

**MINUTES of the meeting of Planning Committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 22 February 2017 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor J Hardwick (Vice Chairman)

Councillors: BA Baker, CR Butler, PJ Edwards, DW Greenow, KS Guthrie, TM James, FM Norman, GJ Powell, AJW Powers, A Seldon, NE Shaw, WC Skelton, D Summers, EJ Swinglehurst and LC Tawn

**In attendance:** Councillors RJ Phillips and J Stone

**102. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors EL Holton, JA Hyde, and J Hardwick.

**103. NAMED SUBSTITUTES**

Councillor GJ Powell substituted for Councillor JA Hyde and Councillor NE Shaw for Councillor EL Holton.

**104. DECLARATIONS OF INTEREST**

**Agenda item 7; 163797 – Carey Bank, Kilforge Road, Carey**

Councillors PGH Cutter and EJ Swinglehurst declared non-pecuniary interests as members of the Wye Valley AONB Joint Advisory Committee.

**105. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 18 January 2017 be approved as a correct record and signed by the Chairman.

**106. CHAIRMAN'S ANNOUNCEMENTS**

There were none.

**107. APPEALS**

The Planning Committee noted the report.

**108. 163797 - CAREY BANK, KILFORGE ROAD, CAREY, HEREFORDSHIRE**

*(Change of use of part of paddock from equestrian to residential. Construction of new 3-bed dwelling with associated garaging, access and landscaping.)*

The Principal Planning Officer gave a presentation on the application.

It was noted that the update sheet contained a typographical amendment to the informative at the end of the report.

In accordance with the criteria for public speaking, Mrs J Du Cros, the applicant, spoke in support of the application.

In accordance with the Council's Constitution, the local ward member, Councillor D Summers, spoke on the application.

He made the following principal comments:

- There were a number of letters in support of the application. The applicants had made a significant contribution to the local community and were well regarded.
- In terms of detail, he commented that the application entailed replacement tree planting, and appropriate landscaping proposals. The property was well designed and would have no significant impact.
- National policy was to facilitate people continuing to live in their communities as they grew older. He considered that a number of core strategy policies could be interpreted to support the application which would provide accommodation to meet the applicants' future needs enabling them to continue to live in their community. It would also release a property for occupation by another family.

In the Committee's discussion of the application the following principal points were made:

- Provision of accommodation for an ageing population was a national problem. The applicants' proposal to make provision for themselves should therefore be welcomed. A number of members expressed sympathy for this point of view.
- A view was expressed that the proposal was sustainable development...
- A suggestion was made that the council's policy should be reviewed to allow for account to be taken of social care needs. Balanced against this view was the need to protect against encroachment into the open countryside and the precedent that granting permission might set.
- The Conservation Manager (Landscape) had expressed concerns about the proposal. It was questioned why the applicant had not redeveloped the existing stables which the Conservation Manager had suggested would reduce the landscape impact. In addition, no consideration appeared to have been given to an extension to the existing property rather than a new building, or to a bungalow.
- The proposal was for a dwelling in the open countryside contrary to policy. Weight had to be given to the fact that the site was in the Wye Valley AONB. The proposed dwelling had a height of some 7.9 metres. As an elevated site in a highly protected landscape it would have a demonstrable and significant impact on the AONB that was not outweighed by the benefits of the development.
- The proposal was not compliant with the Little Dewchurch Neighbourhood Development Plan (NDP) to which the report stated significant weight could be attributed. The Committee should give due weight to the NDP. The Parish Council had not supported the proposal.
- The personal circumstances of the applicants were not a material planning consideration.

The Principal Planning Officer commented that the application was contrary to policy and outside the area designated for development. Accordingly to avoid cost to the applicants there had been no discussion about alternative design options. The applicant had not enquired about making an extension to the existing property.

In response to a motion that the application be approved the Development Manager commented that all parties, including the applicant, accepted that the proposal was contrary to policy. If the Committee wished to consider granting permission it needed to conclude that the application met the test that it was one of those exceptional applications that would scarcely ever be granted. He reiterated that the application was contrary to the NDP.

The local ward member was given the opportunity to close the debate. He reiterated his support for the application that would permit the applicants to continue to live in their community.

A motion that the application be approved was lost.

**RESOLVED: That planning permission be refused for the following reasons:**

- 1. The proposal represents unjustified and unsustainable new residential development in an open countryside location contrary to Herefordshire Local Plan Core Strategy Policies SSI, SS7, SD1, RA2 and RA3, Little Dewchurch Neighbourhood Development Plan policy LD SB1 and the relevant aims and objectives of the National Planning Policy Framework.**
- 2. The proposal by its very nature and siting, scale and design would result in material harm to the character and appearance of the protected landscape, designated as an Area of Outstanding Natural Beauty, as it represents an unacceptable encroachment into the open countryside, contrary to Herefordshire Local Plan Core Strategy Policies SS6 and LD1, Little Dewchurch Neighbourhood Development Plan policy LD ENV1 and the relevant aims and objectives of 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. The applicants were advised of these key policy issues during the pre-application advice stage. The issues are so fundamental to the proposal that it is not possible to negotiate a satisfactory way forward and due to the harms which have been clearly identified within the reasons for the refusal and the Officer's Report, approval is not possible.**

**109. 162254 - LAND ADJACENT TO LITTLE WEIR, MIDDLETON ROAD, KIMBOLTON**

*(Proposed dwelling)*

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr R Page, the applicant's agent, spoke in support of the application.

In accordance with the Council's Constitution, the local ward member, Councillor J Stone spoke on the application.

He made the following principal comments:

- The application was a modest proposal in a quiet part of Kimbolton on land that had not been used for some 20 years.

- Neighbours and residents supported the proposal. The Parish Council had no objection. There had been 8 letters of support and no letters of objection.
- He did not agree with the Transportation Manager's comments. The road was very quiet, used by local traffic. Visibility was good for a country lane. The impact of one or two more cars would be minimal and not detrimental to highway safety. The new access would be an improvement.
- Kimbolton was identified as a settlement of focus for proportionate housing development and the proposal would contribute to the housing supply total.

In the Committee's discussion of the application the consensus was that the development was in open countryside and wholly contrary to policy as set out in the report.

The local ward member was given the opportunity to close the debate. He reiterated his view that there was merit in the application.

**RESOLVED: That planning permission be refused for the following reasons:**

1. **The proposal is contrary to Policies SS1, SS4, RA3 and MT1 of the Herefordshire Local Plan: Core Strategy given the proposal site is outside the reasonable limits of Kimbolton in open countryside such that a choice of modes of transport and the requirement to achieve sustainable development in the National Planning Policy Framework (2012) cannot be achieved.**
2. **The proposed means of access does not have sufficient visibility splays, and accordingly the proposal would have an adverse impact on highway safety contrary to the provisions of Policy MT1 of the Herefordshire Local Plan-Core Strategy.**

**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 and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.**

*(The meeting adjourned between 11.20 and 11.35 am)*

**110. 162824 - LAND AT BALANCE FARM, EYWOOD LANE, TITLEY, KINGTON, HEREFORDSHIRE, HR5 3RU**

*(Site for the proposed erection of 5 dwellings.)*

The Chairman highlighted the statement in the update sheet that the application was now the subject of an appeal against non-determination. This meant the Council was not entitled to make a formal decision on the application, but instead confirmation was being sought of the matters upon which the appeal should be defended.

The Development Manager gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

The Development Manager added that the proposal was considered to be unsustainable development as a consequence of the failure to comply with policy MT1. He also proposed that Chapter 4 of the NPPF – promoting sustainable transport should be a ground for defending an appeal.

In accordance with the criteria for public speaking, Mr R Edwards of Titley and District Group Parish Council spoke in opposition to the Scheme. Mr D Morris, a local resident, spoke in objection.

In accordance with the Council's Constitution, the local ward member, Councillor RJ Phillips, spoke on the application.

He made the following principal comments:

- There was considerable local opposition to the application.
- As reflected in the representation from the Campaign to Protect Rural England (CPRE), included in the update sheet, there was a feeling that the applicant was circumventing obligations by manipulating the Council's procedures, damaging goodwill. When approval had been granted for 5 dwellings on an adjoining part of the site it had been understood that a buffer zone would be retained between the farm and Eywood park.
- He considered that the policy grounds for refusing the application should be strengthened, specifying the following: SS1, RA2, MT1, LD1 and LD4.
- He added that in terms of housing provision in the settlement area there were two settlements: Titley and Staunton on Arrow. To date of the minimum target of 23 dwellings, 11 had been identified in Titley and none in Staunton on Arrow. He considered that it should be recognised that there were a large number of farmsteads capable of being converted to dwellings meaning that there was strong potential for windfall sites to meet the minimum housing target.
- There had been two severe flooding incidents.
- The proposal was detrimental to the nearby listed buildings and Eywood Park.

In the Committee's discussion of the application the following principal points were made:

- It was noted that an application for storage of caravans had been refused in 2008 on the grounds of landscape impact and highway safety. It was questioned why both these grounds were not relevant to the current application.
- It was also questioned why the strategic housing land availability assessment had assessed the site as brownfield land.
- Regard should be had to the comments of the Hereford and Worcester Gardens Trust as set out in the report.
- As the CPRE had identified, there was a lack of information with the application and the applicant appeared to have made no effort to engage with the local community.
- It was requested that, although not a statutory consultee, as a matter of course CPRE representations should be included in officer reports.
- The following grounds for defending an appeal were advanced building on those advanced by the local ward member: SS1, SS4, RA2 (points one and four and paragraphs 50 and 55 of the NPPF, LD1, LD4 (and paragraph 132 of the NPPF), SD4, LD2 and the Housing Supply minimum target for Titley had been met.

The local ward member was given the opportunity to close the debate. He reiterated his opposition to the application and his support for the additional grounds for defending an appeal.

The legal adviser commented that evidence would be required to support the proposed grounds for appeal. Accordingly it was proposed that officers should be given delegated authority to finalise the appropriate grounds for appeal.

Members requested that the Chairman and local ward member should be consulted as part of this process.

**RESOLVED: That the Committee is minded to refuse the application and officers be authorised to defend an appeal based on the following grounds as they consider appropriate after consultation with the Chairman and local ward member: SS1, SS4, RA2 (points one and four and paragraphs 50 and 55 of the NPPF, LD1, LD4 (and paragraph 132 of the NPPF), MT1, Chapter 4 of the NPPF, SD4, LD2, and that the Housing Supply minimum target for Titley has been met.**

**111. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**Appendix 1 - Schedule of Updates**

The meeting ended at 12.20 pm

**CHAIRMAN**

**PLANNING COMMITTEE**

**Date: 22 February 2017**

**Schedule of Committee Updates/Additional Representations**

**Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.**

## SCHEDULE OF COMMITTEE UPDATES

**163797 - CHANGE OF USE OF PART OF Paddock FROM EQUESTRIAN TO RESIDENTIAL. CONSTRUCTION OF NEW 3 BED DWELLING WITH ASSOCIATED GARAGING, ACCESS AND LANDSCAPING AT CAREY BANK, KILFORGE ROAD, CAREY, HEREFORDSHIRE**

**For: Mr & Mrs Du Cros per Mr Dean Benbow, 21-22 Mill Street, Kington, Herefordshire, HR5 3AL**

### OFFICER COMMENTS

The final clause of the last sentence of the 'informative' (pages 36/37) should read that 'approval is not possible'.

### NO CHANGE TO RECOMMENDATION

**162824 - SITE FOR THE PROPOSED ERECTION OF 5 DWELLINGS AT LAND AT BALANCE FARM, EYWOOD LANE, TITLEY, KINGTON, HEREFORDSHIRE, HR5 3RU**

**For: Mrs Vaughan per Mr Alan Poole, Green Cottage, Brierley, Leominster, Herefordshire HR6 0NT**

This application is now the subject of an appeal against non determination, this means the Council is not entitled to make a formal decision on this application, but instead is seeking confirmation of the matters upon which the appeal should be defended.

### ADDITIONAL REPRESENTATIONS

The following additional representations have been received:

#### **Marches Planning and Property Consultancy**

This objection is made on behalf of residents of Titley.

It is made in view of deficiencies in the committee report, which while recommending refusal of the application, appears to support the proposed development. The report fails to address numerous material grounds for refusal of the application, it misdirects the committee by asserting that the proposals constitute "*sustainable development*" and is misleading in its interpretation of the National Planning Policy Framework (NPPF).

#### 1) Sustainable Development

The report asserts at paragraphs 6.8 and 6.10 that the application site is "*sustainable*" and that the proposals constitute "*sustainable development*". It is wrong to do so because the proposals do not comply with the NPPF definition of sustainable development.

The procedure for determining whether or not development is sustainable is contained within

paragraph 14 of the National Planning Policy Framework. In **East Staffs Borough Council v. Secretary of State for Communities and Local Government (2016)** Mr Justice Green ruled that if a proposed development is in conflict with the local plan, it is not sustainable development.

He said:

*“Paragraph [14] NPPF is the embodiment of the presumption and once that paragraph has been worked through and a conclusion has been arrived at that the proposal is inconsistent with the Local Plan, then there is no presumption remaining which can be relied upon in favour of grant... This is because, as per paragraph [12] NPPF, it is inconsistent with the Local Plan and the proposal should be refused.”*

Decision-makers have discretion to approve development that does not accord with the local plan where there are strong material reasons to do so, *“but it does mean that the discretion does not incorporate a presumption in favour of approval and, moreover, the starting point is not neutral but is adverse to the grant of permission,”* Mr Justice Green said.

Justice Green’s judgement upheld the view of Justice Jay in **Cheshire East Borough Council v Secretary of State for Communities and Local Government [2016]** that *“there is no significant discretion for decision makers to apply a broader test of sustainable development operating independently of paragraph [14].”*

Having failed to carry out any assessment of whether or not the proposals in this planning application accord with the local plan, the case officer could not have concluded that they constituted *“sustainable development”* or that the site was *“sustainable.”* To assert that they are amounts to a mis-direction of the planning committee.

## 2) Paragraphs 6.1 and 6.2 of the report

Marches Planning asked the case officer to explain what is meant by paragraph 6.2 of the report, because it does not appear to make sense, but has had no response.

The paragraph apparently aims to set out the framework for making planning decisions. Having acknowledged at 6.1 the primacy of the development plan, 6.2 then appears to suggest that paragraph 14 of the NPPF contradicts this requirement where *“relevant policies are out of date”*. It misquotes paragraph 14 as saying: *“permission will be granted unless material considerations indicate otherwise - taking into account whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefit when assessed against the policies in **national policy** taken as a whole or **specific elements of national policy** indicate that development should be restricted.”*

The report emphasises the words *“significantly”* and *“demonstrably”* although they are not highlighted in the NPPF and the two sections shown here in bold have removed the word *“framework”* and referred instead to *“national policy”* and to *“specific elements of national policy”* instead of to *“specific policies in this framework”*. This may have been inadvertent but it is important for the committee to understand that the application should be judged against policies in the NPPF.

The committee report does not say whether or not Herefordshire Council can demonstrate a five year housing supply and so does not advise the committee as to whether its relevant housing policies are up to date (NPPF 49). It is unclear, therefore, why paragraph 6.2 recites this part of paragraph 14 or the policies listed at the top of the report include NPPF paragraph 49.

In the absence of any explanation from the case officer, the paragraph appears to suggest that, having concluded that the proposed development is *“sustainable”*, the committee would have to find significant and demonstrable harm in order to refuse it.

This is a mis-interpretation of the NPPF. As set out above, the courts have construed paragraph 14 as saying that where a proposed development is in conflict with the development plan (or where relevant policies are out of date, in conflict with the NPPF) the presumption is for refusal unless there are material reasons why it should be approved.

Marches Planning asked about the status of the housing land supply and Kevin Bishop advised the following:

*“As we do not have a 5 year housing supply, policies are considered out of date and paras 14 and 49 kick in. However the courts have held that although out of date the weight that they should receive in the planning balance is a judgement for the decision maker.”*

Whether or not local plan policies can be applied where a council cannot demonstrate a five-year housing supply rests entirely upon the extent to which they accord with the NPPF: **R (Wynn- Williams) v. Secretary of State for Communities and Local Government (2014)**.

Given that the Core Strategy has been found to be in conformity with the NPPF, only specific policies such as those setting settlement boundaries or allocating sites for residential development are relevant and, therefore, out of date.

Furthermore, there is an important footnote to NPPF paragraph 14 (footnote 9), which the committee report has failed to note. This specifies the national policies where development is restricted and includes policies protecting designated heritage assets. Where a development would harm a heritage asset or its setting, it is not sustainable.

### 3) Harm to Heritage Assets

The application site is adjacent to the Grade II listed Eywood Park - a registered park and garden - and to Grade II listed Balance Farmhouse and its curtilage-listed barns.

Planning authorities have a duty under S.66 of the **Planning (Listed Buildings and Conservation Areas) Act 1990** to have special regard to the requirement to preserve the setting of listed buildings. The courts have interpreted this as a requirement to attach *“considerable importance and weight”* to the impact of any development on a listed building.

The report quotes the consultation response from the Conservation Manager at 6.6 as follows

*“The site to the east of the gate piers and lodge can be viewed as within the settlement boundary and therefore potentially suitable for development. Its position is set down below the roadside, is well screened and adjacent to barns which have already been converted for residential use. In this location I do not consider that further development would necessarily have a detrimental impact on the character of the village or on the nearby listed dwelling, Balance Farm.”*

The conclusion that further development would not *“necessarily have a detrimental impact”* on the listed building, does not amount to any analysis of the impact of the development and does not suggest that any - let alone considerable - weight has been attached to the potential harm to the listed building or its setting. The registered park and garden is not even mentioned.

And there is no settlement boundary - Titley is in the process of developing its Neighbourhood Development Plan and the parish council has made clear in its objections that this amount of development on the site is unlikely to be supported.

The committee report appears to rely on the fact that the application site is included in the SHLAA as evidence that there would be no harm to the heritage assets, although the SHLAA specifically requires an assessment of heritage impact (see appendix 2). The

SHLAA also makes clear that inclusion of a site is no indication that permission would be granted, saying the following:

*“The inclusion of a site within this document does not imply that the Council would necessarily grant planning permission for residential use. Similarly, the exclusion of sites from the study does not preclude the possibility of planning permission for development being granted.”*

Not only does CS policy LD4 still apply where the council cannot demonstrate a five year housing land supply, LD4 is in strict accordance with NPPF Paragraph 132, one of the policies referenced by Footnote 9.

If an application is in conflict with LD4 and/or paragraph 132 it is not sustainable development.

Neither the conservation officer nor the committee report have demonstrated that the proposals conform with these policies.

#### 4) Conflict with RA2 and LD1

The application site constitutes less than one tenth of the piece of land included in the SHLAA (appendix 2) and along with the permission already granted for five houses on adjoining land - under delegated powers and with even less assessment than in this case - it would create a housing development of ten houses, in addition to the seven residences quite recently created in the barns adjoining Balance Farm.

The parish council and others have objected that the scale of the development is disproportionate to the size of the settlement. The objections have been cited in the report, but not addressed. They are a material consideration and the report should explain why it has not given them credence.

The supporting text to CS Policy RA2 says this about the settlements identified in Tables 4.14 and 4.15 of the CS (Titley is in table 4.14):

*Within these settlements carefully considered development which is proportionate to the size of the community and its needs will be permitted.”*

And the policy itself says:

*Housing proposals will be permitted where the following criteria are met:*

- 1. Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area.*
- 4. They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.*

The RA2 policies are consistent with NPPF paragraph 50, requiring planning authorities to:

- *identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand;*

And paragraph 55:

*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.*

The SHLAA suggests that the - much larger - site may be suitable for 20 houses - subject to the qualifications set out above. It says that any development on this site should be “*sensitively designed*” and although the design would be left to the reserved matters stage, it is hard to see how crowding ten houses into about 1/6 of the site could be considered sensitive.

The SHLAA acknowledges that the village has a dispersed settlement pattern and so concentrating ten houses into this small area (and leaving a much larger site available for further development) would conflict with CS policy RA2 , which requires that design and layout reflect the size, role and function of each settlement.

CPRE, whose objection is not referenced in the committee report, says the development “*would be a visual intrusion in a landscape of rolling pasture land with occasional ploughed fields and woodland.*”

The committee report does not make any assessment of the impact of the proposals on the landscape and makes no attempt to explain why CPRE’s objection on landscape grounds was disregarded. The proposals are in conflict with Core Strategy Policy LD1 and, so once again, could not be construed as sustainable development.

#### *Policy LD1 – Landscape and townscape*

*Development proposals should:*

- *demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas;*

A 2007 application to store caravans on this site was refused on grounds of landscape impact, unsustainable location and highway safety. The committee report, cites this decision but makes no attempt to reconcile the apparent conflict between this refusal and the lack of concern about landscape impact and the sustainability of the location in this case.

One final anomaly to note is that the SHLAA assesses this site as brownfield, when it is evidently agricultural land. This raises a question as to why this site is in the SHLAA at all.

#### **Appendix 1: NPPF paragraph 14**

14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, 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.<sup>9</sup>

For decision-taking this means:<sup>10</sup>

- approving development proposals that accord with the development plan without delay; and

- 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.<sup>9</sup>

Footnote 9

9 For example, those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.

## Appendix 2: SHLAA Assessment and Plan

<b>Settlement Name</b>	Titley	<b>Site Ref</b>	HCAA/153/002	<b>Post Code</b>	HR5 3RU
<b>Site Address</b>	Land at the Balance Farm	<b>Information Source</b>	Call for sites		

**Landscape and Historic Environment information**

Landscape Sensitivity: Low - Moderate  
 Landscape Capacity: Moderate - High

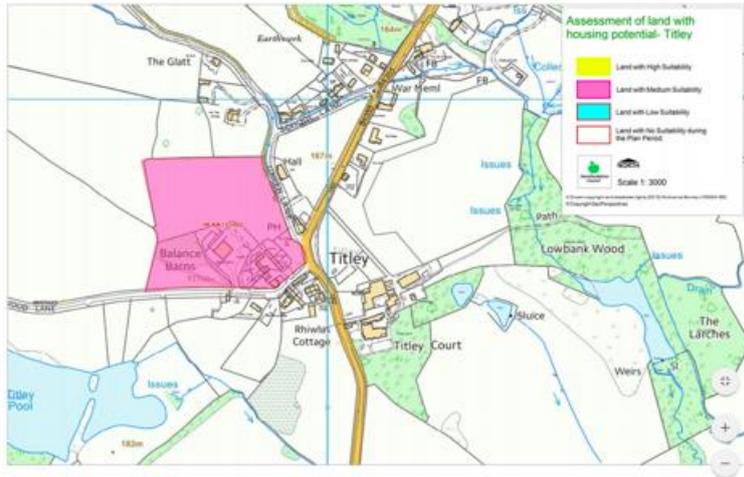
Sensitivity & Capacity Analysis: The existing village appears to have a dispersed settlement pattern, the scale of development appropriate to the village is therefore a consideration. The historic park adjacent to the Western boundary is marked by a gatehouse, the topography of the site is low but consideration as to how any proposals would relate to both the Historic Park & Garden and the farmhouse with outbuildings would be required. The Northern section of the site is arable field with a rolling topography that is at the Northern extremity of the village and relates to the open countryside.

**Site probability**

Medium potential

**Justification**

There is potential for a sensitively designed scheme to come forward where the existing buildings are situated. The historic park on the western boundary, the listed farmhouse and its curtilage should be taken into account should a scheme come forward. The BAP site should also be avoided.



## Herefordshire Campaign to Protect Rural England (CPRE)

On behalf of Herefordshire CPRE I sent, early in December, a preliminary letter of **objection** to this application. I now wish to add a more detailed set of reasons for our strong **OBJECTION** to this application.

The principal reasons for objection are:

- Extreme paucity of information
- Suitability of the location
- Environmental and visual impacts
- Proximity to heritage assets
- Traffic
- Planning Obligations

I said in my previous letter that in my view this application is woefully short of information and barely warrants being termed an application. Much the same observation could have been made of the application **No: 160581**; I am astonished that that one was approved so readily.

### Location.

The location map is little more than an outline sketch of the site with no information as to its relationship with the location of the five adjacent dwellings that have been approved. Nor is there any indication of how the site might be developed without degrading the immediate environment of existing dwellings.

I understand that Herefordshire Council needs to meet housing targets and that Titley is categorised in the **Core Strategy RA2** as a village where proportionate housing development will be appropriate. But that does not require that dwellings of any type will be allowed anywhere an applicant specifies that land is available.

**CS 4.6.12** *“All settlements identified (includes Titley) will have the opportunity for sensitive and appropriate housing growth” ..and..” particular attention will be given to ensure that housing developments should respect the scale, form, layout, character and setting of the settlement concerned”.*

**4.8.20** *“Housing proposals will be expected to reflect the range that is required for the settlement concerned.”*

These two quotes show that proposals for new housing need to be justified in terms of the proposed location and the types of dwellings. They form part of the Council’s strategy to ensure that speculative development without acceptable justification does not occur. The strategy is clearly laid out in **Policy RA2** with its four distinct criteria that are required to be met if proposals for development in rural areas are to be approved.

The application contains no statements that meet the criteria of the relevant **Core Strategy Policies**.

The applicant has made no attempt to argue a case for what is proposed other than to describe the site as redundant farm land. Since the applicant’s agent is experienced in Planning procedures there must have been a conscious decision to omit any information that might support the application and to **give no reason for the omission**.

#### **Environmental and Visual Impacts.**

No Environmental or Visual Impact Assessments are provided despite what could be a housing estate of at least ten dwellings if this application were to be approved adjacent to the earlier one. The ten would represent a cluster of a considerable size, not existing elsewhere in Titley village. The site itself lies on the border of Eywood Park and would be a visual intrusion in a landscape of rolling pasture land with occasional ploughed fields and woodland.

*LD1 “Development proposals should demonstrate that the character of the landscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas...”*

The applicant has made no attempt to comply with this policy.

#### **Heritage assets**

##### **LD4 Historic environment and heritage assets.**

*Development proposals affecting heritage assets and the wider historic environment should: 1. Protect, conserve, and where possible enhance heritage assets and their settings...”*

Not only is there no attempt by the applicant to comply with this Policy, but the adjacent Listed Grade 11 Eywood Parkland is not even mentioned. Titley Court is situated across the road from the site.

The principal access route to Eywood is the lane that will provide the access route to the development site.

#### **Traffic**

The lack of information extends to the absence of any mention of cars, car parking, garages, provision for cyclists and safe passage for pedestrians who would be residents on the development.

Ten dwellings could well produce 20 vehicles owned by residents; the lane would also need to accommodate refuse lorries and delivery vans etc. Eywood Lane is narrow with buildings on either side up to the site entrance. There is no pedestrian path or cycle track. Vehicles coming and going from this new development would be added to those from exiting adjacent housing and also from visitors to Eywood Park and dwellings on the estate as well as farm vehicles and horse riders. Eywood Lane seems to be unsuitable for a large increase in vehicular traffic.

Local people have commented on the difficult access onto the lane from the main road, the B4353, and the Council’s Transport Officer clearly has concerns.

Driving out of Eywood Lane and turning right across the main road is hazardous because of very limited visibility.

**Policy MT1** requires:

**4.** *“... that there should be safe entrance and exit, have appropriate manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide access for the emergency services”*

The application contains no information as to how there will be compliance with this Policy.

### **Drainage and water**

The application contains no information as to the hydrological nature of the site, the permeability of the land, the level of the water table or proposals for drainage and removal of foul water and rain water.

**Policy SD3 Sustainable water management and water resources** require assessments to be made. In the absence of any such it is not possible to decide whether or not the site could be developed satisfactorily.

Ten dwellings and associated hard standing, driveways etc all reduce the ability of an area to absorb water and thereby add to local flood risks.

### **Obligations**

The Planning Obligations Supplementary Planning Document is clear about the subdivision of sites by applicants to avoid the delivery of affordable housing and 106 contributions.

**Para 3.2.8** states that affordable housing will be required in the following circumstances:

- *Where the Council reasonably considers that the development of a site has been phased, or a site sub-divided or parcelled in order to avoid the application of the affordable housing policy, whether in terms of number of units or site size. In these circumstances the whole site will be assessed; or*
- *Where the Council reasonably considers that a development scheme has been specifically designed to fall under the threshold or a site's potential is not being fully realised; or*
- *If having had a scheme approved, a subsequent proposal for additional housing units brings the cumulative total over the threshold.*

At the end of last year (2016) Herefordshire Council applied this principle to **Application No: 161329**, Land South of Kings' Acre Road, Swainshill HR4 0SR. The Council considered that the applicant had submitted one application for housing that had been approved, swiftly followed by a second application for more housing on the same field and that this was a deliberate subdivision of the site which if successful would have circumvented the requirement for a 106 agreement and affordable housing.

A similar situation is presented now by the applicant in this application.

**Application No 160581** for 5 x 4bedroom houses was approved in July 2016.

The present application was submitted two months later, in September, on another section of the same site. It appears to be a blatant attempt to circumvent obligations by manipulating the Council's procedures.

HCPRE **objects** very strongly to such behaviour and urges the Council to ensure that if minded to approve this second application the appropriate obligations are placed as clear and firm conditions on the approval.

No calculation of the density that will be on the site if ten dwellings result from this application. If minded to approve, the Council could require that one further dwelling be added to bring the number over the threshold when an affordable house would be provided.

### **Conclusion**

It is difficult to consider this application as a serious submission. The applicant has not supplied the most minimal essential information, made no assessments of the impact of such a development and appears to assume that none are required. If this application is allowed the decision would be an obvious candidate for seeking a judicial review.

On behalf of HCPRE I submit the application should **not** be allowed.

## OFFICER COMMENTS

In response to the comments about heritage assets the Historic Building officer adds

Further to the response from Marches Planning Consultancy I reiterate my stated opinion that proposed residential re-development of the site at Balance Farm would in principle be acceptable in terms of its impact on the setting of the nearby listed building and registered park. In coming to this opinion the application site has been assessed against advice given in Section 66(1) of the Planning (Listed buildings and Conservation Areas) Act 1990, section 12 of the National Planning Policy Framework, heritage policy LD4 of The Core Strategy and Historic Environment Good Practice Advice in Planning: Note 3 , The Setting of Heritage Assets ( Historic England 2015).

The proposed site is set considerably lower than the road and is also well screened by mature planting. The site contains farm buildings which have no architectural or historic interest – they are modern structures of a non- traditional scale and design.

It is not possible to see the site when viewed from the registered parkland and therefore in my opinion it makes no contribution to its character nor would any development be likely to affect its setting. As such replacement of the modern farm buildings with smaller scale dwellings will have neutral impact on its setting or interest.

In respect of the impact on the setting of the listed building, removal of non –traditional agricultural sheds must be regarded as beneficial. Replacing these with a well- designed residential development has the potential to make a positive contribution to the local character and distinctiveness of the village, and thereby would enhance the setting of the listed building.

In terms of the housing land supply position the council can currently demonstrate a 4.39 yr supply.

In principle RA2 settlements are by definition considered to be sustainable locations. This is an outline application with all matters reserved for subsequent approval. Should the appeal be successful the outstanding matters will be considered at that stage and can address those issues raised in the representations.

Strictly since the proposal is considered to be contrary to policy MT1 of the Core Strategy it cannot be considered to be sustainable development and is thus contrary to presumption in favour of sustainable development within the NPPF and Core Strategy

## CHANGE TO RECOMMENDATION

**The Committee is asked to indicate that it is mindful to refuse the application as unsustainable development as a consequence of the failure to comply with policy MT1.**

