

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>29 OCTOBER 2014</b>
<b>TITLE OF REPORT:</b>	<b>P141134/O - PROPOSED ERECTION OF UP TO 45 DWELLINGS, CONSTRUCTION OF A NEW VEHICULAR ACCESS AND ASSOCIATED WORKS AT LAND ADJACENT TO VINE TREE CLOSE, WITHINGTON, HEREFORDSHIRE,</b>  <b>For: Mr Smith per Mr Paul Smith, 41 Bridge Street, Hereford, Herefordshire, HR4 9DG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141134&amp;search=141134">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141134&amp;search=141134</a>

**Date Received: 15 April 2014**

**Ward: Hagley**

**Grid Ref: 356244,243249**

**Expiry Date: 28 July 2014**

Local Member: 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 45 dwellings on a 2.2 hectare site to the west of the 1970's residential development Vine Tree Close and north of the comparatively recently built Farndon Rise, Withington. The site lies outside but adjacent the Unitary Development Plan (UDP) settlement boundary for Withington, which is a main village within both the UDP and the draft Herefordshire Local Plan – Core Strategy. The application is predicated on the Council's inability to demonstrate the requisite 5-year housing land supply with buffer.
- 1.2 The site is a large, rectangular agricultural field situated on the north-western edge of Withington. The landscape character type is Principal Settled Farmlands. The site itself is typical of this, being in arable use with hedgerows to field boundaries. The site has good amenity value, with several public rights of way in close proximity, including the Three Choirs Way long distance trail and what appears to be a well-used public right of way which runs along an old track-way, Veldo Lane, on the site's northern boundary. Withington Conservation Area stands off to the east at approximately 120m at its nearest point. Inter-visibility with the Conservation Area is limited by Vine Tree Close, which sits in between.
- 1.3 The site contributes to the rural character of the setting of the village. Topography is also a key feature of the site, as it is a relative high point in the immediate surroundings and it slopes down from a high point in the middle of the site to both the north and south. It is visible from several viewpoints to the north and from nearby residential properties. To the west is a copse, through which run two permissive routes linking Veldo Lane to the village.
- 1.4 The site was identified as land with significant constraints by the Strategic Housing Land Availability Assessment. This was due to the absence of a means of access. The application addresses this by taking access through the site of No.5 Vine Tree Close, which would be

demolished. Vehicular access to the site is thus contingent on a route that enters Vine Tree Close and passes between Nos.4 and 6.

- 1.5 The scheme has been amended following submission such that layout is now a reserved matter. The indicative maximum number of dwellings proposed has been reduced from 50 to 45, and additional green infrastructure has been included. This takes the form of a buffer zone against the copse, orchard planting where the site adjoins Veldo Lane and a further buffer/footway along the northern part of the site's eastern boundary. To the immediate south of the proposed orchard an area is demarked within which dwellings will be single-storey, reflecting the presence of bungalows in the part of Vine Tree Close to the immediate east. The Framework Plan also identifies the opportunities for footpath links to surrounding rights of way and permissive routes.
- 1.6 The application is made in outline with all matters bar access reserved, but is accompanied by the following supporting documents:
- Flood Risk Assessment and Drainage Feasibility Study;
  - Planning, Design and Access Statement;
  - Ecological Assessment and addendum to address bats, birds and nesting birds;
  - Development Framework Plan;
  - Topographic Survey &
  - Cross-sections
- 1.7 The application is also accompanied by a draft Heads of Terms outlining an agreement in principle to make contributions towards sustainable transport, education and other projects subject to CIL compliance. The agreed Heads of Terms is appended to the report.
- 1.8 The Council has adopted a Screening Opinion in relation to the development proposal which concludes that it is not development requiring the submission of an Environmental Statement.

## **2. Policies**

- 2.1 National Planning Policy Framework. The following sections are of particular relevance:

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
Section 12	-	Conserving and Enhancing the Historic Environment

- 2.2 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
E15	-	Protection of Greenfield Land
H4	-	Main Villages: Settlement Boundaries
H7	-	Housing in the Countryside Outside Settlements
H10	-	Rural Exception Housing

H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
T6	-	Walking
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
CF2	-	Foul Drainage

### 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
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
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.4 Withington Group Parish Council has designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council will prepare a Neighbourhood Development Plan for that area. The plan must be in general conformity with the strategic content of the emerging Core Strategy, but is not sufficiently advanced to attract weight for the purpose of decision-taking.

### 2.5 Other Relevant National Guidance:

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

2.6 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

3.1 None

### 4. Consultation Summary

#### Statutory Consultees

4.1 Welsh Water: No objection subject to conditions

#### Internal Council Advice

4.2 Transportation Manager: No objection subject to conditions

It is noted that layout is no longer for consideration and now forms a Reserved Matter. Therefore some of my original comments regarding internal layout are now for information of the developer should he wish to take the original master-plan forward and do not require resolution at this stage.

The submitted drawing 763-03 titled 'Entrance existing and proposed' indicates 4.8m wide access road with 2.0m footways and 6m junction radii, which accords with our Highways Design Guide for New Developments for a minor access road serving up to 50 dwellings, and the survey drawing indicates that this is achievable within the ownership of No 5.

Vine Tree Close itself from Withies Road to the point of access is 5.5m in width with 10m radii to Withies Road and therefore is of an adequate standard for a minor access road to serve up to 100 dwellings, and this figure is not exceeded by the existing and proposed development. Therefore the proposed access arrangement is considered acceptable.

Pedestrian drop crossings will be required within the access road radii for the well used pedestrian route to the school.

My previous comments (3<sup>rd</sup> June 2014 response) continue to apply for the desirability of provision of a route from the site to the village hall and to Veldo Lane. On that basis, I am satisfied that satisfactory access and connectivity can be achieved and would recommend approval subject to conditions and informatives.

4.3 Conservation Manager (Landscape): No objection subject to conditions

The site is a rectangular agricultural field situated on the north western edge of Withington. It lies outside the settlement boundary, although the eastern and south eastern site boundaries are adjacent to it. The field boundaries on the north are mature native hedgerow and the western boundary is a native mature woodland block.

The site lies outside the settlement boundary of Withington, but does not lie within any landscape designated area. Withington Conservation Area lies 120m east of the site.

### **Landscape Constraints to the Site and its Surroundings**

#### **(a) Landscape Character**

The Principal Settled Farmlands landscape character for this area is that of rolling lowland. These are settled agricultural landscapes of dispersed, scattered farms, relic commons and small villages and hamlets. The mixed farming land use reflects the good soils on which they are typically found. Networks of small winding lanes nestling within a matrix of hedged fields are characteristic. Tree cover is largely restricted to thinly scattered hedgerow trees, groups of trees around dwellings and trees along stream sides and other watercourses. The composition

of the hedgerow tree covers differs from that of Timbered Farmlands in its lower density and lack of oak dominance. This is a landscape with a notably domestic character, defined chiefly by the scale of its field pattern and nature and density of its settlement and its traditional land uses. Hop fields, orchards, grazed pastures and arable fields, together make up the rich patchwork which is typical of Principal Settled Farmlands.

**(b) Landscape Function and Value**

The land represents the Principal Settled Farmlands landscape character of this area. This is for both public visual amenity, recreation, agriculture and biodiversity value.

**(c) Landscape Sensitivity and Capacity to Absorb Development**

The village conservation area lies 120m to the east of the proposal site. This conservation area with its church and small scale historical character is sensitive to modern development. New development may also produce more rain water run off into the surrounding water courses.

**(d) Natural Landscape and Biodiversity**

The northern hedgerow boundary and woodland block on the western boundary of the site are likely to provide good habitat for flora and fauna, although the ecological interest of the agricultural field is limited.

**(e) Visual and Public Amenity**

The site has good amenity value with public rights of way in close proximity. These include the Three Choirs Way long distance footpath. The Three Choirs Way footpath is over 100m to the north of the proposed site and is a well used footpath.

**Potential Effects on Landscape Designations and Landscape Constraints**

**The Landscape Designations**

The site has no landscape designations, however Withington Conservation Area with its church as its central feature lies 120m east of the proposed site. This view of the church when seen from northern view points represents the cultural historical identity of the village. New housing to the south of the village is not seen, due to the topography of the land.

**The Landscape Constraints**

**(a) Landscape Character**

The landscape character of this area is that of rolling hills, grazed pastures and arable fields, surrounded by hedgerows. This proposed development will reduce these traditional landscape characteristics of this area.

**(b) Landscape Function and Value**

The landscape function and value of this area which is outside the village settlement area, is that of public visual amenity, recreation, agricultural and biodiversity value. This proposal will deplete the visual amenity and recreational public value and the potential biodiversity value of this site.

**(c) Natural Landscape and Biodiversity**

The hedgerow boundaries and associated woodland block are likely to provide good habitat for flora and fauna. These will have potentially more environmental stress, due to pests such as cats associated with the new homes.

**(d) Visual and Public Amenity**

The site proposal plan Job N 22832, Page SK003, Rev P1, dated 15/4/14 shows development proposals for housing on the north eastern section of the site. This is the nearest section of the site to the village Conservation Area. The existing native hedgerow on this northern boundary of the site, will not dilute views of the proposed top floors of the properties and their roof profile when seen from public rights of way to the north of the site.

The proposed western boundary of the site adjoins a native woodland block. This provides public amenity and biodiversity value. The new housing proposal will be seen from the existing woodland path.

### **Conclusion**

From a landscape related perspective the site has the potential to accommodate this proposed development. The submitted layout plan should however be reviewed to incorporate the following recommendations:

1. Drainage to ground water via infiltration systems and attenuation systems for excess surface water are to be provided on site.
2. There should be a 15m biodiversity habitat buffer zone running parallel to the adjacent northern existing hedgerow. This biodiversity habitat zone should also include orchard trees, such as apple, pear and cherry. These orchard trees will provide rural character, public amenity and further screening for the proposed housing development. Proposed housing immediately to the south of this buffer zone should be single storey.
3. The existing western woodland should have a 5m native hedgerow buffer zone between the existing trees and the new proposed gardens and housing.
4. Hard and soft landscape details should include full planting plans, schedules and specifications for planting and protection of existing and proposed vegetation. Habitat enhancement proposals and vegetation to be removed should clearly be shown on planting plans.
5. A landscape and ecological management plan should be provided to show how landscape and ecological maintenance is to be monitored and maintained.

#### 4.4 Conservation Manager (Conservation) comments in response to amended plans:-

Subsequent to these original comments (above at 4.3), further advice was received in relation to the amended Development Framework Plan, which sought to address the points set out in the conclusion above.

Reference the Development Framework Plan, Drg No 763-04, Dated July 2014 these are my landscape comments:

1. The public open space and proposed footpath on the eastern boundary will provide a green buffer corridor between the existing and proposed housing. Proposed planting in this western boundary of the POS should include native hedgerow planting.
2. Proposed footpaths should be permeable.
3. The proposed orchard planting on the northern boundary with Veldo Lane will reduce the visual impact when seen from nearby footpaths and also provide rural character and public amenity for this proposed housing.
4. The proposed public open space on the western boundary will require native shrub planting along with native ground cover, to buffer the existing woodland from the proposed housing.
5. The building exclusion zone on the southern boundary should identify sustainable urban drainage proposals.

The conclusion is one of no objection subject to satisfaction of detailed points at the Reserved Matters stage.

#### 4.5 Conservation Manager (Ecology): No objection subject to conditions

I have received and read the updated survey information with regard to the bat, badger and bird survey information. As mentioned before I am happy to accept the great crested newt assessment and I am also content to accede to the mitigation proposals for badgers and bats with accommodation of a 10 metre buffer alongside The Coppice woodland area. If approval is given, the mitigation contained in the original and supplementary reports from Wilder Ecology with regard to badgers and bats should now be adhered to in a production of a method statement secured by condition.

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

##### *Overview of the Proposal*

The Applicant proposes the construction of 45 new dwellings (with associated access and car parking) on greenfield land. The total development area is given by the Applicant as being approximately 2.2 hectares (ha) of which 1.0ha is proposed to be impermeable surfacing.

##### *Fluvial Flood Risk*

Figure 1 indicates that the site is located in the low risk Flood Zone 1, where the annual probability of flooding from fluvial sources is less than 0.1% (1 in 1000). As the site is greater than 1 ha, a Flood Risk Assessment (FRA) is required in accordance with National Planning Policy Framework (NPPF) as part of the planning application. The Applicant has provided a FRA. The Applicant's FRA also considers the EA's online fluvial flood map that illustrates the area to be In Flood Zone 1 and concludes that the site is at low risk of fluvial flooding.

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

The Applicant's FRA considers the risk of flooding from groundwater. The British Geological Survey online mapping has been reviewed for local permeability and the Applicant states that "the risk of groundwater flooding is likely to be very low due to the impermeability of this soil." The Applicant also references the Strategic Flood Risk Assessment for Herefordshire which suggests that groundwater flooding is a low risk across the county. The Applicant states that the proposed development does not include any basements or lower ground floors and so the risk of flooding from groundwater is considered to be low. In addition to this information submitted, we have reviewed Cranfield University's online Soilscape viewer which suggests that soils in the area are loamy and clayey with impeded drainage. This supports the Applicant's conclusion that the risk of groundwater flooding in the area is low. The Applicant has considered the risk of flooding from overland flows and sewers using the EA's online surface water flood risk mapping. The Applicant concludes that the risk of flooding from overland flow is very low and topography indicates that no significant pooling of surface water will occur on site.

##### *Surface Water Drainage*

The Applicant has submitted a Drainage Feasibility Study which assesses the various options for surface water drainage for the site and proposes solutions in order of priority. The Applicant proposes to apply the principles of the draft National Standards for Sustainable Drainage and Policy DR4 of the Unitary Development Plan by incorporating the use of Sustainable Drainage (SUDS) where possible. The Applicant states that the preferred method is the use of ponds. We encourage this approach, prior to the discharge of water into the ground or to a watercourse.

The Applicant intends to use infiltration features in the first instance to discharge surface water to ground. However, the Applicant's drainage report concludes that infiltration may not be feasible at the site due to the local geology. The management of surface water via infiltration is our preferred approach and we would require infiltration test results undertaken to BRE 365 methodology to be submitted for review prior to construction to demonstrate the feasibility of this approach.

If drainage cannot be achieved solely through infiltration due to site conditions or contamination risks, the Applicant intends to provide a controlled discharge to a local watercourse with flow limited to greenfield runoff rates. This would be acceptable if infiltration is not proved to be a feasible approach and we would also encourage the use of combined infiltration and attenuation features.

It should be noted that local residents have objected to the proposals citing existing surface water runoff posing a risk to surrounding people and property. Local residents are concerned that the development will increase flood risk to adjacent properties by increasing the rate of surface water runoff from the site.

The Applicant's report calculates the greenfield runoff rate to be 5l/s and states that discharge from the site will be limited to this rate. Whilst the calculation method used is not accurate, the proposed discharge rate is considered acceptable assuming that this is the maximum discharge from the site and that discharge will be less during smaller rainfall events to mimic natural conditions. Using this greenfield rate, the Applicant has calculated the maximum required storage volume to attenuate flows on site in the event that infiltration is not feasible. These calculations have been reviewed and are acceptable, demonstrating that the site will not be at risk of flooding from surface water flooding and that the development will not increase the rate of surface water runoff from the development and therefore increase flood risk elsewhere in all events up to the 1 in 100 year rainfall event, including an allowance for climate change.

Under Schedule 3 of the Flood Water Management Act 2010 (due to be enacted in 2015) all new drainage systems for new and redeveloped sites must meet the new National Standards for Sustainable Drainage (currently in draft) and will require approval from the Lead Local Flood Authority (Herefordshire Council).

The Applicant must consider the management of surface water during extreme events that overwhelm the surface water drainage system and/or occur as a result of blockage. Surface water should either be managed within the site boundary or directed to an area of low vulnerability. Guidance for managing extreme events can be found within CIRIA C635: Designing for exceedance in urban drainage: Good practice.

Evidence of adequate separation and/or treatment of polluted water should be provided to ensure no risk of pollution is introduced to groundwater or watercourses, both locally and downstream of the site.

#### *Foul Water Drainage*

The Applicant proposes to make a new connection to the existing public foul sewer or, in the event that this is not feasible, to a local watercourse following appropriate treatment and consent from the EA. We recommend that the Applicant contacts Dwr Cymru Welsh Water in regards to foul water discharge from the site to check whether it is feasible to connect to the public sewers.

#### *Overall Comment*

We hold no objections to the proposed development subject to submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development prior to construction. The detailed drainage proposals should include:



- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- Provision of detailed calculations that demonstrate that the proposed surface water drainage system will not flood during the 1 in 30 year event, that the peak discharge rate from the site will be limited to equivalent greenfield rates up to and including the 1 in 100 year event, that the peak discharge rate will be less for smaller events to mimic natural runoff conditions, and that sufficient attenuation will be provided within the site boundary to prevent increased flood risk up to and including the 1 in 100 year plus climate change event.
- Evidence that the Applicant has sought and agreed permissions and agreed allowable discharge rates to discharge foul water and surface water runoff from the site with the relevant authorities;
- Infiltration test results undertaken to BRE Digest 365 methodology and groundwater depth records where infiltration is proposed.
- Demonstration that appropriate pollution control measures are in place prior to discharge.
- Demonstration that the Applicant has designed for exceedance of surface water systems.

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

The applicant is offering a combination of both on and off site to meet the policy and SPD requirements. This is acceptable. I would suggest the Parish Council is consulted as to their preferred option of either equipping the POS on site as suggested in the Design and Access Statement of using the off site contribution towards developing the existing play areas in the village to ensure a fit locally with any developing Neighbourhood Plans.

Any future provision on site would not be adopted by Herefordshire Council therefore the applicant needs to consider other suitable management and maintenance arrangements in line with the Council's policies. This could include the parish council with a 15 year commuted sum plus appropriate replacement costs; 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 a Trust set up for the new community. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

#### 4.8 Public Rights of Way: No objection, although the vehicular access into the site will cross public footpath WT14 in Vine Tree Close. Care must be taken to protect footpath users at all times.

#### 4.9 Waste & Recycling Manager: Detailed layout plans should ensure that each household places their refuse/recycling in a location which does not exceed 30m from the adoptable highway.

#### 4.10 Housing Development Officer: No objection. The scheme provides for 35% affordable housing. Tenures will need to be finalised and the exact location of the affordable housing units within the scheme should be agreed as a precursor to submission of Reserved Matters.

- 4.11 Schools Capital and Investment Manager: No objection subject to the draft Heads of Terms (attached).

## 5. Representations

- 5.1 Withington Group Parish Council: Objection

### *Principle of Development*

1. The WGPC is undertaking the production of a Neighbourhood Plan and has already held two public sessions where the main focus of attention by the public in Withington was the estimated need for approximately 65 dwellings as proposed in the draft Core Strategy. It was also noted that a significant amount of this requirement had already been met by the construction of 4 dwellings and planning permission for 33 dwellings (adjoining the Baptist Church on the A4103), and a recent permission for a further dwelling.
2. The WGPC believes that, whilst there is not a five year supply of land for housing in Herefordshire, it is unreasonable to expect this shortfall to be met by excessive developments in villages when the demand is primarily for housing in Hereford City and the Market Towns. It should also be noted that the majority of employment opportunities are in Hereford, retail services are in Hereford, all medical services are in Hereford and secondary education is in Hereford. As this shortfall is based on extending the requirement of the UDP and projecting the demand forward into the next plan period, it should be noted that Withington has already experienced significant growth and the development of up to 45 dwellings, in addition to the 35 with planning permission, would be unsustainable.
3. The WGPC is aware that several potential residential development sites have been proposed by land owners and others in the early stages of the Herefordshire Local Plan Core Strategy preparation. All these sites (14 in total) have recently (March 2014) been presented to the public in Withington as part of the Neighbourhood Plan preparation. The sites vary in size from small (4 dwellings) to large (100 plus dwellings). Whilst it is acknowledged that more research is required into each of the sites a clear pattern of support has emerged for a site to the south of the village known as Site 1 (Opposite Orchard House). Over 69 % of those recording a preference at the public presentation supported the development of Site 1. Of the remaining sites none received more than 8% support, (there were 79 respondents in total), with the application site only being preferred by 3%.
4. The WGPC is intending to have the draft of the Neighbourhood Plan ready in September /October 2014 and in the light of the above considers that the application is both premature and not supported by the residents of the village. It should also be noted that following the earlier presentation of the proposals for the site the WGPC received 24 letters of objection, all from immediate neighbours. The Herefordshire web site has a significantly larger number of local objectors.

*Detailed comments - these are presented without prejudice to the overriding view of the WGPC that the application should be refused.*

5. 44 additional dwellings are not required in Withington and it is considered that the infrastructure cannot support this increase. The submitted drainage details give no satisfactory solution to either foul or surface water drainage, simply saying if one solution doesn't work then another will be found, with no analysis of the potential impacts on the village. It is considered that the single access to the site is inadequate and that Vine Tree Close is unsuitable due to its width and alignment. It is also a main pedestrian route to the school and the creation of an additional access will create a further hazard for schoolchildren and parents.

6. The site has a pronounced rise from the rear of Farndon Rise of up to some 22 feet to a point behind No 8 Vine Tree Close, before gently falling a few feet to Veldo Lane. This pronounced rise will have a significant impact in respect of overlooking on the properties at the rear of Farndon Rise. Whilst the supporting documents indicate some bungalows in this location, as it is only outline, there is no guarantee that a subsequent submission could not amend this. It is also noted that the revised illustrative layout now shows terraced bungalows behind the Rise and Farndon Rise giving a solid wall of development at a much higher level. The 'so called' exclusion zone is no different from the original submission unless the applicant is stating that all permitted development rights should be removed.
7. The single access point illustrated as a road and two footpaths will run the full length of the rear gardens of Nos. 4 and 6 Vine Tree Close seriously impinging on the privacy of the occupants, through vehicular and pedestrian movement. A public footpath is also proposed to the rear of no.6, thus having public overlooking of the private amenity space on three sides.
8. Various areas of undeveloped land have been indicated behind Vine Tree Close, adjacent to the western boundary, and to the north of the site, alongside Veldo Lane. There are no proposals as to the management of these areas. To the rear of Vine Tree Close, running north from the access point, a public footpath is indicated. This may reflect the unauthorised accesses to the field from some of the rear gardens, but again there are no proposals in respect of its future ownership or maintenance or whether this is acceptable on grounds of security.
9. The submission also includes reference to access into the adjoining coppice. This is owned by the Parish Council and any future links would have to be agreed, with appropriate design details. It should be noted that there are significant changes in levels between the edge of the coppice and the main footpath through the site. Reference to the 'permissive' footpath should only refer to the northern end where it exits the coppice and runs through to Veldo Lane.
10. In respect of the revised illustrative layout, the WGPC considers that it is totally unacceptable. Properties to the rear of Farndon Rise are too close and too dense, due to the rising land. The submitted cross sections should include additional ones through The Rise and 8 to 14 Farndon Rise as the impact is potentially greater than on No. 17.
11. Plots 18 to 20 and 28 to 32 present their rear gardens to the front of the properties adjacent, namely 11 to 13 and 28 to 32. This indicates that the density is too high and a significant change to the layout would be required which seriously questions as to whether 44 dwellings could be successfully accommodated on the site.
12. The private drives serving plots no. 9 to 13 and 18 to 20, have no turning provision for service and other vehicles.
13. At the highest point the impact of the development on the sky line is a significant intrusion into the landscape compounded by the fact that the largest 4 bedroom dwellings are located here (plots 32 to 42). These will be at the highest point in Withington, which is predominantly on lower lying areas in the overall landscape in this area of Herefordshire
14. The exclusion of the area indicated as 'FIELD' on the Site Plan is not satisfactorily explained but is clearly intended for future development. As this is excluded from the application boundary and is not in the applicants' ownership, a clear indication is required from the applicant and owner as to its suggested future use. It is however noted that on the location plan it is indicated as being in the applicant's ownership/control.

15. The amended submission now includes an exclusion zone along Veldo Lane with no proposals for its use or long term maintenance.
16. It is stressed that the above observations are without prejudice to the overriding objection of the WGPC.

#### *Section 106 Agreement*

17. The WSGPC questions the word 'locality' in Clause 4 of the S106. As locality is not defined it should be changed to 'Withington'.
18. In respect of Clause 15 as there is no specific start date for any development the clause should read '...5 years from the completion of development'.
19. The WGPC has not been given a revised draft heads of term for the Section 106 agreement, but would request that all the affordable housing should be for intermediate rent or sale only.

#### *Other Observations*

20. The WGPC notes that the application is for outline planning permission with access and layout not reserved. The description then reads '...for up to 45 dwellings'. Elsewhere reference is made to 'about 45 dwellings'. This requires clarification. It is noted that the applicant is Paul Smith and not the land owner. However the plans indicated adjoining land in the applicant's ownership outlined in blue. It is unclear how this could affect the imposition of conditions without the separate agreement of the landowner.

#### *Again without prejudice to this overriding objection:-*

21. The WGPC has held discussions with the applicant regarding its potential role in managing the site and in the provision of recreation facilities in Withington. The WGPC has no wish to be involved in the maintenance of the footpath behind Vine Tree Close nor the land adjacent to Veldo Lane. In respect of the increased area adjacent to the coppice the WGPC considers this is too wide for it to manage, but a reduced area based on the spread of the trees would be acceptable. The WGPC would agree to the provision of recreation facilities on the Withington Fields site, but would wish to be consulted on the range of development that could be funded.
22. Finally the WGPC is still of the opinion that the Framework Plan does not provide for the most appropriate development layout, which should reflect several of the previous developments in Withington with a central amenity open space.

#### *Conclusion*

23. In the light of the above, on grounds of principle and detailed layout and design, the WGPC strongly objects to the planning application. It is considered that the unacceptable location of the site, the lack of respect to the physical nature of the site within the village, and the impact on surrounding property, significantly and demonstrably outweigh any perceived benefits in trying to meet any shortfall in the housing provision in the rest of Herefordshire.

5.2 64 letters of objection have been received. The content is summarised as follows:-

- The application site is outside the UDP settlement boundary;
- The site is greenfield land, whereas there should be a presumption in favour of utilising brownfield sites first;
- Development would not be sustainable due to adverse impacts on existing residents, ecological interests and highway safety concerns. The contribution that the development would make in terms of addressing a short-term need for housing does not off-set the significant of these adverse impacts;
- Withington has witnessed large-scale development in the relatively recent past and doesn't need more. The scale of development sought in terms of number will dominate and transform the notion of village life, turning the village into a suburb or small town. Demand for housing would be best met in Hereford and the market towns;
- The pressure brought to bear by the response to the Council's apparent housing land supply issue is wholly prejudicial to the Parish's Neighbourhood Plan. A steering group has been enacted and a draft plan is due for publication. It would be fundamentally wrong and contrary to NPPF paragraph 17 to take decisions on large-scale proposals when an enormous amount of work in preparation of the neighbourhood plan has already been undertaken;
- The Draft Local Plan – Core Strategy 2013-2031 envisages proportionate growth of 65 dwellings over the plan period. Over half of this need has already been met via small-scale developments and the 33 dwelling UDP allocation adjacent the Chapel. In combination this development will exceed the 'target' within the first 3 years of the plan period;
- Parishioners are supportive of a staged and progressive approach, utilising the redevelopment of brownfield sites rather than a headlong rush to meet a shortfall that only exists because of the planning policy position;
- In response to the Neighbourhood Plan questionnaire, only 3% of respondents favoured this site, whereas 69% favoured the site opposite Orchard House Care Home;
- Alternative sites would be unlikely to have such impact on adjoining property. The site is higher than adjacent development meaning overlooking and subsequent loss of privacy is likely. Likewise all traffic from this development would have to get to the A4103 via Withies Road or Southbank; both of which are narrow and suffer from congestion;
- Vine Tree Close is a cul-de-sac of 35 dwellings. Accessing a further 45 dwellings via an existing cul-de-sac is dangerous. Access to such a development should be from a main road;
- Vine Tree Close is well-used as a safe route to school, with large numbers of mothers and young children using the public footpath through Vine Tree Close as the safest route to school. Adding a junction here will cause chaos and result in an accident.
- Traffic entering and leaving the site will make living conditions on the houses either side of the junction intolerable with noise and increased vehicle emissions. Headlights are also likely to affect houses opposite;
- The access from Vine Tree is at a point where the road bends and not far from the staggered junctions where Southbank and Duke Street meet Withies Road. The additional traffic using the network in close proximity to busy junctions on either side of Withies road is liable to cause congestion and accidents;
- The demand for housing does not derive from the existing local community;
- The development would destroy the ambience of Vine Tree Close, which is a cul-de-sac located around quiet green space with views of the open countryside;
- The development will result in the loss of privacy for residents living opposite and nearby. The submitted layout indicates a footpath that passes in close proximity to adjoining properties in Vine Tree Close. This will present privacy and security issues;
- The infrastructure locally does not support large-scale housing. There are no local employment opportunities, doctors or pharmacy;

- Drainage is a significant constraint and the application is in large part silent on the issue. Given run-off concerns relative to lower-lying houses, it should be determined now as to whether infiltration to ground or on-site storage is appropriate;
- The development would result in the loss of agricultural land at a time when we should be producing more food for ourselves;
- The bus service and pedestrian provision is poor and it is likely that residents will use the private car for even short, local trips. Commuters into Hereford are not well served by buses. The earliest arrival in Hereford on weekdays is 8:08am and the latest departure leaves Hereford not long after 17:00pm – not conducive to shift work;
- The impacts of the development upon bat flight paths and nesting birds, including the endangered Sky Lark, are underestimated;
- The development will adversely affect the landscape character and setting of the village. At a high point locally, roofs will dominate the skyline and compete with the Church spire;
- The construction phase will create noise, dust and traffic chaos for existing residents.

5.3 Herefordshire CPRE objects to the proposal. The comments received are summarised as follows:

The Herefordshire UDP 2007 clearly shows the Withington settlement boundary and the proposed development is outside it, in open countryside. The land is currently in use for arable farming. Saved Policy E15 states: "Development of Greenfield land, including the best and most versatile agricultural land will not be permitted" and Saved Policy H7 states: "proposals for housing development outside....the main villages and smaller settlements will not be permitted". This proposal satisfies none of the exception criteria for these policies.

The proposed development would significantly alter the character of and the views from public footpaths WT8, WT12, WT14 and from Veldo Lane. There is conflict with saved UDP policy T6 which states "Development proposals should ...respect the ....recreational value, attractiveness and historical significance of any designated public right of way".

The access to the proposed site is unsuitable and represents a hazard to walkers, motorists and other road users.

There would also be a significant increase in traffic on the narrow Withies Lane. There would be significant hazards associated with this for all road users. Footpath WT14 passes along Vine Tree Close and is used as a safe walking route for children from the main body of the village to school. There is conflict with Saved Policies S2, DR2 & DR3.

Notwithstanding the fact that the appeal was dismissed, the applicant makes reference to the housing land supply issue which came to the fore at the Home Farm, Belmont appeal.

Irrespective of the shortfall of housing land the Inspector's decision to dismiss the application was wholly based on the balance of harm to benefit:

*"As a consequence, the proposal would be at odds with the environmental role/dimension to sustainable development. Moreover, notwithstanding the shortfall in HLS, these adverse environmental impacts and the harm to the setting of heritage assets that I have also identified would significantly and demonstrably outweigh the economic and social dimensions/benefits of the scheme.." (paragraph 65 of the appeal decision).*

There is nothing Innovative or outstanding about this outline proposal as required by NPPF paragraph 63; and paragraph 64 states: "Permission should be refused for development of poor design that fails to take opportunities available for Improving the character and quality of an area and the way it functions". A mundane housing estate, at best contributes nothing to the character and quality of Withington (and the surrounding countryside) and the way it functions and I believe will detract considerably from it. It is concluded that the development is not representative of sustainable development and that the presumption in favour should not, therefore, apply on the basis that *adverse impacts... would significantly and demonstrably outweigh the benefits*.

- 5.4 The applicant has responded to third party representations via the submission of additional information, including additional ecology surveys and a Development Framework Plan. The description of development is amended to limit the maximum number of dwellings to 45 and a response is made to various issues that have arisen during the consultation process. This response is summarised under topic headings below:-

#### Landscape Effects

The development framework plan removes dwellings from the northernmost part, reducing the impact of the development upon the landscape and setting of the village.

#### Ecology

In response to ecology survey work, a larger buffer has been left against the adjoining copse. It is proposed that this 'cordon sanitaire' be used as public open space. The larger margin against Veldo Lane will also ameliorate any conflict with badger activity.

#### Drainage

The Flood Risk Assessment conducted by qualified consultants concludes that subject to detailed design the development will not harm its surroundings. Planning conditions can be imposed.

#### Vehicular Access

The access accords with the Council's adopted Highways Design Guide.

#### Neighbourhood Plan Process

UDP housing supply policies are out of date and the application is submitted against this context. Until such time that the provisions of the adopted Core Strategy are known, the contents of the final Neighbourhood Plan cannot be known.

#### Core Strategy

The provisions of an emerging development plan do not relieve the Council of the responsibility of ensuring sufficient supply of housing land. Housing 'targets' as identified within the emerging Core Strategy are not an upper limit but a figure which could be met or potentially exceeded over the plan period.

#### Alternative Sites

No planning application has been submitted for alternative sites. Consequently the sustainability credentials or appropriateness of development on these sites cannot be known and a reasonable comparison against this site cannot be made. The NPPF requires the

decision-taker to weigh harm against benefits and does not take into account the merits of a site relative to other sites, particularly if an alternative site is not the subject of a planning application.

#### Effect Upon Neighbouring Properties

It is acknowledged the development would affect the aspect from adjoining houses. To ameliorate the effect the development framework plan deliberately avoids siting houses close to site boundaries. Any relationship would respect the minimum distances required to ensure mutual privacy and to avoid overbearing development.

#### Demolition of No.5 Vine Tree Close

The demolition of this dwelling is necessary for access. It does not, however, constitute a reason to oppose the overall scheme, which would constitute sustainable development abutting two boundaries of a sustainable rural settlement.

- 5.5 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 Withington is identified within the adopted Unitary Development Plan as a main village and is also allocated as a main village within the Hereford Housing Market Area within the emerging Local Plan – Core Strategy with an 18% indicative growth target over the plan period. This equates to 65 dwellings, of which 37 have either been constructed or are committed i.e. an extant planning permission exists. The application is made in the context of the housing land supply deficit.
- 6.2 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, nature conservation interests and highway safety, that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

### **The Principle of Development in the Context of 'Saved' UDP Policies the NPPF and Other Material Guidance**

- 6.3 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."*

- 6.4 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.
- 6.5 The two-stage process set out at S38 (6) requires, for the purpose of any determination under the Act, assessment of material considerations. In this instance, and in the context of the

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housing land supply deficit, the NPPF is the most significant material consideration. Paragraph 215 recognises the primacy of the Development Plan but, as above, only where saved policies are consistent with the NPPF:-

*“In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”*

- 6.6 The effect of this paragraph is to supersede the UDP with the 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 and the presumption in favour of approval as set out at paragraph 14 is engaged if development can be shown to be *sustainable*.
- 6.7 The NPPF approach to Housing Delivery is set out 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 and preferably years 11-15 too. Paragraph 47 underlines that UDP housing supply policies 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 Council’s published position is that it cannot demonstrate a five year supply of housing land. This has been reaffirmed by the recently published Housing Land Supply Interim Position Statement – May 2014. This, in conjunction with recent appeal decisions, confirms that the Council does not have a five year supply of deliverable housing land, is significantly short of being able to do so, and persistent under-delivery over the last 5 years renders the authority liable to inclusion in the 20% bracket.
- 6.9 In this context, therefore, the proposed erection of up to 45 dwellings, including 35% affordable, on a deliverable and available site is a significant material consideration telling in favour of the development to which substantial weight should be attached.
- 6.10 Taking all of the above into account, officers conclude that in the absence of a five-year housing land supply and advice set down in paragraphs 47 & 49 of the NPPF, the presumption in favour of sustainable development expressed at Paragraph 14 of the NPPF is applicable if it should be concluded that the development proposal is sustainable. As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary.

### **Assessment of the Scheme’s Sustainability Having Regard to the NPPF and Housing Land Supply**

- 6.11 The NPPF refers to the pursuit of sustainable development as the golden thread running through decision-taking. It also identifies the three mutually dependent dimensions to sustainable development; the economic, social and environmental dimensions or *roles*.
- 6.12 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. 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, use resources prudently and movement towards a low-carbon economy.
- 6.13 Withington is a main village within the UDP and also identified as a main village in the Hereford Local Plan – Core Strategy. In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located whereas the delivery of

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up to 45 dwellings, including 35% affordable, together with contributions towards public open space, sustainable transport and education infrastructure would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development.

### **Impact on Landscape Character**

- 6.14 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. It also 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.
- 6.15 The application site has no formal landscape designation. It lies in open countryside outside but adjacent the settlement boundary. Although categorised as a SHLAA significant constraints site this was on the basis that access was not demonstrated at the time of assessment, something that this proposal addresses. The Conservation Manager (Landscape) concludes 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). The officer considers that the site can accommodate development, although this is contingent on the Reserved Matters submission reflecting the need to retain, insofar as possible, the hedgerow features for which the Principal Settled Farmlands landscape typology is known and bolstering these features as appropriate. The Development Framework plan now reflects this requirement and enhances green infrastructure by drawing development away from the northern boundary onto Veldo Lane and from the copse on the western flank has acknowledged nature conservation interests to a greater extent than originally.
- 6.16 Given the application is in outline, there is also the potential at the Reserved Matters stage to consider the comments of the Parish Council in relation to the provision of a central amenity area and the omission of the footpath proposed to the rear of properties in Veldo Lane. There is certainly the potential to re-route this such that a pedestrian link to Veldo Lane can be made.
- 6.17 On the basis that conditions will be imposed requiring the protection of hedgerows, and in the context of the housing supply situation, the principle of development is considered acceptable in the context of 'saved' UDP policies LA2 and LA3.

### **Impact on Heritage Assets**

- 6.18 The application site is 120m west of the Withington Conservation Area. Style House, at the entrance to Veldo Lane is one of several listed buildings that with St Peters Church, further to the east, form the nucleus of the Conservation Area. However, due to the intervening presence of Vine Tree Close and other features, the site exerts a relatively small visual influence upon the setting of these designated heritage assets.
- 6.19 In this case it is considered that any impact can be mitigated through appropriate and sensitive detailed design and landscaping and that as a consequence the harm to the significance of the designated heritage assets will be less than significant. Accordingly, as per NPPF paragraph 134, the harm should be weighed against the public benefits of the proposal, which in this case can be taken as the scheme's contribution towards boosting housing supply, the associated economic and social benefits and absence of any other significant adverse impacts. As such, and having regard to the nature of the proposal and the overarching context set by the lack of

housing land supply, the harm to the setting of listed buildings is considered less than substantial.

### **Impact on Ecological Interests**

- 6.20 The Council's Ecologist concurs with the findings of the submitted ecological appraisals. It is concluded that the proposal will not have a significant impact on ecological interests. Subject to the imposition of conditions as set out below, which include tree and hedgerow protection measures, the development is considered to accord with the provisions of the Development Plan and NPPF guidance.

### **Transport**

- 6.21 The Transportation Manager has provided revised comments in the light of additional information provided during the course of the application. He is now satisfied with the proposals to the extent that a conditional approval is recommended.
- 6.22 The submitted drawing 763-03 indicates 4.8m wide access road with 2.0m footways and 6m junction radii, which accords with our Highways Design Guide for New Developments for a minor access road serving up to 50 dwellings, and the survey drawing indicates that this is achievable within the ownership of No 5.
- 6.23 Vine Tree Close itself from Withies Road to the point of access is 5.5m in width with 10m radii to Withies Road and therefore is of an adequate standard for a minor access road to serve up to 100 dwellings, and this figure is not exceeded by the existing and proposed development. Therefore the proposed access arrangement is considered acceptable. Pedestrian drop crossings will be required within the access road radii for the well used pedestrian route to the school and will form part of the S278 agreement.
- 6.24 The Traffic Manager concludes that the scheme is acceptable relative to the requirements of paragraph 32 of the NPPF.

### **Land Drainage and Flood Risk**

- 6.25 The Land Drainage Engineer has no objections to the proposed development subject to submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development prior to construction. The detailed drainage proposals should include:
- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
  - Provision of detailed calculations that demonstrate that the proposed surface water drainage system will not flood during the 1 in 30 year event, that the peak discharge rate from the site will be limited to equivalent greenfield rates up to and including the 1 in 100 year event, that the peak discharge rate will be less for smaller events to mimic natural runoff conditions, and that sufficient attenuation will be provided within the site boundary to prevent increased flood risk up to and including the 1 in 100 year plus climate change event.

- Evidence that the Applicant has sought and agreed permissions and agreed allowable discharge rates to discharge foul water and surface water runoff from the site with the relevant authorities;
- Infiltration test results undertaken to BRE Digest 365 methodology and groundwater depth records where infiltration is proposed;
- Demonstration that appropriate pollution control measures are in place prior to discharge;
- Demonstration that the Applicant has designed for exceedance of surface water systems.

A condition is recommended to ensure the submission of a fully integrated foul and surface water drainage system.

### **Public Open Space**

6.26 The applicant has held discussions with the Parish Council in relation to the provision and future maintenance of on-site and off-site public open space. Without prejudice to their objection to the application, the Parish Council has indicated a willingness to take on the land immediately adjacent the copse on the site's western boundary. The Parish Council has also recommended that some provision be made for amenity space within the development, alongside a financial contribution to the village playing fields, including the potential for the construction of changing facilities for the local sports clubs. The S106 agreement is worded to give this degree of flexibility and further consultation with the Parish Council in the event of planning permission being granted.

### **S106 Heads of Terms**

6.27 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been negotiated and are summarised as follows:

'Education Contribution'	-	£40,520
'Sustainable Transport Contribution'	-	£75,680
'On/Off site play'	-	£48,263
'Waste & Recycling'	-	£3,360
'Library'	-	£5,716

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.

A maintenance contribution towards the management of on-site public open space and any necessary SUDs system, which will be adopted by the Council, will also be required.

### **Impact on Adjoining Residential Amenity**

6.28 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 undue impact on adjoining property, particularly those dwellings adjoining the site to the south and Vine Tree Close to the east. Clearly this will be contingent on detailed consideration at the Reserved Matters stage and in this respect the Development Framework plan identifies development exclusion zones within which no dwelling would be sited. Adoption of this approach, which can be subject to a planning condition, would ensure adequate separation distances, although care would need to be taken to ensure that dwellings on the site's periphery are constructed at a

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level that does not result in an undue overbearing impact. 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.

- 6.29 Concern has also been expressed in relation to the impact of the proposals upon Nos.4 and 6 Vine Tree Close, between which the access route would pass. Officers do not consider this issue, in the weighing of benefits and adverse impacts, would equate to a reason for refusal.

### **Foul Drainage and Water Supply**

- 6.30 The Water Authority has no objection to the development and confirms that the treatment of domestic discharges from this site can be accommodated by the existing Waste Water Treatment Works. No problem is anticipated with the supply of potable water.

### **Sustainable Design**

- 6.31 The applicant has confirmed that all dwellings shall follow a fabric first approach to energy efficiency. It is envisaged that energy consumption and carbon emissions will be reduced by building to a minimum of code 4 of the code for sustainable homes. The site offers good opportunity to construct on an orientation that ensures optimum exposure to passive solar gain and for solar thermal and PV panels.

### **Loss of Grade 2 Agricultural Land**

- 6.32 Defra mapping suggests the site is Grade 2 agricultural land. Saved policy E15 requires that development resulting in the loss of such land should only be permitted where there is a lack of suitable development opportunities within the boundaries of the existing urban areas or on previously developed sites or where there is an established need for the development of agricultural land; in which case poorer quality land should be utilised first. This is enshrined in NPPF paragraphs 112 and 143. In this instance the case for releasing such sites is entwined with the housing land supply issue and the loss of the best and most versatile agricultural land should be weighed against the need for the development and other attendant benefits. In this case, the site is well-related to the village and the loss of 2.2ha of Grade 2 land is not considered to represent a sound basis for refusal in the circumstances.

### **The Neighbourhood Plan**

- 6.33 Withington Group Parish Council has designated a neighbourhood plan area. Work has been progressing towards the formulation of the plan for a considerable period. Paragraph 17 of the NPPF, 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 Neighbourhood Plan is not presently sufficiently far advanced to be attributed weight for the purposes of decision-taking and planning applications cannot, in these circumstances, be refused because they are potentially prejudicial to the neighbourhood plan.

### **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 site that was designated as having significant constraints on the basis of lack of access as opposed to being unsuitable or inappropriate in other respects. Withington is, having regard to the NPPF, a sustainable location and this site is well placed to benefit from good pedestrian connectivity to village facilities. 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 and in offering enhancements to footway and pedestrian crossing facilities locally, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.
- 6.38 The Conservation Manager (Landscapes) confirms the application site has the ability to accommodate residential development subject to the retention of landscape features and a margin against the copse and Veldo Lane and the Development Framework Plan responds positively to these requirements. The site is some 120m from the Conservation Area, but development would exert relatively little influence on the setting of the Conservation Area and the listed buildings within it. Certainly any impact such as there may be is likely to result in less than substantial harm to the significance of the heritage assets. This is in the context of the safeguard provided by detailed assessment of the layout, landscaping, scale and appearance at the Reserved Matters stage.
- 6.39 Officers conclude that 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 concluded that the presumption in favour of sustainable development should be engaged and that planning permission should be granted subject to the completion of a Section 106 Planning Obligation and appropriate planning conditions. The conditions will include a requirement to limit the number of dwellings to no more than 45 and to formulate an integrated foul and surface water run-off scheme. Officers would also recommend the developer conducts further consultation with the Parish Council and local community as regards the detail of any forthcoming Reserved Matters submission.

## 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)**
- 2. A03 Time limit for commencement (outline permission)**
- 3. A04 Approval of reserved matters**

4. **C01 Samples of external materials**
5. **The submission of reserved matters in respect of layout, scale, appearance and landscaping and the implementation of the development shall be carried out in substantial accordance with the Development Framework Plan 763-04 dated July 2014.**  
**Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1 & DR1 and the National Planning Policy Framework.**
6. **The development shall include no more than 45 dwellings and no dwelling shall be more than two 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.**
7. **H06 Vehicular access construction**
8. **H18 On site roads - submission of details**
9. **H19 On site roads – phasing**
10. **H20 Road completion in 2 years**
11. **H21 Wheel washing**
12. **H27 Parking for site operatives**
13. **H29 Secure covered cycle parking provision**
14. **The recommendations set out in the ecologist’s reports from Wilder Ecology dated April 2014 and July 2014 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the 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**
15. **L01 Foul/surface water drainage**
16. **L02 No surface water to connect to public system**
17. **L04 Comprehensive & Integrated draining of site**
18. **G04 Protection of trees/hedgerows that are to be retained**
19. **G10 Landscaping scheme**
20. **G11 Landscaping scheme - implementation**

**21. G14 Landscape management plan**

**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. **HN08 Section 38 Agreement & Drainage details**
3. **HN15 Affected street lighting or illuminated signs**
4. **HN28 Highways Design Guide and Specification**
5. **HN05 Works within the highway**
6. **An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**
7. **N02 Section 106 Obligation**

Decision: .....

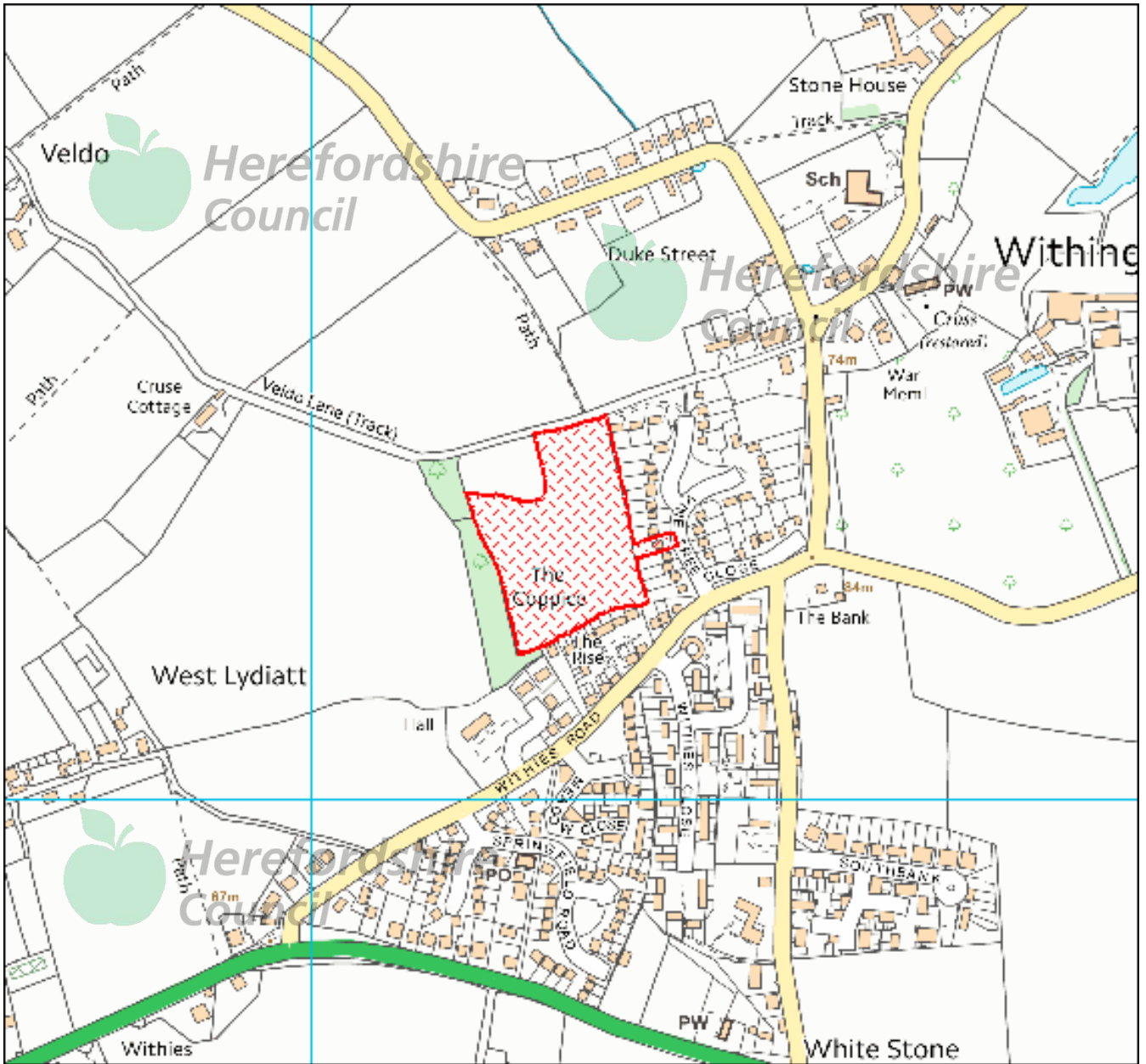
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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** 141134/O

**SITE ADDRESS :** LAND ADJACENT TO VINE TREE CLOSE, WITHINGTON, HEREFORDSHIRE

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# DRAFT 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 general market units only. ***The contributions are calculated on an indicative scheme of 28 open market units as the proposal involves the demolition of an existing 4 bedroom dwelling.***

Planning application: P141134/O

Proposed erection of up to 45 dwellings (29 open market and 16 affordable), construction of a new vehicular access and associated works on land adjacent to Vine Tree Close, Withington, Herefordshire.

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

**£861.00** (index linked) for a 2 bedroom open market dwelling

**£1,302.00** (index linked) for a 3 bedroom open market dwelling

**£2,318.00** (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for enhanced educational infrastructure at North Hereford City Early Years, St Francis Xavier Roman Catholic Primary School (5% of overall contribution), St Mary's Roman Catholic Secondary School (8% of overall contribution), post 16, Hereford City youth services and the Special Education Needs Schools (1% of overall contribution). The sum shall be paid on or before first occupation of the 1<sup>st</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate. ***Based on the indicative submitted scheme the total contribution would be £40,520.00.***

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

**£1,720.00** (index linked) for a 2 bedroom open market dwelling

**£2,580.00** (index linked) for a 3 bedroom open market dwelling

**£3,440.00** (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwellinghouse and may be pooled with other contributions if appropriate. ***Based on the indicative submitted scheme the total contribution would be £75,680.00.***

The sustainable transport schemes would comprise;

- A new footpath along Veldo Lane from the development site to the existing footpath;
- Improvements to the footways on Vine Tree Close with re-surfacing and the provision of dropped kerbs.
- Improvements to the footway link through the adjacent coppice to the village hall and sport/play facilities.

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

**£965.00** (index linked) for a 2 bedroom open market dwelling

**£1,640.00** (index linked) for a 3 bedroom open market dwelling

**£2,219.00** (index linked) for a 4 bedroom open market dwelling

The contributions will either provide for on/off-site play facilities at the existing village play facilities, which may include changing facilities for local sports clubs. The split between on/off site play provision will be informed in consultation with the Parish Council. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwellinghouse and may be pooled with other contributions if appropriate. ***Based on the indicative submitted scheme the contribution would be £48,263.00.***

4. 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.

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

**£120.00** (index linked) for a 1 bedroom open market dwelling

**£146.00** (index linked) for a 2 bedroom open market dwelling

**£198.00** (index linked) for a 3 bedroom open market dwelling

**£241.00** (index linked) for a 4+ bedroom open market dwelling

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. **Based on the indicative scheme submitted the contribution would be £5,716.00.**

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£120.00** (index linked) per 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. **Based on the indicative scheme submitted the contribution would be £3,360.00.**
7. The developer covenants with Herefordshire Council that 35% (up to 16) of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations (2008).
8. Of that 35% Affordable Housing units, at least 50% shall be made available for social rent with the remaining 50% 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 80% 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 be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or 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 paragraph 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 who has:-
  - 11.1 a local connection with the parish of Withington;
  - 11.2 in the event there being no person with a local connection to the parish of Withington the adjoining parishes;

- 11.3 in the event there being no person with a local connection to the above parish any other person ordinarily resident within the administrative area of Herefordshire 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 10.1 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 a 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 sum specified in paragraphs 1, 2, 3, 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, 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.

Yvonne Coleman

Planning Obligations Manager