

MEETING:	PLANNING COMMITTEE
DATE:	19 NOVEMBER 2014
TITLE OF REPORT:	<p>P141550/O - PROPOSED SITE FOR UP TO 46 DWELLINGS, NEW ACCESS FROM UPPER COURT ROAD, WITH OPEN SPACE, PARKING AND ASSOCIATED INFRASTRUCTURE AT LAND WEST OF UPPER COURT ROAD, BOSBURY, LEDBURY, HEREFORDSHIRE</p> <p>For: The Church Commissioners for England per Carter Jonas, 1 Chapel Place, London, W1G 0BG</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141550&search=141550

Date Received: 28 May 2014

Ward: Hope End

Grid Ref: 369734,243312

Expiry Date: 5 September 2014

Local Members: Councillors CNH Attwood and AW Johnson

1. Site Description and Proposal

- 1.1 The site is located on the southern edge of Bosbury and is part of an arable field of approximately 4 hectares. It is bounded to the south and west by mature hedgerows and abuts the built environs of the village to the north and east. A public footpath also runs along the western boundary and emerges directly onto the B4220.
- 1.2 The majority of the site is flat but it rises gently in its south eastern corner. The historic core of the village takes a linear form with buildings fronting onto the B4220. Part of the village is designated as a conservation area and this bounds the site to the north and west. The conservation area also contains a number of listed buildings including the Grade I Church of the Holy Trinity and its separate bell tower which are on the northern side of the B4220, and three Grade II listed properties that bound the site to the north.
- 1.3 Bosbury is a main village as defined by Policy H4 of the Herefordshire Unitary Development Plan (HUDP). Local amenities in the village include a pub, church, village hall and primary school. It is identified in the emerging Core Strategy as a village that is appropriate for proportionate growth.
- 1.4 The site abuts the settlement boundary and has also been assessed for its suitability as a housing site by the 2009 Strategic Housing Land Availability Assessment (SHLAA). It concludes that the site has significant constraints due to the fact that its development would be contrary to the settlement pattern of the village and that there would only be limited capacity for vehicular access via Upper Court Road to the east.
- 1.5 The application is made in outline and seeks permission for the erection of up to 46 dwellings on a site amounting to 2.64 hectares. All matters apart from access are reserved for future

Further information on the subject of this report is available from Mr A Banks on 01432 383085

consideration. The scheme proposes to take access from the residential estate road that is Upper Court Road, via Forge Bank and then onto the B4220. An illustrative masterplan accompanies the application in order to demonstrate that the site is capable of accommodating the development proposed. The application is also accompanied by the following documents:

- Planning Statement
- Design & Access Statement
- Transport Statement
- Travel Plan
- Flood Risk Assessment
- Ecology Report - Phase 1
- Reptile Survey Report
- Heritage Assessment
- Arboricultural Impact Assessment
- Draft Heads of Terms Agreement

1.6 Objections raised by the Council's Land Drainage Engineer and Conservation Officer have resulted in the submission of amendments to the Flood Risk Assessment and Heritage Assessment respectively and these have been the subject of further consultation.

2. Policies

2.1 National Planning Policy Framework (NPPF):

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

2.2 Herefordshire Unitary Development Plan (HUDP):

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H4	-	Housing within the Identified Settlement Boundary of Main Villages
H7	-	Housing in the Countryside Outside Settlements
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
RST3	-	Outdoor Play and Open Space Requirements
T6	-	Walking
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
NC1	-	Biodiversity and Development

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- NC8 - Habitat Creation, Restoration and Enhancement
- HBA4 - Setting of Listed Buildings
- HBA6 - New Development Within Conservation Areas
- CF2 - Foul Drainage

2.3 Herefordshire Local Plan Core Strategy:

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS3 - Releasing Land for Residential Development
- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- 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 Geo-diversity
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- ID1 - Infrastructure Delivery

2.4 Bosbury Parish Council has successfully applied to designate the Parish as a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The area was confirmed on 1 August 2014. The Parish Council will have the responsibility of preparing a Neighbourhood Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this early stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy. In view of this no material weight can be given to this emerging Plan.

2.5 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 identified.

4. Consultation Summary

Statutory Consultations

4.1 Environment Agency: Have no objection to the proposed development and offer the following comments:

Flood Risk: The proposed development is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Maps. Whilst development may be appropriate In Flood Zone 1, a Flood Risk Assessment (FRA) is required for development proposals on sites comprising one hectare or above where 'there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off. The site does abut an area of Flood Zone 3, the high risk Zone, which is associated with the River Leaddon to the west.

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Flood Risk Assessment (FRA): The submitted FRA and Drainage Strategy provides a topographic survey which demonstrate the slope of the land from east to west, falling from 73.5mAOD in the east of the site to 66.5mAOD in the west.

The FRA has utilised information provided by us to show that the site is wholly within Flood Zone 1. It also confirms that a section on the far west of the site is classified as an 'area benefitting from flood defences'. These flood defences are not owned or maintained by the Environment Agency. The Flood Map appears confusing in that prior to the 2012 update the site was shown to be partly within Flood Zone 2, the medium risk Zone. Since the update, which represents best available information, the site is now shown to be wholly in the low risk zone but the western portion is still shown to be 'defended'.

The planned proposals for the site show that the access to the site is from higher ground to the east of the site and is at no risk of flooding. The border of Flood zone 2 ends at the access track to Lower Mill and the rear of Bosbury C of E School. This is also the border of the development site.

Notwithstanding the above there are known existing flooding issues in the village of Bosbury. The introduction of 46 dwellings to the village which will be utilising the existing drainage system will put extra pressure on local drains and outfalls. As stated above development in excess of one hectare has the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off. We would therefore recommend you seek the views of your Land Drainage team, as the Lead Local flood Authority (LLFA) to ensure they are satisfied with the proposed surface water management measures and that there will be no increase in flood risk post development, with flood risk benefits offered where possible.

4.2 English Heritage: Comments awaited.

Internal Council Advice

4.3 Transportation Manager: The access points as shown are acceptable. Upper Court Road is capable of taking the volume of traffic generated. The pedestrian and cycle accesses provide good links to the village centre and local facilities.

4.4 Conservation Manager (Ecology): No objection subject to the imposition of conditions.

4.5 Conservation Manager (Archaeology): The additional important heritage assets beyond the central crossroads (eg Holy Trinity Church, Temple Court, and Old Court) are sufficiently distant, separated and obscured for their archaeological significance not to be greatly harmed by what is proposed.

I also concur with the opinion expressed in the Heritage Assessment that the potential for (currently undiscovered) below ground archaeology within the application site itself is comparatively low. I therefore have no objections subject to the imposition of a watching brief condition.

4.6 Conservation Manager (Historic Buildings): Objects to the proposal and makes the following comments:

At present it is relatively clear when travelling through the village that the built development to either side is one property deep. This is due to the views between the buildings which give glimpses of the fields beyond. To the north of the village the rising land enables the fields to be more prominent, but the lack of buildings behind the southern frontage is clear due to the trees and landscaping as much as being able to see the crops or grass.

The relationship between the buildings of the conservation area and their surrounding agricultural fields is considered important. It is clear to see from the impact of the Forge Bank development that when the historic frontage ceases to be backed by fields, the character of the frontage also changes significantly. The Forge Bank development may be a perfectly acceptable scheme in itself but it has given the east edge of the village a completely different character from the conservation area. The effect of the current proposal on the historic core is likely to be similar to Forge Bank's impact on the east approach. It is considered that this change in character would adversely affect the character and appearance of the conservation area and the views into and out of it. This would be contrary to Policy HBA6 and in particular point 8.

As identified in the Heritage Assessment the Church and its separate Bell Tower are grade I listed buildings and are landmarks in the surrounding countryside. Whilst it is true that the proposed housing would not obliterate the views of these exceptional buildings, the views of them would be altered significantly. At present it is clear that the built environment of Bosbury stretches east and west from the Church with buildings lining the village road and fields beyond. This is the historic setting of these buildings and indeed the other 27 grade II listed buildings within the conservation area. It is clearly legible. If the building line were to be extended to the south, in a similar way to Forge Bank then this legibility would be lost.

It is concerning that two of the most affected listed buildings have not been expressly assessed in relation to the impact of the proposal on the setting. In a similar way to the conservation area, it is considered that the setting of the properties bordering the site would be adversely affected. The dwellings towards the centre of the village are the more historic in the village and many are single storey cottages with rooms in the roof. This gives a very small scale to the frontage. In contrast the proposals, even if only indicative, show 2.5 storey houses backing onto the cottages. It is considered that these would overpower the small scale cottage on the road frontage to the detriment of their settings. This would be considered contrary to Policy HBA4.

Even if a small scale and height were to be proposed for the buildings on the application site, the perception of the road: building plot: field would be permanently changed. This change would still be considered an adverse impact on the listed buildings and the conservation area.

- 4.7 Public Rights of Way Manager: Pleased to see public footpath BZ39 marked on plans. We therefore do not object to the development. Any footpath surfacing works must be agreed with this department before works commence.
- 4.8 Waste Operations Team Leader: No objection.
- 4.9 Parks and Countryside Manager: The design and layout of public open space is supported. Although not centrally located the on-site provision has considered connectivity for both pedestrians and cyclists to all areas of public open space thus creating a more joined up and usable network that can be safely and easily accessed by local residents.

The SuDs area is to be partially "wet" which will encourage wetland habitat and if carefully designed taking account of standing water and health and safety issues, will create both an area for biodiversity and informal recreation including natural play opportunities.

- 4.10 Education: No objection subject to the provision of financial contributions to address the impact of the development on local education facilities.
- 4.11 Housing Development Officer: Supports the application in principle. The Draft Heads of Terms confirms that the developer will provide 35% (16) affordable units on site. The local connection

cascading parishes will be confirmed in the SI06. The exact mix, tenure and location of the affordable housing units will need to be agreed prior to the submission of reserved matters.

- 4.12 Land Drainage Engineer: Has no objection in principle to the proposed development and believes that the measures proposed are sufficient to adequately protect the development against flood risk and prevent any significant increased flood risk elsewhere as a result of the works. It is recommended that a number of improvements be considered and that further information regarding the proposed drainage strategy to be submitted during detailed design.

The following information is required to be provided as part of any subsequent reserved matters application and/or as a planning condition prior to commencement:

- A detailed drainage strategy that demonstrates how surface water runoff will be managed, specifically including details of the proposed discharge to the River Leadon. If the Applicant proposes to utilise the existing ditch, further information regarding location, capacity, condition and ownership must be provided. If the Applicant proposes to cross third party land, further information regarding this agreement must be provided.
- Demonstration of consideration given to reducing runoff during smaller rainfall events and providing additional treatment prior to discharge.
- Demonstration that infiltration of surface water runoff to ground will be maximised where appropriate, informed through investigation of soil infiltration rates and groundwater levels.
- Details of the proposals for adoption and maintenance of the surface water drainage system.
- Evidence that the required works at the wastewater treatment plant will be completed prior to construction.

5. Representations

5.1 Bosbury & Coddington Parish Council.

The parish council wish to **OBJECT** to the proposed housing development as the scale is disproportionate for this location and for other reasons as noted below.

Bosbury is a small village close to an Area of Outstanding Natural Beauty. The centre of the village is a Conservation Area and contains many listed properties and two scheduled monuments. The proposed development site abuts the historic core of the village.

The parish council accept that Herefordshire Council cannot demonstrate a five year housing supply and therefore its housing policies are not up to date. The parish council and local residents are not against appropriate residential development to help meet Herefordshire Council's five year shortfall, but the scale of the proposed development in this location is not acceptable as there would be a significant number of adverse impacts on Bosbury village as a result should it be approved.

Access & Highway Safety

The applicant states that the access and internal road layout have been designed in accordance with Manual for Streets and Herefordshire's Highway Design Guide. Access to the proposed site is via Forge Bank and Upper Court Road. These roads are on an existing housing development and are heavily parked due to many of the houses not having

convenient off-street parking, therefore reducing the usable width of the highway. This would result in congestion and prejudice highway safety. The high volume of traffic and increased pollution would have a direct impact on the amenity and quality of life of the existing residents of Upper Court Road and Forge Bank and is therefore contrary to UDP Policies S1 paragraph 14, S2 Paragraph 6, DR4 Paragraph 4, and DR13.

Manual for Streets, paragraph 7.2.2 states that carriageway widths should be appropriate for the particular context and take into account factors such as whether parking is to take place on the carriageway and, if so, its distribution, arrangement, frequency of occupation and the likely level of parking enforcement. In addition, The Council's Highway Design Guide states that minor roads serving up to 100 dwellings should have a standard carriageway width of 5.5m, possibly reduced to 4.8m where less than 50 houses are served. Footpaths of 2m should also be provided. The width of the existing roads on Forge Bank is, in places, just below 5.5m and the footpaths are not 2m wide. As such it does not meet the requirements of the Council's Design Guide and would provide a sub-standard vehicular and pedestrian access to the development.

Impact on historic core of Bosbury Village

The proposed site abuts the village's Conservation Area sharing a western boundary. Its northern boundary is adjacent to a number of listed buildings. Beyond these boundaries are many further listed buildings including the Grade 1 listed Bosbury Church and scheduled monuments. The historic core of the village has a linear settlement pattern along the B4220. The effect that a development of this size and layout would have on the historic core of the village is huge, being disproportionate and failing to respect the linear pattern of the historic core or the setting of the Conservation Area and listed buildings within it. The proposal is therefore contrary to UDP policies S2, H13, HBA4 (Setting of Listed Buildings), HBA8 (Locally Important Buildings), HBA9 (Protection of open Areas and Green Spaces) and the framework including paragraphs 131 and 17 (10th bullet point).

Sustainable village?

The village has a primary school, church, parish hall, pub, part-time hairdressers, private care home, and a post office service that is only on a Tuesday afternoon. However, the village is not self-sufficient and is served only by an infrequent bus service. Existing residents therefore rely on private transport to get to work, doctors appointments, shops, post office and secondary schools etc. The proposal is therefore contrary to UDP policies DR2 (Land use and Activity), S6 (Transport) and the framework including paragraph 17 (11th bullet point).

Size of Development

In Herefordshire Council's Core Strategy (draft document) Bosbury has been identified as being sustainable and appropriate for proportionate growth. In the case of the Ledbury HMA this is considered to be 14% growth over the period 2011-2031. According to the 'Rural Housing Background paper (2013) there are 143 dwellings within the main village envelope. This proposal of 46 dwellings would result in a growth of 32%. However, it should be noted that the number of houses within the main village as defined by the settlement boundary is considerably less (circa 100). On this more accurate figure the percentage increase would be approximately 46%. This is more than three times the 14% identified in the draft Core Strategy and would result in a disproportionate expansion that would detract from the character and setting of the village contrary to UDP policies DR1 (Design), S2 (Development Requirements) and H13 (Sustainable Residential Design) and the framework including paragraph 61.

Herefordshire SHLAA (Strategic Housing Land Availability Assessment)

Paragraph 5.13 of the applicants planning statement says that the site has been assessed as a suitable location for housing in the SHLAA. The most recent SHLAA for Bosbury (2009) states that *“the site is too large if developed in totality and would also be contrary to the pre-existing settlement pattern. Access is not possible direct from the main road and there is only limited capacity via the housing estate”*. The SHLAA therefore states that the site has *“significant constraints”*.

Play Area

The proposed location of the LEAP area is on the south-eastern corner of the development. Being sited here it is remote from both the proposed and existing village dwellings. Policy H19 of the UDP requires areas of open space to be well related to the development it is intended to serve, and be useful, safe, secure and accessible to all. Therefore the proposed site is contrary to UDP policy H19.

Infrastructure

The sewerage works are working to capacity and therefore cannot accommodate the extra volume this development would bring without considerable upgrading.

Visual Impact

The proposed development would obtrude into a green enclave, clearly extending the built form of the settlement into the landscape. This would be immediately apparent when the site is viewed from Lower Mill Lane and Forge Bank. In addition, this obtrusion would be apparent from the public right of way that crosses the western fringe of the site. The development would therefore fundamentally change the rural setting of the village as one progresses along the footpath and Lower Mill Lane.

This sense of urbanisation would be most acutely felt as one returns, passing through the development on the footpath where the experience of the journey, of passing through the ‘untamed’ to the ‘tamed’ realm of the landscape would be significantly and harmfully curtailed. As a consequence, the subtle balance of this sensitive interface between historic settlement and landscape would be lost, to the significant and material detriment of the scenic and natural setting of the designated heritage assets comprising the conservation area, listed buildings and scheduled monuments. For example, the application site would be directly visible in views from the Churchyard.

There would also be a detrimental impact on the outlook from the existing dwellings in numerous locations throughout the village including the conservation area. Their view would change from one of open countryside to that of a modern housing development.

Transport Statement

This makes much of the benefits of walking and cycling and also a section neatly summarises the very poor bus connections with a summary table demonstrating that no buses can be used for journeys to work as the timings are not remotely appropriate.

Section 4 deals briefly with the proposal and explains that there will be 104 parking spaces (therefore an expected 104 cars) and then Section 5 begins the Multi Modal Trip Assessment which is fundamentally misleading, provides deeply flawed figures.

The comparative site that has been chosen for the “multi-modal trip generation assessment” that is meant to provide an accurate model for the forecasting of traffic in and out of the

proposed development in Bosbury is ludicrous. It should be somewhere with similar characteristics to the village of Bosbury; ideally being located in a small rural area with limited amenities and no real employment base and with a small town some 4 miles away.

However, if the comparative site is a street in Redditch (Meadowhill Road – see appendix F) only 9 minutes walk from the vibrant Town Centre and with many varied and frequent public transport options on its doorstep including the main train station only 0.8 miles away (therefore a comfortable walk or cycle trip). The Kingfisher shopping centre is about 10 minutes walk away where there is 1,100,000 square feet of retail space with over 110 stores, many banks, food outlets and a cinema and is one of the largest covered shopping centres in the United Kingdom. This level of amenities cannot be found within the village of Bosbury (if not the County!). Unlike the Redditch site, there is also no public transport that can be used to get to work, and no real employment base to walk or cycle to so the vast majority of people will be commuting by car (mostly 1 per car) to their employment.

To correlate the traffic patterns from this street in Redditch to Bosbury Village is therefore clearly absurd. The entire of section 5 of the transport statement and Key Point number 8 in section 6 is based on numbers from a single survey done in Redditch on the Tuesday after the Bank Holiday Monday in 2006 (a day when many people may have taken time off work anyway). This single date, coupled to the high level of amenities and significant employment base very nearby is why the figures in table 5.1 show such high pedestrian volumes (just under a third of all trips) and diminished car use.

Their own conclusion (derived from the Redditch survey data) that only 15 cars would leave the new development in Bosbury (with 104 cars in it) between 08:00 and 09:00 on a weekday morning is therefore wrong as the figure should be significantly and materially higher.

It is worth noting that the Hope End Ward 2011 Census Key Statistics Document that has been used and referenced by WYG Group in this Statement contains a much more recent, relevant and accurate breakdown of Transport modes for the Bosbury LSOA. They have chosen to ignore it and work with the 2006 Redditch data which has provided much more advantageous figures for the applicant.

The 2011 Census data shows that over 80% of Bosbury LSOA residents travel to work by car or van which would result in the total journeys in and out any time of the day being considerably higher than calculated by the applicant.

In conclusion, the Transport Statement is fundamentally flawed and misleading.

Flood Risk Assessment (FRA)

The FRA has some fundamental issues. Much of the area directly above (east of) the site including the Forge Bank garage area and bungalow area further to the east is wholly impermeable and drains directly into the site during rain. Also, the land further to the east/south east of the site all the way to Southfield Lane plus land to the south (both within the same field and in the hopyard beyond the site) all drain quickly into the site area during periods of heavy rain and standing water is present for days. This drainage pattern is immediately obvious from a visual inspection of the land as a natural valley exists running east to west down the hillside from Southfield Lane to Old Mill lane and the hopyard to the south also slopes steadily towards the proposed development site for some distance.

However, although the applicant confirms that the land is impermeable from their own walkover survey, they have failed to consider this site “run on” in any of their calculations or conclusions.

The actual catchment area including the development site itself totals some 3.5 times that which has been detailed within the applicant's document to be used as a basis for the calculations within it. This means that the figures produced to demonstrate the low level of run-off are wholly inaccurate with the result that the proposed retention pond is much too small.

At point 3.5 the FRA states *"The EA have been consulted and advised that they hold no information of historic flooding"* yet the EA themselves have published papers on the 2007 summer floods in the immediate area. With regards to other records, the EA Summer Floods 2007 paper states *"In July, flooding in Bosbury was reported to be as high as in Easter 1998"* therefore demonstrating further records do exist going back to earlier flood events.

Furthermore at point 3.8 the FRA states *"The SFRA does not highlight surface water flooding as a risk in Bosbury – Low risk"*. Despite this assertion from the applicant, Bosbury is described three times in the Herefordshire Strategic Flood Risk Assessment (SFRA), those are as follows:

"Smaller settlements with a significant history of flood disruption include Bosbury, Eardisland, Ewyas Harold, Hampton Bishop, Hereford, Kington, Leintwardine, Leominster and Ross-on-Wye. Emergency planning and future development proposals should take particular account of these settlements with regard to avoidance of increased flood risk."

"The most rapidly responding catchments in the SFRA area are the Wriggle Brook, Back Brook, Honddu, Lower Monnow and the Upper Leadon. Any development proposed adjacent to the floodplain in these catchments will have to take special account of flood risk imminence. The settlements most at risk from sudden flood peaks and which are most likely to be affected by inadequate warning are Ewyas Harold (Dulas Brook not modelled), Bosbury, Ledbury, Bromyard and Kington."

"Principal villages where there are reported flooding issues include Orleton and Brimfield on the Gosford Brook, and Bosbury on the River Leadon."

The assertion of LOW RISK in the FRA is therefore incorrect as there is a clear and documented risk of surface water flooding in Bosbury. Equally the comments within the SFRA stating *"future development proposals should take particular account of these settlements with regard to avoidance of increased flood risk."* are ignored by the applicant and the proposal is therefore contrary to UDP Policy S2 Paragraph 5 as well as DR7 Paragraph 5.

As the FRA has not considered the proper catchment area of the water entering the site, the numerous public records of significant flooding throughout Bosbury village, and the relevant information in Herefordshire Council's Strategic Flood Risk Assessment regarding flooding in the village it is considered that it is seriously flawed. A revised FRA should therefore be submitted that addresses these concerns.

Pre-Application Consultation

Paragraph 188 of the framework states that "early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community."

However the consultation carried out by the applicant was barely a token gesture despite what has been claimed. They merely attended one Parish Council meeting to make a "presentation" to the Councillors and attended without any site plans showing any houses or layouts or any supporting information. The only information 'displayed' was an A3 location plan with the site outlined in red. There was not even more than one copy so that all the Councillors could view

the plans. On being asked if they would come back for some proper public consultation they stated they would not. The Parish Council and the community is very disappointed with this level of consultation as it has wholly failed to deliver “better coordination between public and private resources and improved outcomes for the community”.

The above concerns significantly outweigh any benefits the proposal has in terms of housing numbers, resulting in an unsustainable form of development contrary to national and local planning policy. The Parish Council therefore strongly object to the application and consider it should be refused.

5.2 Campaign to Protect Rural England: Object to the application. In summary the points raised are as follows:

- Concerned that the proposal is out of scale with the existing village.
- The site is outside of the settlement boundary.
- The proposal is contrary to the emerging Core Strategy which, on the basis of 14% growth, would amount to approximately 20 dwellings for Bosbury.
- Limiting growth would avoid risk of flooding.
- Development of the scale proposed would increase pressure on the primary school and sewage works.

5.3 Bosbury C.E Primary School: Has no objection in principle to increasing the number of houses within its catchment area but are concerned about the increased risk of flooding for the school building. It is considered that this far outweighs the benefits that the school might gain.

5.4 Sixty six letters of objection have been received from local residents. In summary the points raised are as follows:

Impacts on the character and setting of the village

- The size of the development is too large for Bosbury.
- Detrimental impact on the historic core of the village, including the conservation area and listed buildings that border the site.
- The village is linear and it is not until Forge Bank that this changes.
- The depth of development does not reflect the grain or pattern of the historic buildings in the village.
- The view of the Grade I listed church would be obscured from several directions. It can currently be seen in its rural setting to the south and east of the village.
- The proposal represents a 32% growth of the village and is a disproportionate expansion that would harm its character and setting.
- The site currently offers uninterrupted views of the village to walkers using the footpath that borders to the west. These views would be seriously compromised by the development.
- The proposal would be detrimental to the amenities of the properties that border the site.

Sustainability

- The village has insufficient facilities to support the amount of development proposed.
- A need to drive to shops in Ledbury.
- The village has a limited bus service.
- Insufficient capacity within the village’s existing infrastructure, particularly the sewage treatment works.
- Insufficient capacity within the village school.

- The current proposal is unsustainable and a smaller number of properties should be considered.
- There is no local employment available and Bosbury would become a dormitory village.
- The proposal would result in the loss of good grade agricultural land.

Highway Matters

- Poor access off Forge Bank and through Upper Court Road for private and emergency vehicles.
- Single point of access will become severely congested.
- The width of Forge Bank and Upper Court Road are less than the minimum requirements set out in the Council's Highways Design Guide. Width is further reduced by existing on-street parking.
- Additional traffic will increase the risk of traffic accidents, particularly with children living at Forge Bank and walking to school.

Flood Risk

- Present Environment Agency flood zone designations do not accurately reflect recent flood events.
- The site is prone to flooding from excess surface water.
- The flood risk assessment is fundamentally flawed as it does not mention recent flood events.
- The existing drainage system is inadequate and overflows during periods of heavy rainfall.

Environmental Concerns

- The proposal would result in increases in noise, light and air pollution.
- The proposed housing does not appear to be environmentally friendly.
- The scheme would result in the loss of a Greenfield site. A sequential approach has not been adopted.
- There are other sites available that are better suited to smaller scale development.

Other Issues

- The proposed location of the play area is remote from the dwellings and does not relate well to properties on Upper Court Road, contrary to Policy H19 of the UDP.
- The Council's SHLAA states that the site has 'significant constraints'
- The concerns raised significantly outweigh any benefits that the proposal might bring and would result in an unsustainable form of development contrary to national and local planning policy.
- The ecological significance is dismissed yet the site provides an important habitat for a number of bird species.
- The proposal is contrary to the emerging Core Strategy.

5.5 Further comments have been submitted by the applicant's agent following the expiry of the consultation period. In summary the points raised are as follows:

The benefits of the proposals include:

- the provision of up to 46 much needed new homes for the village supporting an increased population;
- the provision of 35% affordable housing, providing up to 16 homes to meet local needs;

- the provision of a mix of two, three and four/five bedroom properties reflecting the local need and market requirements;
- the provision of 0.31 hectares of new public open space which could incorporate a new play area;
- the potential to create a pedestrian footpath loop around the village by linking the footpath at the end of Upper Court Road with the lane on the western boundary, providing improved accessibility for residents; the creation of a more effective transition between the village and the countryside with new planting both within the development and along the western and southern boundaries of the site; and
- Growth in the village population which will help to support and sustain local retail and community facilities as well as the bus service.

Their response also comments that the site is sustainable and that the draft Local Plan identifies Bosbury as a village that is suitable and capable of accommodating growth, helping to support the local services and facilities and enhancing the sustainability of the community.

With regard to objections raised about the accuracy of the Transport Statement they comment that the TRICS filtering process has been carried out in accordance with Best Practice Guidance. The application is not of a scale to trigger the need for a full Transport Assessment and the scale of development is considered to be below the threshold even requiring a Transport Statement, although for completeness one has been provided in this instance.

Their further comments acknowledge that existing land and buildings not part of the development site, in particular the school, are at fluvial or surface water flood risk in extreme flooding events. However, the proposed development will not worsen this situation due to the implementation of all appropriate mitigation and drainage strategies outlined in the Flood Risk Assessment. The potential risk of exceedance flows from adjacent agricultural land and the Upper Court Road area, flowing across the site, will be managed to ensure they are routed away from new properties and the school, towards areas of low vulnerability to the south west.

With regard to the impact of the development on heritage assets, the agent highlights that their Supplementary Heritage Assessment concludes that the proposed development may lead to a slight loss or reduction in the significance and character of the Conservation Area and the setting of listed buildings, but would constitute significantly less than substantial harm to as defined by the NPPF. Their comments conclude that the benefits of the proposals far outweigh the impacts on heritage assets and as such the application should be approved.

- 5.6 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

Principle of Development

- 6.1 The issue of the Council's lack of a five year housing land supply has been well rehearsed over recent months by other applications and appeal decisions for residential development on land outside of settlement boundaries identified by Policy H4 of the Herefordshire Unitary Development Plan (HUDP). This application is submitted on the same basis.
- 6.2 In order to establish a degree of consistency in the absence of housing policies that are considered to be up-to-date with the National Planning Policy Framework (NPPF) the Council has adopted an interim protocol for the consideration of applications that would otherwise be contrary to Policy H7 of the HUDP. It accepts that appropriate residential development outside

Further information on the subject of this report is available from Mr A Banks on 01432 383085

the development boundaries of main settlements may be permitted to help address the housing shortfall, subject to all other material planning considerations, and specifies that sites should be located adjacent to main settlements defined by Policy H4 of the HUDP. This approach is consistent with the NPPF which presumes in favour of sustainable development.

- 6.3 In simple geographic terms the site is compliant with the interim protocol as it is immediately adjacent to Bosbury's settlement boundary. The village continues to be identified as one that is appropriate for proportionate growth in the emerging policies of the Core Strategy and is considered to be sustainable in accordance with the NPPF. The determination of this application therefore rests with other material planning considerations and whether they outweigh the Council's lack of a five year housing land supply. These will be assessed in the following paragraphs.

Impact upon Heritage Assets

- 6.4 The heritage assets that are potentially affected by the proposal are the conservation area, the Grade I listed Holy Trinity Church and other listed buildings that either bound or are within proximity to the application site. The impact on the setting of the listed buildings must be considered in accordance with policy HBA4 and, although the site is just outside the boundary of the conservation area, policy HBA6 is also considered to be relevant. The foundation of both policies is that development that adversely affects the setting of a listed building or conservation area should not be permitted. Amongst the criteria for assessing impacts on listed buildings are the scale of the development proposed. Policy HBA6 also relates to scale, but also the plan, form and density of development proposals, advising that such matters should successfully integrate into the locality.

- 6.5 The NPPF provides further advice about heritage assets. Paragraph 132 advises that:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.....

Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*

- 6.6 The Council's Historic Buildings Officer has objected to the application advising that, whilst the proposal would not obliterate the views of the Grade I listed church and belltower, the views of them would be altered significantly. Concern that the continued legibility of the historic core of the village would be lost through further development of the village to the south as proposed is also identified.

- 6.7 It is acknowledged that the church and belltower are of considerable significance as Grade I listed buildings and therefore the impact upon them has to be very carefully assessed. It is considered that the critical viewpoint to substantiate the concerns raised by the Council's Historic Buildings Officer is from Southfield Lane, which runs approximately north / south to the south east of the application site. It is characterised by high, well established field hedges with very few gaps. The lane has been walked and driven by the case officer during the spring and summer and the views of the site are exceptionally limited. The intervisibility between the site and lane is further influenced by the topography of the surrounding area. The residential areas of Upper Court Road and Forge Bank are located on a high point between 75m and 80m AOD. The majority of the site is much lower – between 65m and 70m AOD.

6.8 The historic core of the village is characterised by properties adjacent to the road frontage with very few gaps. Consequently there are very limited opportunities for views from the centre of the village and the precincts of the church in a southerly direction over the application site. The only opportunity for a glimpse of the site is where the public footpath emerges onto the B4220, a gap of 4 metres between buildings.

6.9 Whilst acknowledging the comments made by the Historic Buildings Officer it is considered that, subject to its detailed design, the proposal would not be visually prominent from public vantage points to the south. It will sit on lower lying land and would be obscured from view from public vantage points by existing vegetation and thus would not disrupt the legibility of the historic core of the village in a manner that would cause substantial harm. Some concerns have been raised by objectors about the possible design of the dwellings but, as this is an outline application which reserves detailed design for future consideration, this is not a matter that can be considered at this stage. Whilst any development will inevitably bring about a change to the surrounding area, it is considered that the impact upon the setting of the conservation area and its listed buildings, including the church and belltower, will be limited. The proposal would not lead to substantial harm to their setting and therefore this would not outweigh paragraph 14 of the NPPF which states that for decision making the presumption in favour of sustainable development means:

where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- *specific policies in this Framework indicate development should be restricted.*

6.10 The scheme does represent a significant addition to the village in terms of the quantum of development, and at a 32% increase in housing stock, does exceed the projected proportionate growth as outlined by Policy RA1 of the emerging Core Strategy. However, there have been a number of objections to this policy and therefore it has no weight in the determination of this application.

6.11 It is not considered that the impacts on the conservation area or the listed buildings are significantly adverse for the reasons given above and therefore do not outweigh the benefits of granting planning permission in order to contribute to the meeting of the Council's five year housing land supply.

Sustainability & Service Capacity

6.12 Bosbury is considered to be a sustainable settlement. It is identified as a main settlement in the HUDP and has a primary school. In a rural context, the expectation that a settlement will only be sustainable if it contains a wider range of services is considered unrealistic and would, taken to the extreme, limit further residential development to the market towns and very few of Herefordshire's villages.

6.13 Some of the correspondence received suggests that existing services are currently at capacity and will be unable to accommodate the development proposed, with particular reference made to the school and sewage treatment plant. Other correspondence notes that the local bus services are likely to be cut.

6.14 The Draft Heads of Terms attached as an appendix to this report makes provision for education contributions. Notably, the comments from the head teacher of Bosbury Primary School raise no objection to the principle of increasing housing numbers within the school's catchment. Furthermore, the advice from the Council's education department is that only

three year groups at Bosbury Primary School are currently at capacity with a projected intake for the next school year of 20.

- 6.15 Notwithstanding concerns raised about the capacity of the existing sewerage system, Severn Trent has not objected to the application. This would imply that they are content that there is sufficient capacity within the existing foul system to accommodate a development of this scale.
- 6.16 In this context the available evidence does not indicate that there are any fundamental infrastructure capacity issues that cannot be mitigated.

Highway Impacts

- 6.17 Paragraph 32 of the NPPF is key to the highway impact debate where it states:

Plans and decisions should take account of whether improvements can be undertaken within the transport network that, cost effectively mitigate, the significant impacts of the development. Development should only be presented or refused on transport grounds where the residual cumulative impacts of the development are severe.

- 6.18 The Transportation Manager has visited the site and has considered the contents of the Transport Statement that accompanies the application, and has raised no objection to the proposed use of Upper Court Road and Forge Bank to gain access to the site. The estate road is considered to be of sufficient width to accommodate the additional traffic that would be generated by such a proposal and the junction with the B4220 offers good visibility in both directions.
- 6.19 The location of the public footpath and possible link to the centre of the village offers an opportunity for good connectivity between the application site and the primary school. It also offers a wider benefit in terms of connectivity to existing residents on Upper Court Road and Forge Bank as it would provide a safer pedestrian route to the school, avoiding the need for parents and children to walk along the B4220.
- 6.20 In conclusion, the proposal will not result in severe impacts on the highway network and the pedestrian connectivity that would result between Upper Court Road, Forge Bank and the centre of the village is considered to be a benefit of the development. The proposal is compliant with Policies H13 and T8 of the HUDP and the advice given by the NPPF.

Flood Risk

- 6.21 Paragraph 103 of the NPPF advises that, when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere as a consequence of the development proposed. It also requires that development is appropriately flood resilient and resistant, including safe access and escape routes where required. It also gives priority to the use of sustainable drainage systems. The HUDP is considered to be up to date with the NPPF with respect to flood risk as these objectives are reflected by Policy DR7.
- 6.22 The Environment Agency's Flood Map shows the site is located in the low risk Flood Zone 1. The applicant has prepared a site specific Flood Risk Assessment (FRA) that concludes that the proposed development is located in Flood Zone 1 although it acknowledges the proximity of the development to Flood Zone 3 associated with the River Leadon to the east of the site. The applicant has considered the potential effects of climate change on the depth and extent of Flood Zone 3 by adding 300mm to the current predicted flood level of 66.9m AOD to provide a future flood level of 67.20m AOD. To mitigate any future increase in flood risk to the proposed development the applicant is proposing to locate building floor levels at a minimum level of 67.50m AOD – 300mm above the predicted future flood level for the 1 in 100 year event.

- 6.23 The Indicative Masterplan indicates that access to the development will be achieved from the east of the site on land in Flood Zone 1. Topographical evidence shows that this ground level is significantly higher and therefore emergency access and egress would be available during extreme flood events.
- 6.24 The amended FRA includes a proposed surface water drainage strategy and proposes to discharge surface water runoff from the proposed development to the River Leadon to the west of the site. This will be achieved either by discharging to an existing ditch or via a new surface water sewer. This approach is accepted by the Council's Land Drainage Engineer, subject to the submission of further information as required by condition.
- 6.25 There is known to be a localised flooding issue within Bosbury with surface water collecting on the B4220 in the centre of the village, flooding the properties facing the church and the school. The Land Drainage Engineer advises that the highway drainage is insufficient to deal with the volume of water. This is partly due to the water levels in the River Leadon and partly because the capacity of the drainage system is too small. As the development is proposing to utilise a new surface water drainage system that is independent of the existing system within the village it is considered that the proposal will have no adverse impact on existing flood risk from this source. It will not exacerbate an existing problem.
- 6.26 The FRA states that runoff from the developed site will be attenuated within an attenuation pond located in the south-west corner of the site. The pond will be sized for the 1 in 100 year event with an appropriate allowance for climate change. The applicant also intends to create a wetland habitat within the proposed pond by directing flows from adjacent development directly to the pond. This approach is welcomed by the Land Drainage Engineer who acknowledges the biodiversity benefits that this could achieve.
- 6.27 It is therefore concluded that, subject to the imposition of conditions as recommended by the Council's Land Drainage Engineer, the proposal is compliant with Policy DR7 of the HUDP and paragraph 103 of the NPPF.

Other Matters

- 6.28 Some of the letters of objection comment on the position of the proposed play area and express the view that it is remote from the rest of the development. Although it must be stressed that the application has been made in outline and that layout is reserved for future consideration, the rationale is that it is located on rising land. It is kept free from development to mitigate impacts on the setting of the conservation area and listed buildings and also links with an existing area of open space immediately to the east. Although its position would not be compliant with policy H19 in terms of the indicative layout shown, there are other matters that have led to its location.
- 6.29 The loss of good quality agricultural land has also been raised as a concern by some objectors. A recent appeal decision for residential development at Feniton, East Devon provides some useful guidance on the matter. The Inspector noted that all of the three sites to which the appeal related were Grade 2 agricultural land and considered their loss against Paragraph 112 of the NPPF. It advises that the economic and other benefits of such land should be taken into account, The Inspector considered that the loss of good quality agricultural land is an adverse impact to be weighed in the overall planning balance. In this particular case the proposal would result in the loss of 2.64 hectares of agricultural land and it is not considered that its loss carries such significant weight when balanced against the lack of a five year housing land supply.
- 6.30 The application has been accompanied by an ecological survey, completed by an appropriately qualified ecologist. This does not find any evidence of protected species being present on the site but acknowledges that there is a potential for habitat enhancements,

particularly through the provision of nesting boxes for barn owls. The survey has been assessed by the council's ecologist and he does not object to the scheme, subject to the habitat enhancements proposed, and the implementation of further habitat enhancements to be agreed by condition. These may specifically relate to the areas around the attenuation pond and the southern boundaries of the site. The comments of the council's ecologist are reflected by the recommendation and the scheme is considered to be compliant with policy NC8 of the UDP and the NPPF.

Conclusion

- 6.31 The Council cannot demonstrate a five-year supply of housing land with the requisite buffer. The housing policies of the HUDP are thus out of date and the full weight of the NPPF is applicable. HUDP 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.
- 6.32 When considering these three points, it is considered that the scheme represents sustainable development and therefore there is a presumption in favour of development. The site lies outside but directly adjacent to Bosbury. The village has been identified as a main settlement in the HUDP and whilst recognising the limited weight afforded to the Core Strategy it continues to be considered as a sustainable settlement under Policy RA1.
- 6.33 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 and the uplift in Council Tax receipts should also be regarded as material considerations. By supporting local facilities and in providing a greater supply of housing and breadth of choice, including 35% affordable, it is considered that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.
- 6.34 Of the other material planning considerations that have been identified through the consultation process and responses from consultees and members of the public, it is not considered that any carry such significance as to outweigh the presumption in favour of sustainable development. The revisions made to the FRA and drainage strategy have resolved the original concerns raised by the Land Drainage Engineer and, whilst development will inevitably increase traffic movements through Upper Court Road and Forge Bank, and at its junction with the B4220, these impacts are not considered to be severe.
- 6.35 The impacts of the development upon heritage assets - the setting of the conservation area and listed buildings; including the Grade I listed Holy Trinity Church and bell tower, have been given especial weight as a material planning consideration. Notwithstanding the concerns raised by the Council's Historic Buildings Officer, it has been concluded that due to the site's visual relationship with the rest of the village, the topography of the surrounding area and the limited visual interdivisibility between the site and historic core of the village, the proposal would not cause substantial harm and as such is compliant with paragraph 132 of the NPPF and therefore there is a presumption in favour of the development as one, which has previously been accepted, is sustainable.
- 6.36 As such it is advised that there are no matters of such weight that would justify the refusal of this application and the impacts associated with granting planning permission can be addressed through the imposition of appropriately worded conditions. The proposal accords with those saved policies of the HUDP that are compliant with the NPPF, and consequently with the Framework itself. It is therefore recommended that planning permission be granted subject to the completion of a Section 106 Agreement and the imposition of conditions.

RECOMMENDATION

Subject to the completion of a Section 106 Town and 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. **A05 Plans and particulars of reserved matters**
5. **The recommendations set out in Section 4.2 of the ecologist's Phase 1 Habitat report dated May 2014 and Section 4.2 of the Ecologist's reptile survey report dated May 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, method statement for protected species mitigation should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reason: 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 Herefordshire Unitary Development Plan. To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

6. **The recommendations set out in Section 4.3 the ecologist's Phase 1 Habitat report dated May 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reason: 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 Herefordshire Unitary Development Plan. To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

7. **No development shall take until a detailed Surface Water Drainage Scheme has been submitted to and approved in writing by the local planning authority. The Scheme shall be implemented in accordance with the approved details prior to the occupation of any of the dwellings hereby permitted. The scheme shall include:**

- **Demonstration of consideration given to reducing runoff during smaller rainfall events and providing additional treatment prior to discharge.**
- **Demonstration that infiltration of surface water runoff to ground will be maximised where appropriate, informed through investigation of soil infiltration rates and groundwater levels.**
- **Details of the proposals for adoption and maintenance of the surface water drainage system.**

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding to comply with Policy DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 8. L01 Foul/surface water drainage**
- 9. L02 No surface water to connect to public system**
- 10. L03 No drainage run-off to public system**
- 11. I26 Interception of surface water run off**
- 12. G17 Provision of open space and play areas (outline permissions)**
- 13. G04 Protection of trees/hedgerows that are to be retained**
- 14. H17 Junction improvement / off site works**
- 15. H21 Wheel washing**
- 16. H27 Parking for site operatives**
- 17. Prior to the commencement of the development hereby approved a Construction & Delivery Traffic Management Plan shall be submitted to and approved in writing by the local planning authority. The plan shall be implemented in accordance with approved details upon the first commencement of the development hereby approved.**

Reason: In the interests of highway safety so that potential conflicts between construction and school traffic are avoided and to comply with Policy DR3 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework

- 18. The development shall not begin until a scheme for the provision of affordable housing as part of the development on the site, has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme which shall include:**
 - 1) The numbers, type, tenure and location on the site of the affordable housing provision to be made;**
 - 2) The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing, if no Registered Social Landlord is involved;**
 - 3) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**

- 4) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To secure satisfactory affordable housing provision in accordance with saved Policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

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. N11A Wildlife and Countryside Act 1981 (as amended) - Birds
3. N11C General
4. HN04 Private apparatus within highway
5. HN28 Highways Design Guide and Specification
6. HN05 Works within the highway
7. HN07 Section 278 Agreement

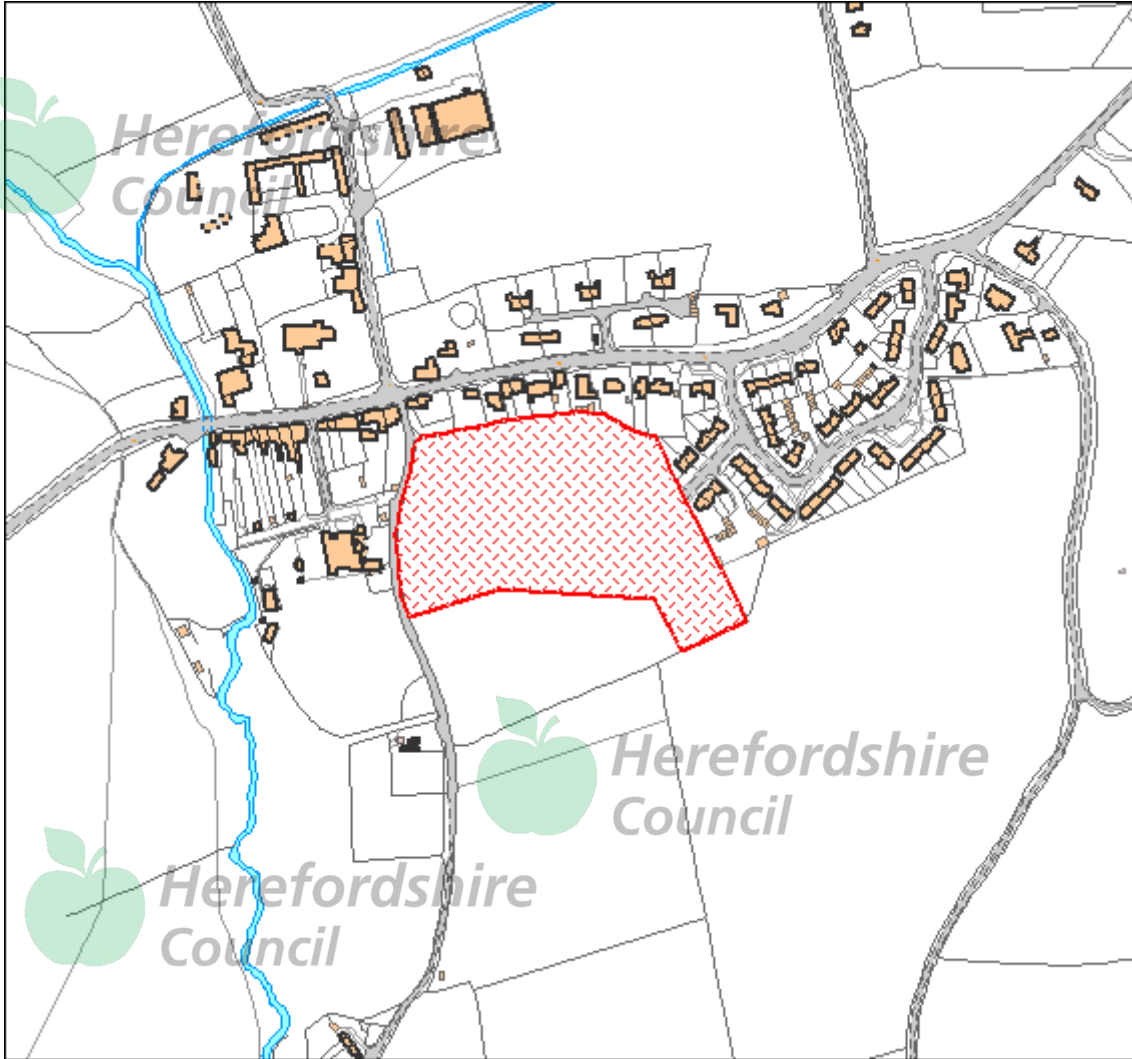
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 141550/O

SITE ADDRESS : LAND WEST OF UPPER COURT ROAD, BOSBURY, LEDBURY, HEREFORDSHIRE

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

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 1st April 2008. All contributions in respect of the residential development are assessed against general market units only.

Planning application reference:

Application for outline planning permission with all matters reserved (except access) for up to 46 dwellings, a new access from Upper Court Road together with open space, parking and associated infrastructure on land west of Upper Court Road, Bosbury, Herefordshire.

1. Where need can be justified, the developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):

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

The contribution will provide enhanced educational infrastructure at Bosbury Primary School, St Josephs RC Primary School, John Masefield Secondary School, St Marys RC High School, Early Years, Post 16, Youth Services and Special Education Needs. The sum shall be paid on or before the occupation of the 20th market unit, and may be pooled with other contributions if appropriate.

2. Where need can be justified, the developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):

£1,967.00	(index linked) for a 2 bedroom open market unit
£2,952.00	(index linked) for a 3 bedroom open market unit
£3,933.00	(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 occupation of the 20th market unit, 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:

- a) Traffic calming and traffic management measures in the locality.
- b) New pedestrian and cyclist crossing facilities.
- c) Creation of new and enhancement in the usability of existing footpaths and cycleways connecting to the site.
- d) Provision of and enhancement of existing localised bus infrastructure.
- e) Public initiatives to promote sustainable modes of transport.
- f) Safer routes to school.

3. Where need can be justified, the developer covenants with Herefordshire Council to pay the sum of:

£408.00	(index linked) for a 1 bedroom open market unit
£496.00	(index linked) for a 2 bedroom open market unit
£672.00	(index linked) for a 3 bedroom open market unit
£818.00	(index linked) for a 4+ bedroom open market unit

The contribution will be for sports (contribution based around the requirements of policy H19 and RST4 of the UDP and Sport England Sports Facilities Calculator). The monies shall be used by Herefordshire Council to improve indoor and outdoor sports facilities in the locality in accordance with the draft Playing Pitch Assessment. The sum shall be paid on or before the commencement of development, and may be pooled with other contributions if appropriate.

4. Where need can be justified, the developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

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

The contributions will provide for enhanced Library facilities. The sum shall be paid on or before the occupation of the 1st 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 Bosbury. The sum shall be paid on or before occupation of the 1st 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 a Trust set up for the new community for example, or the Parish Council, or other appropriate management body. 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 need to be transferred to the Council with a commuted sum calculated in accordance with the Council's tariffs over a 60 year period.

7. The developer covenants with Herefordshire Council that 35% (16 units – on basis of development of 46) 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. 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.
9. 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:-

- 9.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
- 9.2 satisfy the requirements of paragraphs 10 & 11 of this schedule.
10. 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:-
 - 10.1 a local connection with the parish of Bosbury and Coddington
 - 10.2 in the event there being no person having a local connection to the parish of Bosbury and Coddington a person with a connection to the adjacent parishes;
 - 10.3 in the event of there being no person with a local connection to the above parishes 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 9.1 above.
11. For the purposes of sub-paragraph 10.1 and 10.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - 11.1 is or in the past was normally resident there; or
 - 11.2 is employed there; or
 - 11.3 has a family association there; or
 - 11.4 a proven need to give support to or receive support from family members; or because of special circumstances.
12. 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.
13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 4 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.
14. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4 and 5, 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.
15. The sums referred to in paragraphs 1, 2, 3, 4 and 5 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.

16. 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.
17. 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.

6 June 2014