
- The proposal would adversely affect the setting of listed buildings;
- Frome Park was only allowed as enabling development for the restoration of the convent. It shouldn't be used to justify further development;
- The scheme will not benefit the local economy;
- The site was designated as a site with significant constraints in the SHLAA;
- The development conflicts with UDP policy S1 as it doesn't respect local distinctiveness or safeguard landscape quality and visual amenity;
- Some years ago there was a fatal road accident locally. This led to the highway improvements that have taken place subsequently. Adding another junction at this point would appear to represent a retrograde step;
- The scheme would result in noise and light pollution and does not reflect the needs or desires of the parish;
- Building such large estates in a rural setting is misguided and underestimates the potential threat to the social stability of the existing community;
- Applications for small-scale housing proposals have been refused recently. Surely this should be equally if not more applicable to large-scale applications?

### 5.3 Herefordshire Ramblers:

It is encouraging to note that footpath Bartestree BJ2 has been identified and to some degree protected, in this proposed residential development. However, I would prefer to see it not routed along estate roads leaving it in a more open countryside environment. 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.

### 5.4 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

### 6.1 S38 (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 Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The plan is time-expired, but relevant policies have been 'saved' pending the adoption of the Herefordshire Local Plan - Core Strategy. UDP policies can only be attributed weight according to their consistency with the NPPF; the greater the degree of consistency, the greater the weight that can be attached. The pre-submission consultation on the Draft Local Plan – Core Strategy closed on 3<sup>rd</sup> July. The Core Strategy Policies, which have not been examined in public, attract only very limited weight for the purposes of decision taking.

### 6.3 The two-stage process set out at S38 (6) requires, for the purpose of any determination, assessment of material considerations. In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration for the purpose of decision-taking. NPPF Paragraph 215 has the effect of superseding UDP policies with the

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479



NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence over the UDP housing supply policies and the presumption in favour of approval as set out at NPPF paragraph 14 is engaged *if* development can be shown to be *sustainable*.

- 6.4 NPPF Paragraph 14 states that for decision making, the presumption in favour of sustainable development means:
- *“Approving development proposals that accord with the development plan without delay; &*
  - *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-*
  - *any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - *specific policies in this Framework indicate development should be restricted.”*
- 6.5 In the context of the UDP and the Council’s acknowledged shortfall of housing land supply it is the second bullet point and the weighing of positive and negative impacts that is relevant in this case. The decision-taker must decide whether the development before them is representative of sustainable development having regard to the NPPF as a whole if the positive presumption is to be engaged.
- 6.6 Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions.
- 6.7 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land, which is further reinforced in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years’ worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10. Paragraph 49 states:
- “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”*
- 6.8 The social dimension *also* refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity.
- 6.9 In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located within one of the largest villages in proximity to the main population centre (Hereford) whereas the delivery of up to 51 dwellings, including 35% affordable, would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development. In this case, it is the assessment of the development’s approach to fulfilment of the environmental role, with specific reference to landscape character and the impact on the setting of listed buildings and unregistered historic parkland that is critical.

### **Impact on landscape character, visual amenity and heritage assets**

- 6.10 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geodiversity sites or landscape areas will

be judged. It goes further, however, and confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with chapters 11 and 12 of the NPPF.

- 6.11 The application site has no formal landscape designation. It lies in open countryside outside the settlement boundary. The boundary of the Wye Valley Area of Outstanding Natural Beauty (AONB) is approximately 2.5km to the south east, where there is a public viewpoint above Prior's Frome, and some 5km to the south at Holme Lacy. It is accepted that the proposed development is not likely to adversely affect the character of the wider Herefordshire landscape or its visual amenity (for example views from the AONB). It is also accepted that the site has a limited visual envelope, being reasonably well screened from most vantage points; the obvious exceptions being close up views from private properties, public rights of way and the main road. The Conservation Manager (Landscape) objects to the proposal.
- 6.12 Although your officers recognise the direct impacts arising from loss of open land and replacement with housing and the direct impact upon the amenity of neighbours, walkers using the public rights of way network locally and those travelling through Bartestree, these must be weighed against the benefits of the scheme, including those relevant to the economic and social roles outlined above. Officers acknowledge that this proposal would irrevocably change the character of the village, diminishing the rural setting and result in coalescence between the two distinct elements of Bartestree. Against this, however, the site is not subject to landscape or nature designation itself and is unconstrained in other respects.
- 6.13 In terms of mitigation the scheme now demonstrates replacement orchard planting, albeit in a location to the north-west of the application site, rather than on the site of the orchard trees that have been removed. The masterplan has also been revised to build in a more significant undeveloped margin to the unclassified lane. Conditions will be imposed requiring the formulation of detailed planting and management proposals to ensure that an appropriate form of development is brought to fruition at the Reserved Matters stage. As discussed below, in the transportation section, it is likely that the masterplan will require quite significant revision if the proposed translocation/replanting of roadside hedge is to be achieved.
- 6.14 In the overall weighing of the adverse impacts and benefits of the development proposed, officers are conscious of the context set by the lack of housing land supply and the fact that although situated in an historic landscape and forming an integral element of the rural setting to the village on approach from Ledbury, the site is not subject to any specific landscape or conservation designation. Although officers concede that retention of the surviving open areas would be desirable, the impact of the development is capable of some mitigation at the Reserved Matters stage. The Conservation Manager (Historic Buildings) also acknowledges that although the site is within reasonable proximity to a number of listed buildings, the principle of development can be supported. Although at the outline stage the extent of harm to the setting of designated heritage assets is difficult to assess to the fullest extent, but with appropriate mitigation at the Reserved Matters stage it is considered likely to be less than substantial. As per paragraph 134 of the NPPF the harm should be weighed against the public benefits of the proposal.
- 6.15 Therefore, whilst acknowledging a degree of conflict with the objectives of 'saved' UDP policies LA2 and LA3 and NPPF paragraphs 109 in exercising the planning balance, officers conclude that the nature of harm identified, would not amount to significant and demonstrable adverse impacts that should lead to refusal. The harm to landscape character is localised harm in an edge of village location that officers do not consider prejudicial to the overarching character of

the Principal Settled Farmlands typology. In this respect although the Conservation Manager (Landscape) considers that the adverse visual and landscape effects associated with the development are likely to be significant, these effects are local in their impact and not prejudicial to regional landscape character, whereas the harm to the setting of the designated heritage assets (listed buildings) is not considered substantial and must be weighed against the public benefits of the scheme.

## **Transport**

- 6.16 The means of access to the site is not a Reserved Matter and is thus for determination at this stage. Negotiations over the course of the application have resulted in revisions to the access design, which now incorporates a ghost right turn lane. Although not a pre-requisite to serve the number of dwellings proposed, officers consider that this facility can be delivered within the confines of the highway extent and is safer than the alternate, whereby vehicles waiting to turn right into the site would have to wait within the carriageway for Hereford bound traffic to pass the site entrance.
- 6.17 The Transportation Manager expresses several areas of concern with the proposals as presently submitted, but is satisfied, ultimately, that an access of the format shown is likely to be achievable to current standards at the location shown, with 3.5mx118m visibility splays, within land that is in the applicants control and without third party land.
- 6.18 The Transportation Manager justifies the request for a larger x-distance than the Highways Design Guide and Manual for Streets 2 suggest on the basis that this access is not in a built up situation and the 3.5m visibility setback is considered necessary in view of the proposed hedge to be planted immediately to the rear of the visibility splay. This greater set back gives some latitude to allow for hedgerow growth without impinging on visibility; the greater setback is necessary to ensure that vehicles will not need to project into the A438 carriageway for drivers to gain visibility. The increased visibility arising from the greater x-distance involves a relatively small additional section of hedge translocation/replacement in either direction by comparison with the 2.4m standard, and that additional length to the south is already in part required to accommodate the proposed pedestrian path. Furthermore benefits to the visibility to the left from the unclassified road junction by hedgerow removal have been mentioned and would be beneficial as possible incorporation of the unclassified road with the site access has not been taken forward and it is intended to remain.
- 6.19 Anomalies still exist between the submitted documents and drawings, although it is recognised that the layout is indicative only and not for determination at this stage. It is clear, however, that the anomalies suggest that the translocation/replacement of the hedgerow in the manner set out in the submitted Landscape and visual Impact Appraisal could not necessarily be achieved in full were the indicative layout taken forward. As per the Transportation Manager's comments, whilst officers are aware that the current layout plan is indicative and can be changed at the time of Reserved Matters/Full Application, such concerns must be recorded at this stage to make the developer aware and to give precedence to the junction visibility and boundary treatment with the A438.
- 6.20 Extensive discussion has also taken place with respect to pedestrian connectivity to the village facilities at Bartestree. The initial proposal to rely on the unclassified lane and then Longworth Lane as a viable route to the village has been revisited on officer advice. This route is narrow, winding, without pavement and unlit. The current proposals are to install a new footway along the A438 carriageway extending from the application site's north-eastern corner linking back to the A438/Longworth Lane cross-roads. At the southern end of the site a footway would be installed linking into the pedestrian access into Frome Park between Nos.21 and 22. The intervening section would be provided via the estate road passing through the development.

- 6.21 Although the footway width adjacent the A438 is not at the desired 2.0m for its entire length, there being a narrowing to 1.5m for a short stretch to the south of the entrance into Lakeside, officers consider that this reduction below standard is not so severe as to prejudice pedestrian safety to the extent that refusal of the application could be sustained.
- 6.22 Moreover, as there are presently no footpaths linking the Frome Park development with Bartestree, this provision is considered to represent a public benefit in that it offers a safer and thus more sustainable option than presently exists.
- 6.23 In conclusion, with reference to Paragraph 32 of the NPPF and on the basis that the above points can be satisfactorily overcome, and with conditioning of the greater (3.5m) visibility setback and with flexibility for any necessary changes to the junction layout to achieve Technical Approval, including assessment of street lighting provision, the Transportation Manager concludes there are insufficient grounds for refusal and has no objection subject to the imposition of conditions and informatives.

### **S106 contributions**

- 6.24 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been negotiated towards education, sustainable transport infrastructure, off-site play, library facilities and waste and recycling. The scale of contribution is not known as the mix of open market housing is not specified.

The S106 will also include provisions to ensure 35% of the development meets the definition of affordable housing, together with requisite standards and eligibility criteria.

#### *Capacity at the local Primary School*

- 6.25 Lugwardine Primary School is found on Barnaby Avenue, Bartestree to the north of the A438. The school is at capacity and without obvious means of expansion. The Schools Capital and Investment Officer has confirmed that admission to non-catchment based pupils is characteristically high and that the Council may have to revert to a policy of giving priority to pupils resident within the catchment area. It is the case that a considerable proportion of pupils presently at Lugwardine Primary live outside catchment.
- 6.26 The NPPF identifies the importance of ensuring a sufficient choice of school places for existing and new communities and recognises that local planning authorities will need to work proactively in order to meet this requirement (paragraph 72). In this context the tension is obvious, but on balance, it is considered that the single issue of school capacity is not sufficient to warrant refusal of the proposal.

#### *Impact on adjoining residential amenity*

- 6.27 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. In this case, officers are satisfied that development of the site is possible without resulting in unacceptable overlooking or overbearing impacts. The illustrative masterplan has incorporated a greater margin to the unclassified lane than was previously suggested, with attendant increase in distances to properties to the south and west. The consequent relationships in terms of window-to-window distance are not considered to warrant refusal based on loss of amenity if respected at the Reserved Matters stage. Clearly this will be contingent on detailed consideration at the Reserved Matters stage. At this stage, however, officers are satisfied that an appropriate layout at the Reserved Matters stage would be capable of according with the requirements of saved UDP policy H13 and NPPF paragraph 12, which demands good standards of amenity.

## *Ecology*

- 6.28 The Conservation Manager (Ecology) has objected to the proposal on the basis that the orchard trees occupying the southern half of the site were removed several years ago, thus degrading a bio-diversity action plan priority habitat. The agent has confirmed, however, that the trees were removed due to infestation with honey fungus. The Royal Horticultural Society advises that the only effective remedy to honey fungus is to excavate and destroy, by burning or landfill, infected trees. As such the applicant rejects the presumption that the removal of the trees from the application site was done as 'preparatory work' in advance of a planning application.
- 6.29 As a form of compensation for this loss the application now proposes an area of orchard planting on land within the applicant's control to the north-west of the application site and negotiations have been commenced with the Bartestree Cider Company, who have expressed an interest in establishing, managing and using the new orchard.
- 6.30 Officers consider the loss of the historic orchard trees to be regrettable, but accept that replanting woody species in an area that has been infected previously is inadvisable. As such, reinstatement of orchard planting in the location of that removed is not viable. Officers consider, however, that the area of orchard planting now proposed is too small and that consideration should be given at the reserved matters stage to increasing this provision.

## *Foul drainage and water supply*

- 6.31 The Water Authority has no objection subject to the imposition of conditions. No problem is anticipated with the supply of potable water.

## *Land drainage*

- 6.32 The Land Drainage Officer is content that a drainage strategy can be delivered that would not result in increased flood risk to adjacent property. It is noted that numerous objections to the development have been raised by local residents, partly due to concerns regarding existing wastewater infrastructure. As stated in the FRA, the developer is to fund a detailed study of the existing capacity of the Welsh Water foul drainage infrastructure in the vicinity of the site. The Land Drainage consultation response states that development should not be approved unless it can be demonstrated that adequate provision for the discharge of foul drainage is provided and that the development does not increase the risk of sewer flooding to people and property elsewhere. Officers are content that the conditions imposed address this issue and note that the site itself is situated within Flood Zone 1; land least liable to flooding.

## *The proposal is prejudicial to the development of the Neighbourhood Plan*

- 6.33 Bartestree and Lugwardine Parish Council has designated a neighbourhood plan area. Work has been progressing towards the formulation of the plan and many representations refer to the prejudicial nature of large-scale proposals relative to the localism agenda as enshrined at paragraph 17 of the NPPF, which states that planning should be '*genuinely plan led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of an area*'.
- 6.34 The tension between the NPPF requirement to significantly boost the supply of housing where supply issues persist and the devolution of planning powers to parish councils is obvious and widely felt. As an objective assessment, however, officers conclude that in this instance the Neighbourhood Plan is not presently sufficiently far advanced to be attributed weight for the purposes of decision-taking. Whilst acknowledging that large-scale schemes such as this appear contrary to the intended aims of localism, the Council cannot reject schemes because they are potentially prejudicial to the neighbourhood plan; particularly where the plan is in the early stages of preparation. It is your officers' advice that emerging neighbourhood plans i.e.

those that have not yet reached regulation 14 status cannot be attributed weight for the purposes of decision taking.

## **Summary and Conclusions**

- 6.35 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out of date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development: the economic, social and environmental roles.
- 6.36 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. The site lies outside but directly adjacent the settlement boundary on a SHLAA significant constraints site in what is, having regard to the NPPF, a sustainable location with good access to a wide variety of services, facilities and employment opportunities. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).
- 6.37 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 35% affordable, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development. Beyond this, the application also makes provision for off-site contributions to public open space to enhance the play areas currently owned and maintained by the Parish Council.
- 6.38 The tension, in this case, relates to the environmental role. In ecological terms, officers conclude that despite the historic removal of orchard trees there is no overriding evidence of significant or demonstrable harm to nature conservation interests on what is otherwise regarded as a site of low ecological significance. It is also the case that the examples cited at footnote 9 to paragraph 14 are not applicable to this site i.e. the site itself is not subject to any national or local designations that indicate that development ought to be restricted. As such, although the loss of these open fields of permanent pasture is considered to result in adverse local impacts in relation to landscape impact and visual amenity, the decision taker must weight the significance of this harm against the benefits of the scheme in the context of the housing land supply deficit.
- 6.39 Officers conclude there are no highways, drainage, ecological or archaeological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits. It is therefore recommended that planning permission be granted subject to the completion of a legal undertaking and planning conditions.

## **RECOMMENDATION**

**Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary:**

- 1. A02 Time limit for submission of reserved matters (outline permission)**

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479

2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **C01 Samples of external materials**
5. **The development shall include no more than 51 dwellings and no dwelling shall be more than two and a half storeys high.**

**Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, H13 and the National Planning Policy Framework.**

6. **H03 Visibility splays (3.5mx118m)**
7. **H06 Vehicular access construction**
8. **H11 Parking – estate development (more than one house)**
9. **H17 Off site works (footway provision)**
10. **H18 On site roads (submission of details)**
11. **H19 On site roads (phasing)**
12. **H20 Road completion**
13. **H21 Wheel washing**
14. **H27 Parking for site operatives**
15. **H29 Covered and secure cycle parking provision**
16. **G04 Protection of trees/hedgerows that are to be retained**
17. **G10 Landscaping scheme**
18. **G11 Landscaping scheme - implementation**
19. **L01 Foul/surface water drainage**
20. **L02 No surface water to connect to public system**
21. **L03 No drainage run-off to public system**
22. **L04 Comprehensive and integrated drainage of site**
23. **The recommendations set out in the ecologist's report from HEC Ltd should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of development, a full working method statement with a habitat enhancement plan should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.**

**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.**

- 23. E01 Site investigation - Archaeology**
- 24. I51 Details of slab levels**

**INFORMATIVES:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2. HN08 Section 38 Agreement & Drainage details**
- 3. HN07 Section 278 Agreement**
- 4. HN28 Highways Design Guide & Specification**
- 5. HN13 Protection of Visibility Splays on Private Land**
- 6. HN17 Design of Street Lighting for Section 278**
- 7. N02 Section 106 Obligation**
- 8. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.





# HEADS OF TERMS

## Proposed Planning Obligation Agreement Section 106 Town and Country Planning Act 1990

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008. All contributions in respect of the residential development are assessed against on general market units only.

Application Number: 140757/O

Planning application: Residential development of up to 51 dwellings of which up to 18 will be affordable on land to the east of Church House and West of A438, Bartestree, Herefordshire

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):

<b>£2,845.00</b>	(index linked) for a 2+ bedroom open market unit
<b>£4,900.00</b>	(index linked) for a 2/3 bedroom open market unit
<b>£8,955.00</b>	(index linked) for a 4+ bedroom open market unit

The contribution will provide enhanced educational infrastructure at Hereford City Early Years, Lugwardine Academy Primary School, St Francis RC Primary, The Bishop of Hereford's Bluecoat School, a proportionate contribution towards St. Mary's High School (8%), Post 16 education, Hereford City Youth and 1% allocated for Special Education Needs. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):

<b>£1720.00</b>	(index linked) for a 2 bedroom open market unit
<b>£2580.00</b>	(index linked) for a 3 bedroom open market unit
<b>£3440.00</b>	(index linked) for a 4+ bedroom open market unit

The contribution will provide sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:

- 2.1. The provision of enhanced bus waiting facilities
- 2.2. Pedestrian improvements
- 2.3. Traffic calming and speed management measures

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):

<b>£965.00</b>	(index linked) for a 2 bedroom open market unit
<b>£1,640.00</b>	(index linked) for a 3 bedroom open market unit
<b>£2,219.00</b>	(index linked) for a 4+ bedroom open market unit

The contribution will provide enhanced off-site play infrastructure within the locality of the application site. The contribution would be used in accordance with the Play Facilities Strategy and Investment Plans and in consultation with the local Parish Council and community. There is an existing neighbourhood play area in the village which is in need of extension and refurbishment in places. A village of the size of Bartestree requires a neighbourhood play area therefore investment at the existing facility will help ensure that a quality facility is provided.

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

<b>£120.00</b>	(index linked) for a 1 bedroom open market unit
<b>£146.00</b>	(index linked) for a 2 bedroom open market unit
<b>£198.00</b>	(index linked) for a 3 bedroom open market unit
<b>£241.00</b>	(index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced Library facilities in Hereford. The sum shall be paid on or before the occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£120.00** (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.
6. The maintenance of the on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

*Note: The attenuation basin will be transferred to the Council with a 60 year commuted sum. This will be done as part of the Section 38 process.*

7. The developer covenants with Herefordshire Council that 35% (18 in total based on a scheme of fifty one dwellings) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.

8. Of those 18 Affordable Housing units, at least 10 shall be made available for social rent with the remaining 8 being available for intermediate tenure occupation.
9. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
10. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-:
  - 10.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 10.2. satisfy the requirements of paragraphs 11 & 12 of this schedule
11. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
  - 11.1. a local connection with the parish of Bartestree and Lugwardine;
  - 11.2. in the event there being no person with a local connection to the parish of Bartestree and Lugwardine a local connection to the parishes of Hampton Bishop, Dormington and Mordiford, Weston Beggard, Withington, Hereford;
  - 11.3. in the event of there being no person with a local connection to Bartestree and Lugwardine any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 12.1 above.
12. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 12.1. is or in the past was normally resident there; or
  - 12.2. is employed there; or
  - 12.3. has a family association there; or
  - 12.4. a proven need to give support to or receive support from family members; or
  - 12.5. because of special circumstances;
13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to such subsequent design and

quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.

14. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
15. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4, 5 and 6 above, for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
16. The sums referred to in paragraphs 1, 2, 3, 4, 5 and 6 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
17. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
18. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

**June 2014**