

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 JUNE 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>150727 - OUTLINE APPLICATION FOR UP TO 120 DWELLINGS WITH ASSOCIATED OPEN SPACE AND LANDSCAPING WITH ALL OTHER MATTERS RESERVED, EXCEPT ACCESS AT LAND OFF, PENCOMBE LANE, BROMYARD, HEREFORDSHIRE</b></p> <p><b>For: The Gladman Developments Ltd., Gladman House, Alexandria Way, Congleton Business Park, Congleton, Cheshire CW12 1LB</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150727&amp;search=150727">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150727&amp;search=150727</a>
<b>Reason Application submitted to Committee – Contrary to Policy</b>	

**Date Received: 11 March 2015**

**Wards: Bromyard  
West and Bishops  
Frome & Cradley**

**Grid Ref: 364360,254271**

**Expiry Date: 18 June 2015**

Local Members: Councillors A Seldon, and PM Morgan

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

- 1.1 The site is located on the western edge of Bromyard, to the immediate south of Worcester Road (A44) and comprises around 4.7 hectares of agricultural/pastoral land divided into two fields by an established hedgerow boundary. The site boundaries are defined by established hedgerows and trees.
- 1.2 Existing residential areas lie to the north east of the site. To the east of the site are several residential properties fronting Panniers Lane, a cricket ground, Queen Elizabeth Humanities College and established residential areas beyond. Established trees and hedgerows line Pencombe Lane, which forms the southern boundary of the site. A group of woodland trees line the western boundary.
- 1.3 The site lies within an area described by the Council's Landscape Character Assessment as a Timber Plateau Farmlands landscape type. Such areas are defined by the presence of field boundary hedgerows, linear woodland and medium scale open views and all of these features are evident on site. It is located in open countryside and has a rural setting to the south and west. However, it also has a recognisable residential context due to inter-visibility with the edge of Bromyard to the north and east, and the more scattered development along Panniers Lane.
- 1.4 The site rises steadily in an approximate south to north direction, with the gradient increasing more considerably towards the northern boundary with the A44.

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

- 1.5 There are no listed heritage assets within the immediate context of the site. Bromyard Conservation Area lies approximately 1 km to the east of the site, and incorporates the town centre and its immediate surroundings.
- 1.6 The application seeks outline approval for development of the site for up to 120 dwellings, 35% of which are to be affordable. It is a re-submission of an application refused by Planning Committee on 4 March 2015; the reasons for refusal are detailed in the Planning History section of this report below.
- 1.7 All matters apart from access are reserved for future consideration and this is to be achieved through the establishment of a single point of access onto the A44. This will require the removal of the existing roadside hedgerow in order to accommodate the required visibility splays. The submission indicates that these hedgerows will be set back and replanted in order to mitigate for their loss and to retain the landscape character of the road frontage.
- 1.7 A new footway is proposed along Worcester Road (A44) between the proposed access and the existing junction with Panniers Lane, providing a connection for pedestrians to the nearby bus stop and convenience store and linking into the site at its north eastern corner.
- 1.8 The application is supported by an indicative master plan. This demonstrates a housing density of approximately 30 dwellings per hectare and includes the provision of a public open space in the north eastern corner and an attenuation pond at the site's lowest point to the south west.
- 1.9 The application is submitted with the following documents:
- Design & Access Statement
  - Planning Statement
  - Affordable Housing Statement
  - Landscape and Visual Impact Assessment
  - Ecological Appraisal
  - Arboricultural Assessment
  - Archaeological Assessment
  - Framework Travel Plan
  - Transport Assessment
  - Flood Risk Assessment & Surface Water Drainage Strategy
  - Noise Impact Assessment
  - Statement of Community Involvement
- 1.10 The applicant's agent has also commissioned a Stage 1 Road Safety Audit. This was completed in response to concerns raised during the determination of the first application about the capability of the existing road network to safely accommodate the proposed vehicular access to this site, and a separate access to serve the proposed strategic housing allocation that is being promoted as part of the Core Strategy on land opposite known as Hardwick Bank.
- 1.11 The application has also been screened under Schedule 2 of the Town & Country Planning (Environmental Impact Assessment) (Amendment) 2015, and the Council has issued a formal screening opinion which concludes that the development does not constitute EIA development.

## **2. Policies**

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

The following sections are of particular relevance:

Introduction - Achieving sustainable development

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

- 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:

- S1 - Sustainable Development
- S2 - Development Requirements
- DR1 - Design
- DR2 - Land Use and Activity
- DR3 - Movement
- DR4 - Environment
- DR5 - Planning Obligations
- DR7 - Flood Risk
- H1 - Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
- H7 - Housing in the Countryside Outside Settlements
- H13 - Sustainable Residential Design
- H15 - Density
- H19 - Open Space Requirements
- T8 - Road Hierarchy
- LA2 - Landscape Character and Areas Least Resilient to Change
- LA3 - Setting of Settlements
- LA5 - Protection of Trees, Woodlands and Hedgerows
- NC1 - Biodiversity and Development
- NC8 - Habitat Creation, Restoration and Enhancement

## 2.3 Herefordshire Core Strategy Deposit Draft:

- 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 Neighbourhood Planning

Bromyard and Winslow Town Council are not producing a Neighborhood 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:-

### **3. Planning History**

3.1 142175/O - Outline application for up to 120 dwellings with associated open space and landscaping with all other matters reserved, except access – Refused by Planning Committee on 4 March 2015 for the following reasons:

1. The site occupies a prominent position in an open countryside location on the western edge of Bromyard. It represents an important visual approach to the town and is visually prominent from a number of public vantage points, particularly further to the west from the A44 and from Panniers Lane and Pencombe Lane and is considered to be important to the town's landscape setting. The proposal would result in the introduction of a large suburban development on the edge of the town that lacks any visual link to it and would be of a scale, character and appearance that would have a significant and demonstrable adverse effect upon the landscape setting of Bromyard. The topography of the site is such that this cannot be readily mitigated through the implementation of a landscaping scheme to filter views of the development and it is therefore considered that the proposal is contrary to Policies LA2, LA3 and LA5 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.
2. By virtue of its unacceptable landscape impacts the proposal fails to meet the environmental dimension towards sustainable development as described by paragraph 7 of the National Planning Policy Framework. The impacts of the development are not outweighed by the economic and social benefits that might be derived by permitting the scheme. The proposal therefore represents an unsustainable form of development, contrary to the National Planning Policy Framework and Policy S1 of the Herefordshire Unitary Development Plan.
3. The development of the site would be premature and prejudicial to the delivery of the strategic housing land allocation at Hardwick Bank as defined by Policy BY2 of the emerging Herefordshire Local Plan – Core Strategy 2011 – 2031. It would undermine the plan-making process by predetermining decisions about the scale and phasing of new development on the strategic site and it would serve to pre-determine the provision of vehicular access via the A44. The emerging plan is considered to be at an advanced stage, having been subject to an Examination in Public in February 2015, and therefore the tests to justify grounds of prematurity as outlined by Paragraph: 014 Reference ID: 21b-014-20140306 of the National Planning Practice Guidance are met.
4. The application is not accompanied by a completed Section 106 Agreement which is considered necessary to make the development acceptable. It is therefore contrary to Policy DR5 of the Herefordshire Unitary Development Plan and the Council's Supplementary Planning Document on Planning Obligations.

3.2 The applicant has lodged an appeal with the Planning Inspectorate against the Council's decision to refuse the application and have asked that it be considered at a hearing. At the time of writing your officers are still awaiting confirmation of a start date for the appeal.

### **4. Consultation Summary**

#### Statutory Consultations

4.1 NHS England - I have reviewed the application to assess the impact of the proposed development on primary health care infrastructure. The development will impact upon Nunwell Surgery which is already fully utilising all of its available clinical space so is unable to provide services to this increased population. I therefore request a Section 106 capital contribution from the developer for primary medical care facilities required to support this residential development as per the analysis below:

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

## Capacity Analysis

Planned Number of dwellings 120  
Forecast increase in population 288  
Average No. of consultations per annum 6  
Forecast No. of consultations per annum 1,728  
Consulting Room Capacity 6,300  
No of consulting rooms required 0.27

## Cost Analysis

Consulting room floor area required 4.39 sq m  
Clinical/Non clinical support (excluding circulation) 2.93 sq m  
Total floor area required 7.31 sq m  
Forecast outturn costs (fully inclusive) £26,043

NHS England requests a capital contribution of £26,043 to be allocated under Section 106 of the Town and Country Planning Act as part of this application. As can be seen from the capacity and cost analysis above this request is directly related to the development and is fairly and reasonably related in scale and kind to the development.

- 4.2 Welsh Water – No objections subject to the imposition of conditions to ensure that foul and surface water are discharged separately.

## Internal Council Consultations

- 4.3 Transportation Manager – no objection subject to the imposition of conditions
- 4.4 Conservation Manager (Ecology) – no objection subject to condition
- 4.5 Conservation Manager (Landscape)

The site slopes from the northeast to southwest from approximately 174m AOD to 157m AOD and forms part of a gently rolling plateau with an expansive area of pastoral land, defined by visually prominent boundary hedgerows and hedgerow trees. Views of open countryside extend westwards in the direction of Hegdon Hill.

- The site is considered to typify its Landscape Character Type; Timbered Plateau Farmlands: These landscapes are an upstanding version of Principal Timbered Farmlands and in Herefordshire occur in their greatest concentration on the Bromyard Plateau. They are varied agricultural landscapes of hedged fields, scattered farms, woods and wooded valleys associated with undulating relief. The dominant landform is one of the most prominent characteristics and tends to override the pattern of tree cover and field shape. Variations in topography within this landscape create a changing sequence of visual perspectives ranging from open vistas on plateau summits to more secluded scenes along valley bottoms.
- There are no statutory designations within the site. However the landscape is identified as being of High Sensitivity within the Urban Fringe Landscape Sensitivity Analysis (Jan 2010) due to its visual prominence. It is further referenced within the Green Infrastructure Strategy Herefordshire (Feb 2010) as forming part of the BroLSC2 strategic corridor and part of BRoLEZ2 Enhancement Zone and BroFZ2 Fringe Zone because of its degree of visual sensitivity.
- Flaggoner's Green forms part of a gently rolling plateau, of open countryside, which contrasts with heavily incised slopes to the north and east of the settlement. This visually

sensitive plateau contains the settlement of Bromyard. The open space forms part of the gateway to the settlement and serves to preserve its rural setting.

*Visual and Public Amenity:*

The visual envelope to the north and east is defined by the topography, to the west and southwest the gently rolling terrain affords views of open countryside.

- It is anticipated that a number of residential properties will experience a potential change in view as a result of the proposal. Properties adjacent to the site including Flaggoner's Green House, Chanctonbury, Winslow View and Cedarwood will experience unimpeded views. Those north of the proposal at Broxash Close, Winslow Road and Upper Hardwick Lane will experience second storey views and properties along Pencombe Lane partial filtered views. Partial middle distance views of the proposal are envisaged from existing development along Panniers Lane including Birchyfield, an unregistered historic park and garden, and users of Queen Elizabeth Humanities College.
- Clear views are envisaged along sections of Public Right of Way AV8 in addition to middle distance views along sections of PRoW WN7 where the proposal will be seen as part of a vista of open countryside against the backdrop of the Malvern Hills.
- Users of the A44 Worcester Road will experience clear views of the proposal as the road aligns with the northern boundary at the western approach to Bromyard. Road users of Pencombe Lane will experience a similar degree of change as the road aligns with the southern boundary. Further glimpsed transient views are anticipated from the southern approach along Panniers Lane.

*Conclusions:*

Whilst it is understood that the Urban Settlement Boundary runs close to the proposed site and existing development lies therein. The prominent nature of the landform is such that development on this site would be viewed in relative isolation, thus making it incongruous with the surrounding open countryside and in turn detrimentally affecting the rural setting of the settlement of Bromyard.

*Summary Reason For Recommendation:*

It is considered that the proposal is not in accordance with The Herefordshire Unitary Development Plan:

S1 Sustainable Development (2) respecting patterns of local distinctiveness and landscape character in both town and country and safeguarding landscape quality and visual amenity.

LA3 Setting of Settlements - Development outside the built up areas of Hereford, the market towns and rural settlements, which is acceptable in terms of other Plan policies will only be permitted where it would not have an adverse effect upon the landscape setting of the settlement concerned. Important visual approaches into settlements, views of key buildings open areas into development, green corridors ridgelines and surrounding valued open countryside will be particularly protected and where necessary enhanced.

#### 4.6 Conservation Manager (Archaeology)

As the submitted assessment indicates, there are no significant archaeological issues in relation to this development. I therefore have no objections.

#### 4.7 Parks & Countryside Manager

UDP Policy H19 requires schemes in excess of 60 to provide outdoor playing space to include children's play areas for all ages and outdoor sports pitches in accordance with standards provided in UDP Policy RST3.

A site of up to 120 dwellings at an average rate of 2.3 persons (276) in accordance with UDP Policy RST 3 would require the following:

- POS (0.4 ha per 1000 population) – 0.11 ha (on site)
- Play area provision (0.8 ha per 1000 population) - 0.22 a (on site)
- Outdoor sports provision ( 1.6ha per 1000 population) - 0.44 ha (off site)  
0.77 ha in total

It is noted in the design and access statement the quantum on public open space will be met through the provision of 0.62ha SUDs area which will act as public open space in the south west corner and 0.29ha public open space / play in the north eastern corner. There is no mention of formal outdoor sports provision either on or off site, and whilst the offer on site does appear to meet the POS and Play provision adequately of 0.32ha, a contribution towards off site sports will still be required.

In accordance with the NPPF, provision of what open space, sports and recreational opportunities required in a local area should be based on robust assessments of need. In this instance the Playing Pitch Assessment for the Bromyard Area 2012 and the draft Investment Plan currently being prepared have identified a number of deficiencies in provision to meet the current and future population needs.

Play Area Provision: On site provision should include a combination of both formal and informal play opportunities including natural play. Using the Fields in Trusts standards for play provision, this would equate to approx. 0.07ha formal (700 sq m) and 0.15 ha informal play which could include natural play opportunities and play and fitness trails for example.

Formal provision should ideally be one larger facility and a kick-about area to be located within easy access and surveillance of the residential areas. It is noted all detail will be reserved matters and at this stage we will be able to provide more details of the play requirement, value, size etc.

POS/SUDS areas: All on site provision, including play should be fully integrated and accessible and consider including community gardens and neighbourhood green spaces. If SUDs areas are to be provided on site, with careful design (to take account of health and safety issues of standing water) SUDs areas can be included as additional areas of POS providing natural play opportunities and valuable areas for wildlife and biodiversity.

#### 4.8 Education

No objection subject to the provision of financial contributions as outlined in the Heads of Terms Agreement.

#### 4.9 Housing Development Manager

Whilst the application meets the requirement to provide 35% affordable and the local authority's required standards, the tenure mix does not reflect the need for Bromyard. In addition to this, Herefordshire Council's Tenancy Strategy does not support affordable rent as a tenure on S106 sites.

#### 4.10 Land Drainage Engineer

Overall, for outline planning permission, we do not object to the proposed development on flood risk and drainage grounds. It is recommended that the surface water drainage system is provided in accordance with the Information provided in the FRA and that the Applicant submits the following information as part of any reserved matters application:

- Detailed drawing showing the proposed surface water and foul water drainage strategy, Including SUDS, attenuation measures and pollution prevention measures;
- Demonstration that other SUDS techniques, specifically Infiltration of surface water runoff and the use of on-ground conveyance techniques, were considered further during detailed design and incorporated into the design where appropriate;
- Evidence that the attenuation storage is provided for up to and Including the 1 In 100 year rainfall event with a 30% increase in rainfall intensity to allow for the effects of future climate change;
- Confirmation that Dwr Cymru Welsh Water are prepared to adopt the proposed foul and surface water drainage network (Including the attenuation pond and discharge to the drainage ditch);
- Evidence that appropriate pollution prevention measures are in place prior to discharge.
- Prior to construction, evidence of infiltration testing in accordance with BRE365 at locations of proposed soakaways to support the design. Groundwater levels should also be provided as Standing Advice recommends the invert levels of soakaways are a minimum of 1m above the groundwater level.

#### 4.11 Environmental Health & Trading Standards Manager

Our team has already made reference to the requirement for the development to achieve the satisfactory internal and external noise levels as specified in BS 8233: 2014 'Guidance on sound insulation and noise reduction for buildings' as the proposal abuts the A44.

In order to assess the impact of the road traffic noise the applicant would need to supply a noise report which includes a full survey of the impact of road traffic noise using the Department of Transport's Calculation of Road Traffic noise (CTRN) 1988 methodology and also using the Highways Agency Design Manual for Roads and Bridges Volume 11 Section 3 part 7 to include calculations for night-time noise levels and which looks at the impact of noise on the proposed residential premises.

The report must include all proposed mitigation measures and demonstrate rigorously that the standards of internal day and night time noise at a minimum reach the standard of reasonable as defined by BS8233: 2014 (design criteria for internal sound pressure levels within residential properties) for each residential property both inside and maximum levels of 50dB LAeq to be achieved in individual occupant's residential amenity areas (gardens, patios etc).

The applicant has requested that a full noise assessment not be made at the outline planning stage. I have no objection to this.

#### 4.12 Waste Management Team Leader

I have a concern over the collection of refuse & recycling from many of the properties which look like they are located down private drives and over 30m from the primary street. Can it be



confirmed what standard the secondary streets will be constructed to and whether these will be able to accommodate travel each week by the 26 tonne refuse collection vehicle?

The informal lanes will not be accessible therefore for those properties over 30m from the point on the highway that the vehicle will be able to travel to, collection points should be established with enough space available to position a bin for each property up to the dimensions of (665mm wide by 880mm deep).

## **5. Representations**

### **5.1 Bromyard & Winslow Town Council**

Resolved not to support the application for the following reasons:

#### Prematurity

Both tests for prematurity, as advised by section 21b-14 of the National Planning Policy Guidance, are met in this case. The Council's Local Plan is at an advanced stage (having undergone its examination in public) and in the local context the development proposed is significant and the cumulative effect of granting permission would be to undermine the plan-making process by pre-determining decisions about the scale, location and phasing of new development on strategic sites that are central to the Local Plan.

Since Application number 142175/O for the same site was refused at Herefordshire Council Planning Committee on 4th March 2015 Herefordshire District Council has issued "MAIN Modifications" to the Core Strategy subject to a six week public consultation process ending 1st May 2015. The MAIN Modifications as they affect Bromyard BY1 and BY2 are that there will be a minimum of 250 dwellings North West of the town, that a majority of dwellings shall be in the North West area of the town and that further work will be carried out to identify other strategic allocated sites North West of the town. It is the view of this Town Council that this advances the Core Strategy even further and the issue of Prematurity becomes more critical in any determination, given that the Application site is South West of the town and not under consideration for housing allocation.

#### Highway Safety

The proposed single point of access into the application site would severely jeopardise highway safety.

#### Landscape

The proposed development would be severely detrimental to the rural setting of the settlement of Bromyard, does not respect local distinctiveness and landscape character, and does not safeguard landscape quality and visual amenity, contrary to policies S1 and LA3 of the UDP and paragraph 109 of the National Planning Policy Framework.

#### Noise

The noise report submitted with the application indicates that to maintain satisfactory noise levels (in accordance with BS8233) the occupiers of properties fronting the A44 and Pencombe Lane would have to keep their windows closed at all times. Given the outline nature of the planning application permission should not be granted where the residential amenity of an unspecified number of properties would be adversely affected by noise.

### Loss of Agricultural Land

Granting permission would result in the loss of 4.7ha of Grade 2 agricultural land. The applicant has not demonstrated that the development is necessary given that there are other sites available to accommodate all of the Local Plan's housing requirements for Bromyard in the next plan period. To grant permission would therefore be contrary to paragraph 112 of the National Planning Policy Framework.

### Employment Land

There is no available employment land of 1.2ha, as required by both UDP and Local Plan policies, to justify the development of 120 houses.

### Affordable Housing

The tenure mix proposed does not reflect the need for Bromyard. In addition the Council's tenancy strategy does not support affordable rent as a tenure on Section 106 sites.

5.2 Avenbury Parish Council – Comments are awaited.

5.3 Letters of objection have been submitted by a planning consultant on behalf of Bovis Homes and Mosaic Estates. Both parties are promoting the land at Hardwick Bank for residential development. He points out that the current application is exactly the same as the scheme previously refused by the Planning Committee and reiterates the original objection. In summary the points raised by both parties are as follows:

- The implementation of the proposed vehicular access arrangement would prejudice the ability to achieve a safe vehicular access into the draft strategic allocation at Hardwick Bank.
- With reference to paragraph 14 of the National Planning Policy Guidance (NPPG) the application at Pencombe Lane would pre-determine decisions about the scale and location of new development central to the emerging Core Strategy, which is at a significantly advanced stage.
- Whilst approval of the Pencombe Lane site could result in additional houses being built in Bromyard, these would not outweigh the loss of the strategic site, either in whole or in part.
- The potential negative effects of the application significantly and demonstrably outweigh the potential benefits of granting permission.

5.4 A letter of objection has been received from Bromyard & District Chamber of Commerce. In summary the points raised are as follows:

- Access to the major employment site at Porthouse on Tenbury Road is poor and the town suffers from large vehicles passing along narrow streets.
- Development at Hardwick Bank would, with a comprehensive scheme, provide the means to deliver a relief road.
- If this proposal is allowed much of the critical mass of development in the Hardwick Bank area would be lost. The application is therefore considered to be premature.

- Housing needs to be put in areas to promote employment and trade and therefore needs to be close to employment and town facilities. To develop on the outer reaches of the town is contrary to the needs and wishes of existing businesses.

5.5 Four letters of objection from local residents have also been received. In summary the points raised are as follows:

- The application is identical to the one previously refused. There have been no changes in circumstances and the refusal reasons stand.
- This is a speculative application that seeks to take advantage of the Council's lack of a five year housing land supply.
- If permission is granted for 120 on this site the reduction in housing for Hardwick Bank will mean developers of the site would not be able to afford to construct a relief road.
- Approval could damage the ambition to build a link road between the A44 and Tenbury Road.
- 500 new houses have been identified for Bromyard in the emerging Core Strategy and it identifies Hardwick Bank as the preferred location. If 500 homes are built here then developers will also build the much needed relief road.
- The application is premature. Granting planning permission would undermine the plan making process as the access to the draft strategic allocation site would be compromised.
- The site was considered for housing development under the SHLAA and was found to be unsuitable for development due to its landscape impact.
- The site is isolated and does not relate well to the rest of the town.
- The application site is Grade 2 agricultural land. The proposal is contrary to paragraph 112 of the NPPF as it will result in the loss of good quality and versatile agricultural land and the applicant has not demonstrated that the development is necessary.
- Access to public transport from the site is limited. There is no regular bus service along the A44 and the bus stop is on the northern side of the A44, requiring pedestrians to cross the road.
- The proposal does not represent a sustainable form of development.
- The Hardwick Bank site is much closer to shops, services and employment sites. It would have greater access to local bus services and is considered to be more sustainable.
- The proposal will significantly increase flood risk from surface water run off to a property immediately to the south west of the site.
- The public consultation undertaken by the applicant was misleading and fundamentally flawed.

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

- 6.1 The current application is an identical re-submission of the application refused by Planning Committee on 4 March 2015, contrary to officer recommendation. Following the completion of the Examination in Public, the proposed modifications for the Core Strategy were published and subject to a further round of public consultation. The consultation period expired on 22 May 2015.
- 6.2 With regard to Bromyard, the critical change to the wording of Policy BY1 is the requirement to provide a minimum of 500 new homes in Bromyard, where previously the policy required *approximately 500*. Policy BY2 requires that a minimum of 250 new homes are provided at Hardwick Bank.
- 6.3 The Council's justification for the proposed modifications is quite clear - to ensure that wording in the Core Strategy is in line with the NPPF by not restricting growth.
- 6.4 Previous references to a 'link road' have also been removed from Policies BY1 and BY2 and are replaced with the words *route, connection, and a connection for vehicular access*. The reasoning for these changes is to clarify that the route from the A44 to the B4214 is not part of any major infrastructure delivery requirement.
- 6.5 The modifications to the Core Strategy also acknowledge the fact that the Town Council has decided not to produce a Bromyard Neighbourhood Plan. Proposals for Herefordshire Council to produce Bromyard Development Plan are now included in revisions to the Local Development Scheme.
- 6.6 Whilst the proposed modifications have been subject to a further round of public consultation and do not currently have any weight as a material planning consideration, they demonstrate a greater degree of flexibility in order to accommodate growth that is sustainable.
- 6.7 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 that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development, and whether the development is premature and prejudices the delivery of the strategic housing allocation at Hardwick Bank; particularly due to the access arrangements that are proposed.

### **The Principle of Development in the Context of 'saved' UDP Policies, the National Planning Policy Framework (NPPF) and Other Material Guidance**

- 6.8 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."*
- 6.9 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.
- 6.10 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 maybe given).”*

- 6.11 The practical 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*.
- 6.12 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.
- 6.13 The Council’s published position is that it cannot demonstrate a five year supply of housing land. This has been reaffirmed by the 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.
- 6.14 In this context, therefore, the proposed erection of up to 120 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.
- 6.15 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**

- 6.16 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*.
- 6.17 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.
- 6.18 Bromyard is one of the county’s market towns and, in the hierarchy of settlement pattern, is accordingly a main focus for population. It has a good range of shops, services and

employment opportunities and the site lies on the south western fringe of the developed area; the residential environs of Winslow Road located on the opposite side of the A44. It is your officers view that the site is sustainably located where the delivery of up to 120 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. The site is not subject to any environmental designations and the Council's Conservation Manager observes that the scheme has the potential to deliver ecological enhancement in accordance with saved UDP policy and NPPF objectives.

### **Impact on Landscape Character**

- 6.19 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geo-diversity 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), and LA3 are broadly consistent with chapter 11 of the NPPF.
- 6.20 The application site has no formal landscape designation. It lies in open countryside outside but adjacent to Bromyard's settlement boundary and is considered to be of High Sensitivity within the Urban Fringe Landscape Sensitivity Analysis (Jan 2010) due to its visual prominence and importance in providing a transitional gateway between town and countryside. Accordingly it was classified as a site with significant landscape constraints in the Strategic Housing Land SHLAA. The Conservation Manager (Landscape) has maintained this opinion in her consultation response, objecting to the application on the basis that the development would be relatively isolated in relation to the rest of the town and would consequently be detrimental to its setting, contrary to policies S1 and LA3 of the HUDP.
- 6.21 It is accepted that the site is at the fringes of the town and that development in this location will undoubtedly change the character of the immediate locality from countryside to a more urban environment. The site is opposite the strategic allocation of Hardwick Bank and the areas of this site adjacent to the A44 are on land at a higher level than this application site. It is your officer's view that when the area is viewed from public vantage points to the south; particularly Panniers Lane, the land at Hardwick Bank is most prominent and not the site to which this application relates. Indeed, the site at Hardwick Bank is similarly constrained in landscape impact terms and is also considered to have Medium to High Sensitivity in the Urban Fringe Landscape Sensitivity Analysis. The development of the strategic site will change the character of the area and on this basis it is not considered that this proposal would cause such harm in its own right to warrant the refusal of this proposal. As noted previously, the site does not have any specific landscape designation and the landscape impacts that will arise are not considered to outweigh the council's lack of a five year housing land supply. Furthermore, the requirement of the Core Strategy to make provision for a minimum of 500 new homes will inevitably require areas of land to be released for housing that have previously been identified by the most recent Strategic Housing Land Availability Assessment as having no potential during the plan period. This includes the Hardwick Bank site.
- 6.22 On the basis that conditions will be imposed requiring the protection of hedgerows where possible and the formulation of a detailed planting regime 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.

## **Pedestrian and Public Transport Access to Local Facilities**

- 6.23 Saved UDP policy DR3 and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 30 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 32 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where *'the residual cumulative impacts of development are severe.'*
- 6.24 The application shows the provision of a single point of vehicular access directly onto the A44 and this will be considered later in the report. It also indicates the provision of a footway extension along the southern side of the A44 from the point of access to the site for approximately 170 metres in an easterly direction to link to an existing controlled pedestrian crossing. Bus stops are located on either side of the A44 a further 50 metres further east. The plan also shows a further pedestrian link from the site at the junction of Pencombe Lane / Panniers Lane and a further extension of an existing footway on the eastern side of Panniers Lane. This provides a direct pedestrian link to the Queen Elizabeth Humanities College.
- 6.25 Your officers are satisfied that the proposed footway improvements create satisfactory links to the existing pedestrian network and would provide future residents of the site with genuine opportunities to access services by foot and public transport. The proposed site access would consist of a 5.5m carriageway, with 1.8m footways linking to the proposed footway along the A44. A new pedestrian access is also proposed at the southern end of the site. It is proposed dropped crossings and tactile paving will link the proposed footways. The drawing also demonstrates that the visibility splays of 2.4m x 105m to the east and 2.4m x 95m to the west can be accommodated. The improvements can be secured through a Section 278 Agreement and the imposition of an appropriately worded condition should planning permission be forthcoming.

## **Land Drainage and Flood Risk**

- 6.26 Neither Welsh Water nor the Council's Land Drainage Manager have any objection to the development subject to the imposition of planning conditions. The site lies wholly within Flood Zone 1 and is at low risk of flooding from fluvial sources. Whilst objection letters have expressed concern at surface water drainage and the absence of detailed design from the current submission, there is no objection in principle to the development of the site as proposed on the provision that detailed drainage proposals are formulated and agreed prior to commencement of development. The Land Drainage consultant's comments set out the detailed information that should be incorporated at the detailed design stage and this will be reflected in the imposition of a planning condition to require the submission of a fully integrated foul and surface water drainage system for agreement prior to the commencement of development, with completion of the scheme prior to first occupation of any of the dwelling houses approved. This scheme would be subject to a further round of consultation at the Reserved Matters stage.

## **Impact on Ecological Interests**

- 6.27 The Council's Conservation Manager (Ecology) concurs with the findings of the submitted ecological appraisals. It is concluded that the proposal will not have a significant impact on ecological interests, but actually has the potential to enhance biodiversity. 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.

## Prematurity and Prejudicial Impacts of the Development

- 6.28 Paragraph 14 of the National Planning Policy Guidance (NPPG) offers some useful advice on this matter. It advises that refusals on the grounds of prematurity will usually be limited to circumstances where both:
- a) *the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and*
  - b) *the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

*Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.*

- 6.29 The objections raised on the grounds of prematurity and prejudice are made on the basis of two presumptions: that the creation of an independent access to the application site will compromise the provision of a new roundabout access on the A44 to serve the strategic site and that the erection of 120 dwellings will affect the deliverability of 500 homes and the provision of a link road between the A44 and Tenbury Road at Hardwick Bank.
- 6.30 In response to the concerns raised about the impact of the proposed access, the applicant commissioned the completion of a Stage 1 Road Safety Audit, based on a presumption that the development would be served by its own access as shown on the plans originally submitted, and that the development of the strategic site would be provided for by a separate roundabout further to the west.
- 6.31 The Audit represents an independent assessment of the assumption that the two sites would be served by independent accesses. It identifies a number of issues to be addressed through the detailed design of each junction and makes a number of recommendations as to how this would be achieved. It does not conclude that the approach is unviable or that it would unduly compromise the highway safety of road users. The Council's Transportation Manager has considered the contents of the Audit and concurs with its findings. Therefore it is your officers view that the proposed access arrangements would not prejudice the delivery of the Council's strategic allocation at Hardwick Bank.
- 6.32 Policy BY1 of the Herefordshire Local Plan – Core Strategy sets out the requirements for residential development in Bromyard. As stated previously, the modifications to the policy require the provision of a minimum of 500 new homes during the plan period. Policy BY2 then deals specifically with the strategic allocation at Hardwick Bank and advises that a minimum of 250 dwellings will be provided on the site.
- 6.33 Contrary to the inference of the objections received, the emerging policies for Bromyard do not require 500 dwellings to be provided at Hardwick Bank. The presumption of the objection letters seems to be that a development of 500 dwellings would fund the creation of a link road between the A44 and Tenbury Road. This is not substantiated with any viability assessment to demonstrate that a development of 500 dwellings would provide adequate funding for a link road, nor does Policy BY2 envisage that a residential development will provide it in isolation. The proposed modifications to the policy are also clear that the provision of a vehicular route



from the A44 to the B4214 is not to be seen as part of any major infrastructure delivery requirement.

- 6.34 Policy BY1 envisages that the remainder of the minimum allocation of 500 dwellings would be provided through a combination of existing commitments, windfall developments and sites allocated through a Neighbourhood Development Plan. Seventy six dwellings have been granted in outline at the Porthouse Farm site and, combined with the strategic allocation of 250 at Hardwick Bank, this leaves a minimum shortfall of 184 dwellings. The proposal provides a significant proportion of this shortfall.
- 6.35 The Town Council do not intend to complete a Neighbourhood Development Plan and the responsibility to complete it will fall to the Council once the Core Strategy is adopted. The expressed preference to allocate all of Bromyard's housing on the Hardwick Bank site would not appear to be compliant with the emerging Core Strategy policies, nor would the ambition to create a formal link road between the A44 and B4214. Given the Council's stated position with regard to housing land supply and the lack of any other significant material planning objections to the proposal, officers do not consider the proposal to be either premature or prejudicial to the delivery of the strategic housing site.

### **Summary and Conclusions**

- 6.36 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.
- 6.37 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 in the absence of significant and demonstrable adverse impacts, the application should be approved.
- 6.38 The site lies outside but adjacent to the settlement boundary for Bromyard and is, having regard to the NPPF and saved and emerging local policies, a sustainable location. This includes improvements to pedestrian facilities beyond the extent of the application site and these will ensure that prospective residents have a genuine choice of transport modes. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).
- 6.39 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 footways in the locality, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.
- 6.40 The Conservation Manager (Landscapes) has objected to the development on landscape impact grounds. However, the Council's strategic housing allocation at Hardwick Bank is similarly constrained and parts of it are, in your officer's opinion, more visually prominent. The site has no landscape designation and impacts can be mitigated through detailed design and the imposition of conditions to retain and protect existing landscape features where possible. There are no designated heritage assets within the locality and the site is not subject to any of the other restrictive policies that footnote 9 of the NPPF refers to.

- 6.41 The development proposed is not considered to be so substantial that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development on the strategic housing site at Hardwick Bank. It has been demonstrated that separate access arrangements can be provided for the application site and the strategic housing site at Hardwick Bank without compromising highway safety and therefore the proposal is neither premature or prejudicial.
- 6.42 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.
- 6.43 It is therefore concluded 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 120 and to formulate an integrated foul and surface water run-off scheme. Officers would also recommend the developer conducts further consultation with the Parish and Town 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. **A05 – Plans and particulars of reserved matters**
5. **C01 – Samples of external materials**
6. **The development shall include no more than 120 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. **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.**

8. **H03 Visibility splays**
9. **H11 Parking – estate development (more than one house)**
10. **H17 Junction improvement/off site works**
11. **H18 On site roads – submission of details**
12. **H19 On site roads - phasing**
13. **H20 Road completion**
14. **H21 Wheel washing**
15. **H27 Parking for site operatives**
16. **H29 Covered and secure cycle parking provision**
17. **H30 Travel plans**
18. **The recommendations set out in the ecologist’s report from fpcr dated July 2014 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, 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. 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 the Herefordshire Unitary Development Plan, and to comply with Policies 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.**

19. **G04 Protection of trees/hedgerows that are to be retained**
20. **G09 Details of boundary treatments**
21. **G10 Landscaping scheme**
22. **G11 Landscaping scheme - implementation**
23. **L01 Foul/surface water drainage**
24. **L02 No surface water to connect to public system**
25. **L03 No drainage run-off to public system**

**26. L04 Comprehensive and integrated draining of site**

**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**
- 9. HN10 No drainage to discharge to highway**
- 10. HN08 Section 38 Agreement & Drainage details**
- 11. HN01 Mud on highway**
- 12. HN25 Travel Plans**

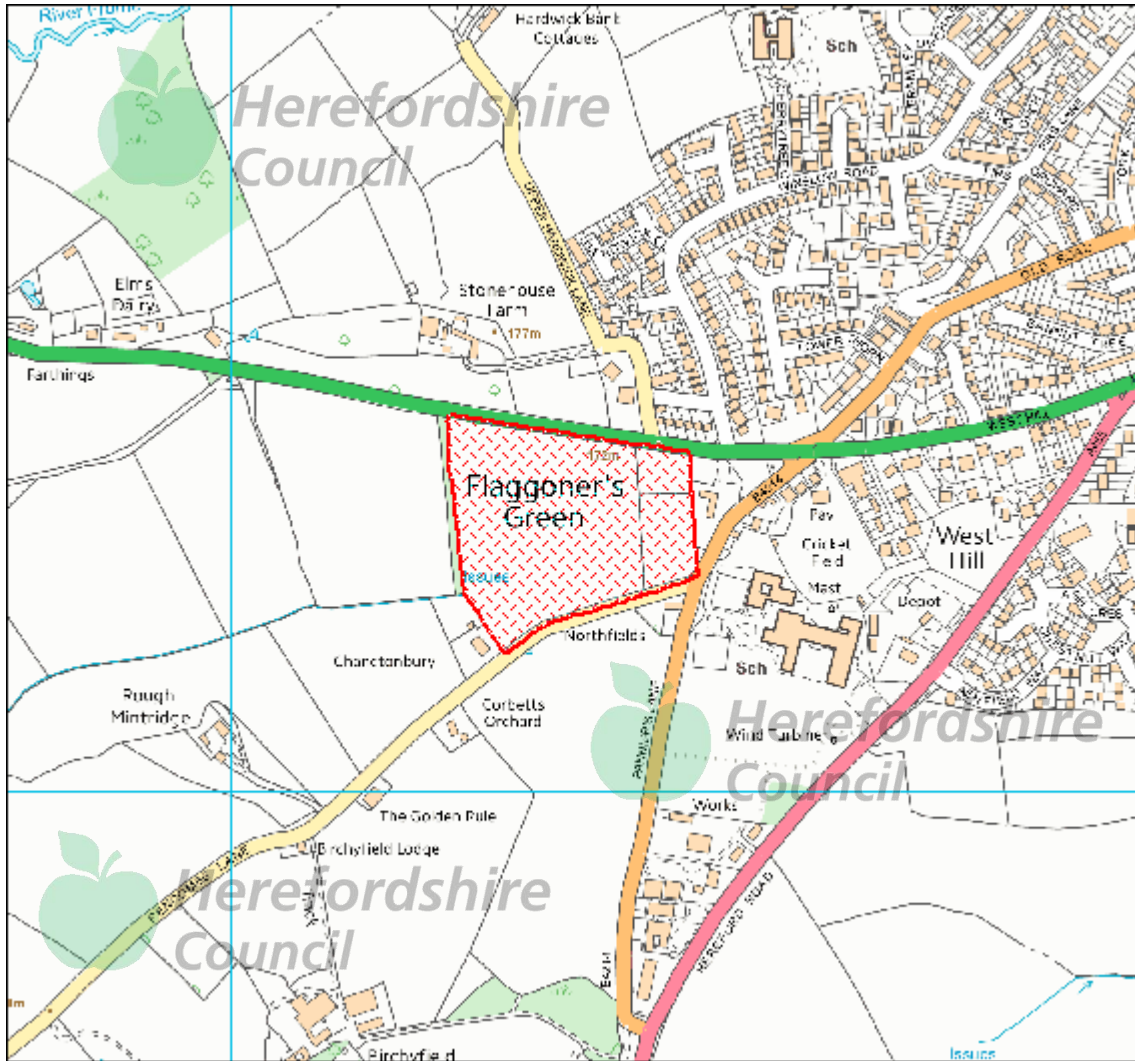
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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 150727

**SITE ADDRESS :** LAND OFF, PENCOMBE LANE, BROMYARD, HEREFORDSHIRE

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