

MEETING:	PLANNING COMMITTEE
DATE:	16 JUNE 2015
TITLE OF REPORT:	143832 - PROPOSED 6 NO. HOUSES (3 NO. 4 BED, 2 NO. 3 BED AND 1 NO. 2 BED) AT LAND OPPOSITE UPPER HOUSE, (SITE B), LYONSHALL, HEREFORDSHIRE For: Mr Kinsey Hern, Upper House Farm, Lyonshall, Kington, Herefordshire HR5 3JN
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143832&search=143832
Reason Application submitted to Committee – Re-direction	

Date Received: 23 December 2014 Ward: Arrow Grid Ref: 333673,255389
Expiry Date: 6 March 2015
 Local Member: Councillor RJ Phillips

1. Site Description and Proposal

- 1.1 The site is located on the south side of the C1031 road, Lyonshall to Kingswood, opposite the converted barn group at Upper House Farm, Lyonshall.
- 1.2 The site is outside of the identified settlement boundary in the Herefordshire Unitary Development Plan.
- 1.3 The proposal is for 6 dwellings, 3 four bed, 2 three bed and a single 2 bed dwelling. The two bed is a bungalow, the 3 beds dormer style bungalows, the four beds are much larger imposing dwellings, being standard Oakwright designs. A mixture of materials are proposed and include weatherboarding, brick, render, stone and oak frames all under slate or tile roofs.
- 1.4 Access to the site is via an existing field access with the larger dwellings arranged in linear manner and the three smaller ones clustered at the end of a cul-de-sac. The access road has been designed with the future development of the site in mind.
- 1.5 The total floor area of the dwellings is less than 1000 sq. m so avoids the need for S106 contributions. The recent change to government policy means that the requirement for affordable housing is also no longer engaged.

2. Policies

2.1 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design

Further information on the subject of this report is available from Mr M Tansley on 01432 261815

- DR2 - Land Use and Activity
- DR3 - Movement
- DR4 - Environment
- H7 - Housing in Open Countryside Outside Settlements
- H13 - Sustainable Residential Design
- LA2 - Landscape Character
- NC1 - Biodiversity and Development

2.2 National Planning Policy Framework:

Introduction

Delivering a Wide Choice of High Quality Homes
 Requiring Good Design
 Conserving and Enhancing the Natural Environment
 Conserving and Enhancing the Historic Environment

2.3 Herefordshire Local Plan – Draft Core Strategy

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS3 - Releasing Land for Residential Development
- SS4 - Movement and Transportation
- SS6 - Addressing Climate Change
- RA1 - Rural Housing Strategy
- RA2 - Herefordshire Villages
- 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

Lyonshall Neighbourhood Plan Area was designated on 26 July 2012, at the present time the plan is still being drafted therefore no weight can be attached to the designation.

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.

4. Consultation Summary

Statutory Consultees

4.1 Welsh Water: Raise no objection recommending conditions are attached to any approval notice issued with regards to surface and foul water drainage from the site. In addition an advisory note with regards to water connection.

Internal Consultees

- 4.2 Public Rights of Way: Commented that the site location plan did not indicate the presence of public footpath LZ8, and wanted to see that it was not obstructed before approving the application.
- 4.3 Transportation Manager: No plans of garages, nor covered and secure cycle storage shown. Parking layouts required.
- 4.4 Conservation Manager (Ecology): No Objection subject to imposition of condition if approved.
- 4.5 Conservation Manager (Archaeology): No objection.

5. Representations

- 5.1 Lyonshall Parish Council is strongly supportive of this application as an essential part of the efforts to regenerate the local economy in the parish. This is based on the overwhelming support (3:1 in favour) of the electors following formal consultations.

The proposal is for individually-designed dwellings with varying external finishes and with well-considered landscaping. They all have good-sized plots, and accommodate off-road car parking. These aspects of the design all directly reflect the wishes of parishioners as collected in formal consultations carried out during the development of Lyonshall's Neighbourhood Development Plan.

The Applicant consulted widely by arranging three open sessions locally prior to submitting the application and has taken all reasonable steps to address potential local concerns – such as traffic management, pavement provision, footpath enhancements and landscaping to avoid visual intrusion.

Lyonshall Parish Council has undertaken a full, more formal, consultation of the community as recommended in the National Planning Policy Framework (para 69 and elsewhere). The Parish Council arranged a well-attended parish meeting where the community came to hear about the proposal and to question the applicant. A formal consultation document was sent to every elector with a reply form to gather opinion.

The question posed was:- Do you, in principle, agree with the three current planning proposals? Yes / No

The results of the ballot were:

Total Electors 516 adults

Reply YES 139 (74.3%)

Reply NO 48 (25.7%)

Total Number of returns 187 (100%) (36.2% response rate)

The applicant has made it clear in the application that he will be making contributions to local infrastructure and will be giving funds to Lyonshall Parish Council towards a fund for the development of a vibrant village centre. The development of the Village Centre came out with overwhelming local support (81%) in previous formal consultations for the Neighbourhood Development Plan. It must be a condition of the approval of this application that the benefits to the parish be subject of a legal agreement (prior to development) with the Parish Council for the financial contributions and Herefordshire Council where highways are involved'.

- 5.2 Seven letters of support have been received from members of the public. Key issues raised can be summarised as follows:
- Proposed development is considered to be in keeping with surrounding development.

- Small scaled development is vital to the future of the village.
- The development shows consideration for surrounding dwellings and residential amenity and will maintain the public footpath through a somewhat boggy field.
- Concerns about comments made in other letters of comment in relationship to the application.

5.3 Four letters of objection have been received from members of the public. Key issues raised can be summarised as follows:

- Proposal represents over-development which does not comply with the Neighbourhood Plan and its proposals for growth of the village.
- Proposed development is not considered sustainable in relationship to local services and the character of the settlement concerned.
- Layout and scale of the proposed development is not sympathetic to the existing built environment of the village.
- Proposal appears to be an attempt to avoid Section 106 contributions in accordance with Council policy.
- Houses appear large with little consideration to garages and domestic storage.
- Restoration and refurbishment of the public house cannot be used as an attempt to construct dwellings subject to this application and other applications in the neighbourhood

5.4 The Design and Access statement sets out supporting information from the applicant.

These applications for housing fall within our overall proposed future development of housing on the side of Lyonshall to raise funds to:

- 1) Redevelop the Royal George Public House in Lyonshall, including WIFI and shop.
- 2) Improve footpath access links between Lyonshall village centre and Holmes Marsh.
- 3) Improve Spond Lane access, including passing bays and improved roadside infrastructure.
- 4) Raise funds to contribute towards a 'New Village Centre Concept' derived from the Parish Neighbourhood Development Plan consultation with the Lyonshall residents.
- 5) Help introduce traffic calming measures where necessary within the village centre.

In the past few years, Lyonshall has lost the Hairdressers, Post Office, Farm Shop and now Public House.

We now have an opportunity to breathe life back into the centre of Lyonshall by bringing the Public House back into full use, and hopefully incorporate as much as we can with a shop and other amenities that the village will be able to use.

The reasoning behind the size of the applications ahead:

We are fortunately placed to have the opportunity to

- 1) make some profit,
- 2) give the Royal George the new lease of life the village so desperately needs, and
- 3) offer a significant start up fund for the possible new village centre concept.

From consultation outside of this application but within the Neighbourhood Development Plan Consultation, 'A Vision for Lyonshall', 183 out of 200 respondents within the village agreed or strongly agreed with this statement:

"There was very strong support for keeping and Improving the facilities offered by the Royal George which, was considered to be most Important to the community. "

We recently purchased the Royal George in Lyonshall, and wish to completely refurbish the property into a fully functioning Public House. After nearly 3 years of closure under the ownership of Punch Taverns, who had tried to get planning for a house in the car park, we managed to secure the property to ensure it stays as a pub and is not lost forever.

We also intend to financially support the ambitious idea of creating a new village centre which again came out of the Lyonshall Neighbourhood Development Plan Consultation process, where 162 out of 200 respondents supported the conceptual Idea of a new 'Village Centre'. The financial support will be averaging approximately £10,000 per property built within the total scheme of this proposal. It will be scaled according to the total amount of approved application plots received by Hereford planning department, and then built and sold.

The key to this whole proposal is creating a critical mass, where the scheme will work when the total number of houses proposed are subsequently approved, and anything less than that makes it very difficult to commit any funds to the new 'Village Centre' concept.

- 5.5 The consultation responses can be viewed on the Council's website by using the following link:-
<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

- 6.1 The application proposes residential development on a site not located within or adjoining a recognised development boundary as identified in the Herefordshire Unitary Development Plan inset map and as such the site is considered to be open countryside to which the key relevant policy is Policy H7: Housing in the countryside outside settlements. This proposal is contrary to that policy.
- 6.2 Given the current absence of a 5-year housing land supply, as required by the National Planning Policy Framework, sites outside but adjacent to recognised development boundaries are presently being considered for housing development. Any sites suggested for such development are considered on their merits, being assessed against the Framework and other relevant policies in the Herefordshire Unitary Development Plan.
- 6.3 In response to the acknowledged deficit the Council introduced an interim protocol in July 2012. This recognised that in order to boost the supply of housing in the manner required it would be necessary to consider the development of sites outside existing settlement boundaries. The protocol introduced a sequential test, with priority given to the release of sites immediately adjoining settlements with town or main village status within the UDP. For proposals of five or more, the sites in the first rank in terms of suitability would be those identified as having low or minor constraints in the Strategic Housing Land Availability Assessment (SHLAA).
- 6.4 The site subject to this application has been subject to the Council's Strategic Housing Land Availability Assessment, (SHLAA) schedule of sites and was identified as a site with 'minor constraints', on which housing at low density is considered acceptable in principle. On that basis and with the following in mind, it is considered that the principle of development of the site is acceptable and outweighs the content of Policy H7.
- 6.5 The position as regards the scale of the housing land supply deficit is evolving. Whilst the latest published position confirms a deficit, the magnitude of deficit reduces if all sites that are identified as suitable, achievable and available are taken into account. This presupposes, however, that these sites will come forward within 5 years and that they will be given planning permission. As such, it remains the case that for the purposes of housing delivery the relevant

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policies of the UDP can be considered out of date. As such, and in accordance with paragraph 14 of the NPPF the Council should grant permission for sustainable housing development 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.

6.6 The Government's position on this locally has also been confirmed by a recent appeal decision for 35 dwellings at Kingstone. The appointed Inspector made it clear that in the context of a housing land supply deficit there can be no legitimate objection to the principle of development outside the UDP defined development boundary; UDP Policy H4 being out of date.

6.7 There remains a requirement for the development to accord with other relevant UDP policies and NPPF guidance; paragraph 14 makes it clear that the balance between adverse impacts and benefits should be assessed against the policies in the NPPF as a whole. 'Sustainability is a key word with regards to residential development in the NPPF.

6.8 The Council's Draft Core Strategy is evolving and at present carries no planning weight for the purposes of decision making. The National Planning Policy Framework is the key current policy consideration.

6.9 Paragraph 215 of the NPPF recognises the primacy of the Development Plan but only where saved policies are consistent with the NPPF. The effect of this paragraph is to effectively supersede the UDP with the NPPF where there is inconsistency in approach and objectives. 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.

6.10 Paragraph 47 states: "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites." The effect of this paragraph is to supersede the UDP with the NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence and the presumption in favour of approval as set out at paragraph 14 is engaged if development can be shown to be sustainable.

6.11 The Presumption in Favour of Sustainable Development

In order to engage the presumption in favour of the approval of sustainable development, a proposal must first demonstrate that it is representative of sustainable development. Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions.

6.12 In terms of those three dimensions, notwithstanding the later comments about providing funds for community projects, the economic element can reasonably be argued to be met. In terms of the social role no evidence has been submitted to indicate whether or not this proposal meets identified housing needs. In terms of the environmental element it has not been demonstrated how this proposal contributes 'to protecting and enhancing our natural, built and historic environment...'

6.13 Whilst it is acknowledged that the housing delivery policies of the UDP are considered out of date. Other policies still apply. A key policy in relation to this application is Policy DR1: Design. This policy indicates where relevant to the proposal all development will be required to

promote or reinforce the distinctive character and appearance of the locality in terms of layout, density, means of access and enclosure, scale, mass, height, design and materials. The policy further states that development which does not adequately address design principles or is of poor design, including scheme which are out of scale or character with their surroundings, will not be permitted.

- 6.14 The NPPF in paragraph 56 confirms that the Government attaches great importance to the design of the built environment, confirming that “good design is a key aspect of sustainable development” and “indivisible from good planning.” Good design should contribute positively to making places better for people. The NPPF recognises it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Within this overarching approach it is recognised that design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.
- 6.15 Paragraph 60 states:- “Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.”
- 6.16 It is also noted that paragraph 64 of the NPPF states:

‘Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions’.
- 6.17 The application proposes six dwellings of different designs but with some common elements. The designs illustrate that rather than considering the site and its setting to inform the design, as the design and access statement requires, standard off the peg styles are proposed. The layout of the site shows no comparison with the general frontage style development of the older parts of the village. It is therefore considered that the scale, layout and character of the development fails to reflect the surrounding local built character and environment and is therefore contrary to Policies S1 and DR1 of the UDP and the NPPF.
- 6.18 The applicant has indicated that this proposal forms part of a wider overall development proposal for Lyonshall, in order to help raise funds towards redevelopment within the village and in particular to the Royal George Public House (also in the applicant’s control) which is presently subject to an application to refurbish. Information in support of the application also indicates that funds raised from the development subject to this application will also contribute towards a new village centre concept and traffic calming measures where considered necessary within the village centre.
- 6.19 The comments of the Parish Council are noted, their response states that the applicant has made it clear in the application that he will be making contributions to local infrastructure and will be giving funds to Lyonshall Parish Council towards a fund for the development of a vibrant village centre. The reference they make to three applications are this one, another for six houses (ref 143830) earlier on this agenda, and another for six, (ref 143831), elsewhere in the village that was not subject to re-direction and refused under delegated powers in March.
- 6.20 The Government has recently introduced new legislation indicating that affordable housing and tariff style section 106 contributions cannot be sought from developments of 10-units or less, where there is a maximum combined gross floor space of no more than 1000 square metres. The applications have been submitted in reduced numbers and size to avoid Section 106 payments and the requirement for affordable housing.

- 6.21 Therefore the Council is unable to secure the funds, assuming they could be otherwise justified, in the manner the Parish Council require as part of their conditional support for the application. It remains open to the applicant to submit a unilateral undertaking to this end.
- 6.22 A revised plan indicating the route of the path has been submitted. It remains unobstructed by the proposal.
- 6.23 Garages are only proposed for two of the 4 bed houses. The addition of garages to the other 4 plots would take the scheme over 1000 sq. m and thus invoke the need for S106 contributions.

Conclusions

- 6.24 This application proposes development which is considered out of context and character with the surrounding built environment, in terms of its scale, massing, overall design and layout. The potential economic benefits, in the absence of a means to secure them, do not add sufficient weight to overcome this concern. As a consequence the proposed development is not considered to be appropriate sustainable development and is therefore considered contrary to the overall aims and objectives of the NPPF and Policies S1, and DR1 of the UDP.

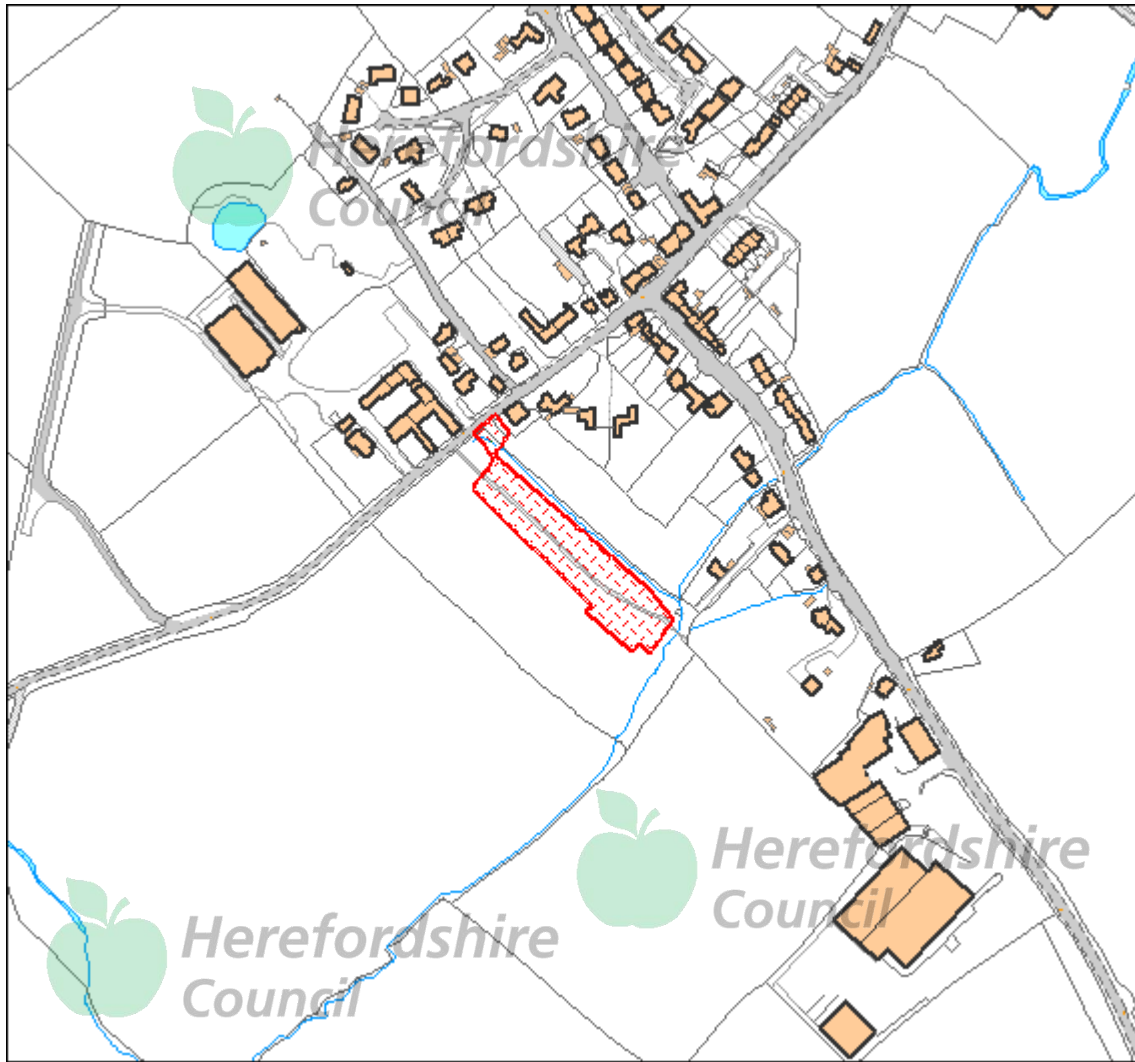
RECOMMENDATION

That planning permission be refused for the following reason:

- 1. The layout, scale and design of the development is not considered to be reflective of the surrounding built and rural character and therefore considered contrary to Policies S1 and DR1, of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.**

Informative:

- 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 by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide further pre-application advice in respect of any future application for a revised development.**



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APPLICATION NO: 143832

SITE ADDRESS : LAND OPPOSITE UPPER HOUSE, (SITE B), LYONSHALL, HEREFORDSHIRE

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