

MEETING:	PLANNING COMMITTEE
DATE:	14 June 2017
TITLE OF REPORT:	171040 - PROPOSED ERECTION OF ONE DWELLING AT WYMM HOUSE, SUTTON ST NICHOLAS, HEREFORD, HR1 3BU For: Mrs Snead per Mr Paul Smith, 1a Mill Street, Hereford, Herefordshire, HR1 2NX
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=171040&search=171040
Reason Application submitted to Committee - Redirection	

Date Received: 21 March 2017

Ward: Sutton Walls

Grid Ref: 354002,247306

Expiry Date: 16 May 2017

Local Member: Councillor K S Guthrie

1. Site Description and Proposal

- 1.1 The site lies to the north of Wymm House, a two storey detached dwelling that has been extended in the past. While the application site lies outside of the curtilage of Wymm House, it is within the applicant's ownership who resides at Wymm House at present.
- 1.2 There is a large metal building on the application site that has been used by the applicant's father in relation to his business. Both this building and Wymm House are now accessed through a vehicular access to the east of the C1125. There is thick hedging along the roadside boundary (apart from an existing field gate access) as well as along the northern boundary of the site. It is largely open to the south where it abuts Wymm House.
- 1.3 The site, while located within the parish of Marden, is within open countryside and away from the identified settlements of Marden and Sutton-St-Nicholas.
- 1.4 The application seeks full planning permission for the erection of a single detached dwelling, associated access and turning, and retention of part of the metal building for garaging purposes for the dwelling and domestic curtilage.
- 1.5 The dwelling proposed is single storey with storage and a studio/study within the attic space. The proposed dwelling will measure approximately 21.6m in length when viewing from the west and 17.8m when viewing from the south. The height to the eaves of the single storey elements (for example the bedroom and en-suite located off the north elevation) will measure 2.5m and 6.5m to the ridge of the whole structure.
- 1.6 Internally, the dwelling would provide a three bedroomed dwelling with living room, dining room and kitchen, utility and bathroom with an attached two bedroom annexe for the applicant's parents.

Further information on the subject of this report is available from Miss Emily Reed on 01432 383894

1.7 As well as the proposed plans, the application was accompanied by:

- A covering letter
- Planning Design and Access Statement
- Supporting Statement
- Preliminary Ecological Appraisal

2. Policies

2.1 Herefordshire Local Plan – Core Strategy:

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land For Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
RA1	-	Rural Housing Distribution
RA2	-	Housing in Settlements Outside Hereford and the Market Towns
RA3	-	Herefordshire's Countryside
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality

The Core Strategy 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/core-strategy/adopted-core-strategy>

2.2 National Planning Policy Framework (NPPF):

Introduction	-	Achieving Sustainable Development
Section 4	-	Promoting Sustainable Transport
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

2.3 The Marden Neighbourhood Development Plan (made on 6 October 2016):

Policy M1	-	Scale and Type of New Housing Development in Marden
Policy M2	-	Scale and Type of New Housing Development in designated Hamlets
Policy M3	-	General Design Principles
Policy M4	-	Ensuring an Appropriate Range of Tenures, Types and Sizes of Houses
Policy M10	-	Landscape Character
Policy M11	-	Flood Risk and Surface Water Run-off

2.4 The Marden Neighbourhood Development Plan can be viewed on the Council's website by using the following link:

<https://myaccount.herefordshire.gov.uk/marden>

3. Planning History

3.1 163635/F – Application for proposed dwelling house. Refused 21 December 2016.

This previous application was identical to the one that is now submitted. It was refused on the following three grounds:

- 1) The proposal is considered to represent an unsustainable form of development, and while the Marden Neighbourhood Development Plan does not have a policy relating to open countryside, the application is contrary to policy M1 of the Marden NDP as well as Policies RA2 and RA3 of the Herefordshire Local Plan – Core Strategy, where residential development of this type is not supported unless it meets exceptional criteria.
- 2) The design of the proposal does not reflect the local context of the dwellings within the vicinity and intrinsically has a detrimental impact on the open countryside. As such, the proposal does not accord with Policies SD1 or LD1 of the Herefordshire Local Plan – Core Strategy.
- 3) In the absence of sufficient information, the potential impact of the proposal on the trees on the site cannot be adequately assessed. As such, the application cannot be favourably assessed against Policy LD3 of the Herefordshire Local Plan – Core Strategy.

4. Consultation Summary

4.1 Statutory Consultations

4.1.1 Welsh Water

No objections to the proposal as it is intended to utilise a private treatment works.

4.2 Internal Council Consultations

4.2.1 Ecology

I am happy that work could proceed subject to planning permission under the applicants own risk as far as ecology and protected species are concerned.

I would request that should permission be granted we include a condition requiring details of the biodiversity enhancements the development will off. I know the applicant had talked about bat and bird boxes plus wildlife friendly planting at pre-application and full details of these should be submitted under a condition.

4.2.3 Transportation Manager

On receipt of the current plans, the Council's Transportation Manager recommends refusal of the application as an acceptable level of visibility is not achievable from the utilisation of an existing field gate. This was not identified when determining the previous application. However, negotiations have taken place between the Area Engineer, Agent and Case Officer to create a shared access between the proposed dwelling and Wymm House. This is covered at paragraph 6.32 below.

5. Representations

5.1 Marden Parish Council

Although the application is relocated from the footprint of the current building, the proposed house replaces a redundant building. Although it does not conform to policies M1 or M2 of the Marden Neighbourhood Development Plan and must be considered against policy RA3 of the Core Strategy, Marden Parish Council recognises the special needs of this family and supports the application.

5.2 58 letters of support have been received in response to the public consultation process. In summary the points raised are as follows:

- The family are trying to improve their quality of life and to remain in their community
- The existing house is not big enough for the medical equipment required and help is needed around the clock
- If its in a brown area there should be no issue with it as the Council allow them in other places
- The site is not in open countryside
- The building mimics the building already on the site
- There would be no harm to the surrounding area
- To not allow the dwelling would breach their rights under the Disability Discrimination Act 1995
- The application would reduce the burden on the care services by keeping three generations together

5.3 One letter of objection has been received in response to the public consultation process. In summary the points raised are as follows:

- The development is outside of the settlement boundary
- The existing dwelling is large enough
- Will lead to a precedent
- Drainage will flow to the lowest level which is Wyatt Road
- An additional access will increase hazards on this narrow, unrestricted road

5.4 The consultation responses can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=171040&search=171040

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

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

6. Officer's Appraisal

Principle of development

6.1 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."

6.2 Despite the relatively recent adoption of the Core Strategy, the Council is unable to demonstrate a 5-year housing land supply. As set out in paragraph 49 of the NPPF, in such circumstances the relevant policies in the Development Plan for the supply of housing should not be

considered to be up to date. As established in recent case law (Suffolk Coastal DC v Hopkins Homes [2016] EWCA Civ 168) in practice this means that it is for the decision-maker to decide how much weight to apply to such policies, because paragraphs 14, 47 and/or 49 do not stipulate this.

- 6.3 A recent appeal decision for an outline application for up to 100 dwellings in Bartestree (LPA reference: 143771 / PINS ref: 3051153). considered the weight to go to the Council's spatial strategy in the context of a housing land supply shortfall; then held at 3.63 years' worth of supply (this has improved subsequently to an updated position of 4.39 years). The decision, which was endorsed by the Secretary of State, confirmed that the Council's approach to housing delivery is sound and the shortfall attributable to the delays in delivering housing on large, strategic urban extensions. Accordingly, the Inspector and subsequently the Secretary of State, determined to give significant weight to policies relevant for the supply of housing; particularly in the rural context.
- 6.4 In the context of the clarification provided by the Supreme Court re: Hopkins & Richborough, it is also the case that the correct definition of policies 'caught' by paragraph 49 is the narrow one and that the weight to go to the policies that serve to protect the countryside for its own intrinsic value can legitimately be afforded full weight.
- 6.5 Paragraph 14 of the Framework states that there is a presumption in favour of sustainable development. For decision takers this means 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 adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This goes back to the weight to be afforded policies relevant for the supply of housing absent a 5 year supply with buffer. With this in mind, the spatial strategy is sound and consistent with the NPPF; which itself seeks to avoid isolated development (paragraph 55). It is therefore considered that Policies RA1, RA2 and RA3 of the Core Strategy continue to attract significant weight.
- 6.6 The approach to housing distribution within the county is set out in the Core Strategy at Policy SS2. Hereford, as the largest settlement and service centre is the recipient of up to 6,500 of the requisite 16,500 homes, with the market towns identified in the second tier as recipients of approximately 4,700 dwellings.
- 6.7 Housing in the rural parts of the county is delivered across the settlements identified at figures 4.14 and 4.15 of the Core Strategy (pp. 109 -110). Here the identified settlements are arranged according to the seven identified housing market areas. Figure 4.14 identifies the settlements which will be the main focus of proportionate housing development. Figure 4.15 classifies the 'other' typically smaller settlements where proportionate housing will be appropriate.
- 6.8 There are 119 'main' villages (figure 4.14) and 98 'other settlements' (figure 4.15), giving 217 rural settlements where proportionate growth will be acceptable in principle. Marden is identified as a settlement where housing growth is considered to be appropriate and necessary and appears in figure 4.14.
- 6.9 Notwithstanding the above, the preamble to Policy RA2 states that NDPs will be the principal mechanism by which new rural housing will be allocated. As stated above, the Marden NDP has been made and is therefore a material planning consideration.
- 6.10 Residential development within the Marden Parish is covered within Policies M1 and M2 of the NDP. These policies include tight settlement boundaries around Marden (under Policy M1) and Litmarsh, Burmarsh and The Vault (under Policy M3) and state that new residential dwellings will only be permitted within those boundaries. While there is not a singular map that shows



these boundaries together, the plan below is an illustration of their approximate locations, with the application site indicated by the blue star:

6.11 With the above in mind, the proposal does not comply with Policies M1 or M2 of the NDP. It is therefore located outside settlement boundaries and within open countryside. It is worth noting a recent appeal decision for five dwellings that was dismissed on account of being outside of the settlement boundary (directly adjacent to the Marden settlement boundary) and therefore conflicting with policy M1 (LPA reference: 160353 / PINS reference:3163453).

6.12 During the examiner's report for the NDP, the then numbered Policy M3 of the NDP was recommended to be deleted with the examiner commenting as follows:

This policy contains the same or similar criteria to CS Policy RA3. It however misses out the references to CS Policies RA4 and RA5 contained in that policy and also does not include two other criteria which appear in CS Policy RA3. These relate to dwellings of exceptional quality and innovative design and sites for gypsies and travellers. The similarity of this policy and CS Policy RA3 mean that there is little merit in including it in this Plan. The excluded elements of CS Policy RA3 are significant and should be included in any such policy to ensure that general conformity is achieved. Therefore Policy M3 should be deleted. If, for the sake of completeness, the Plan wishes to cover residential development in the countryside, reference could be made in the text to the relevant CS policies.

6.13 As such, the NDP does not contain a policy in relation to residential development outside of the specified settlement boundaries and any such application falls to be assessed against Policy RA3 of the Core Strategy.

- 6.14 Policy RA3 is a criteria-based policy identifying seven instances where residential development in the open countryside may be permissible. Such instances include, inter alia, the erection of dwellings connected with proven agricultural necessity, replacement dwellings or rural exception housing in accordance with H2.
- 6.15 While the situation of the applicant is appreciated, hoping to accommodate both their parents and their disabled daughter in the same residence, the proposal does not meet one of the seven exception criteria under Policy RA3.
- 6.16 It follows that the application conflicts with policies RA2 and RA3 of the Core Strategy and M1 and M2 of the NDP resulting in residential development being unacceptable in this location. Notwithstanding this in principle objection to the proposal, the other areas of the application are assessed below.

Design and amenity

- 6.17 With regard to the design of any dwelling, policies SD1 of the Core Strategy and M3 of the NDP are applicable.
- 6.18 Policy SD1 states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing impact.
- 6.19 Policy M3 of the NDP states that new housing development should not have a detrimental effect on the safe and efficient flow of traffic, result in the loss of an area which makes a significant contribution to public amenity and include appropriate remediation for contaminated land. Criteria d – j of this policy state more specific design principles which should be followed. These are also the points on which the Parish Council supports the application. For ease, these are found below:
- (d) Maintain the historic pattern of development by respecting the layout associated with historic plots in the immediate area;*
- (e) Ensure the suitability of the overall design and appearance of the proposal (including size, scale, density, layout, access considerations) in relation to surrounding buildings, spaces and other key features in the street scene. Originality and innovation in design is encouraged;*
- (f) Use, and where appropriate re-use, local and traditional materials;*
- (g) Respect the pattern and use of spaces and use landscape design principles and landscaping where appropriate;*
- (h) Ensure movement to, within, around, and through the development is satisfactory;*
- (i) Include adequate parking (preferably off-road), garaging, private and public amenity space for future residents;*
- (j) Use Sustainable Drainage Systems.*
- 6.20 The materials proposed for the dwelling include lime rendered elevations painted in off white or grey as well as vertical timber boarding with dark grey standing seam sheet steel roof. The design and materials are redolent of an agricultural building as opposed to a dwellinghouse. Taking into consideration the dwellings that are nearest to the site, these largely consist of rendered and facing brick elevations.
- 6.21 It is appreciated that the design of the building may have been pursued, and influenced, by, the existing metal building on the site. However, given the surrounding dwellinghouses, the proposed is found to be out of keeping and does not reference the surrounding domestic development. While the demolition of the existing building (of which a small part would be

retained for garaging purposes) may be beneficial given its deterioration over time, this is not found to constitute justification for a design that does not reflect the local character.

- 6.22 As stated above, the dwelling will provide a 3 bedroom bungalow with an attached 2 bedroom annexe. Notwithstanding the principle of development being found to be unacceptable during pre-application discussions, the layout of the site was touched on. It was considered that if the proposal were to be pursued, it would be important that both Wymm House together with its annex and a proposed dwelling and annexe on the site benefitted from adequate private amenity space and that it may be best if the proposal moved away from the footprint of the existing agricultural building in order to achieve this. The proposal now ensures private curtilage for both host dwellings and annexes if they were to be occupied separately. With the building moved further away, any overshadowing that was experienced by occupants of Wymm House and annexe would now be removed. In relation to overlooking, with the immediate neighbouring dwelling being Wymm House, given the distance between the two (approximately 40m) these issues are not anticipated.
- 6.23 In relation to the part of the existing building to be retained for the garaging of the new dwellings, no details (by way of elevations or floorplans) accompany this application. However, in this case it is considered that these details could be conditioned given that the existing building is to be adapted as opposed to a whole new building being proposed.
- 6.24 Following the refusal of the previous application, pre-application discussions between the Council and the applicant/agent were encouraged in relation to the design. While this would not overcome the in principle objection to the proposal, it may avoid a reason for refusal should the application be resubmitted. However, the applicant declined the offer of pre-application discussion.

Landscape

- 6.25 With regard to the impact of a proposal on the landscape, policies LD1 of the Core Strategy and M10 of the NDP are applicable.
- 6.26 Policy LD1 of the Core Strategy states that 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.
- 6.27 Policy M10 of the NDP states that all development proposals will have to show regard to the distinctive landscape character of the Herefordshire Lowlands Character Area by retaining the development form of scattered hamlets and farmsteads within the wide setting of the area outside the Marden settlement boundary, using appropriate local building materials, retaining field patterns and boundaries, protecting and enhancing areas of woodland and encouraging country stewardship and similar schemes to enhance biodiversity and natural and historic environments.
- 6.28 While no landscaping scheme accompanies the planning application, it is appreciated that these details could be conditioned on any approval. However, given the location of the development being outside of a settlement, intrinsically there is an impact in terms of the wider landscape by spreading development away from built up areas. It is acknowledged that the existing building would be largely taken down as part of the proposal, it being replaced with a similar building that is actually taller and longer also has a negative impact on the rural landscape.

Ecology

- 6.29 Policies LD2 and LD3 of the Core Strategy are applicable in relation to ecology. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity asset of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure.
- 6.30 The application is accompanied by a Preliminary Ecological Appraisal carried out by Just Mammals Consultancy in May 2016. The outcome of this appraisal was that the site was considered to be one of moderate ecological value. Mitigation was also touched on within the report and the Council's Ecologist is happy that these elements could be conditioned on any approval.

Highways

- 6.31 The highways implications of any proposal are to be assessed against Policy MT1 of the Core Strategy. This policy states that development proposals should demonstrate that the strategic and local highway network can absorb the traffic impacts of the proposal without adversely affecting the safe and efficient flow of the traffic, be designed and laid out to achieve safe entrance and exit with appropriate operational and manoeuvring space and have regard to the parking standards contained within the Council's Highways Design Guide.
- 6.32 The Council's Area Engineer has concerns in relation to the utilisation of an existing field access given that this would lead to an intensification where there is inadequate visibility. Negotiations have taken place between the Case Officer, Agent and Area Engineer and a shared access with Wymm House has been agreed although, at the time of writing, amended plans to reflect this have not been received. I am mindful that this may well be overcome by the time the application is presented. The previous application included a refusal reason relating to the lack of information on trees on the site and which were to be retained and removed. If acceptable details in relation to an amended access are received, it is likely that no trees will require removal as part of the application. As such, while this is again attached to the recommended refusal reasons, the resolution of the access issue will overcome this by the time of presentation.
- 6.33 In terms of parking, the dwelling provides five bedrooms and as such a minimum of 3 parking spaces are required. The block plan that has been submitted indicates an acceptable level of parking with turning so that any car can enter the highway in a forward gear.

Drainage

- 6.34 Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. Policy SD4 goes on to state that in the first instance developments should seek to connect to the existing mains wastewater infrastructure.
- 6.35 The application form and design and access statement state that the foul water from the proposed dwelling would be disposed of through a private treatment plant with a reed bed system onto land to the east of the site. While this is outside of the application site, it is within the applicant's ownership. As such, there is found to be sufficient area for the drainage to be accommodated within land that the applicant has control over.

S106

- 6.36 In light of the order of the Court of Appeal dated 13 May 2016, which gave legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014, S106 contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1000sqm. With this in mind, no S106 contributions are required as part of the application.

Other matters

- 6.37 With all planning applications being assessed on their individual merits, in exceptional cases personal circumstances can be afforded some weight as a material planning consideration. However, it is very rarely the case that personal circumstances will carry sufficient weight to override policy. While the situation of the applicant's family is appreciated, this is not considered to outweigh the clear conflict with local and national policies.
- 6.38 It is noted that two planning applications for extensions to the main house to accommodate the needs of the applicant's daughter were permitted in 2004 and 2012 (reference numbers: DCCW2004/1445/F and S120268/FH). Both of these have been built and were restricted to be used for ancillary purposes.
- 6.39 The use of the site as a builders yard by the applicant's father is not disputed as the case officer has no reason to doubt this. However, this is not found to be sufficient justification for a dwelling in a location that is found to represent unsustainable development away from facilities and amenities and contrary to policy.

Conclusion

- 6.40 The application proposes residential development in a unsustainable location that is not supported by policies RA2 or RA3 of the Core Strategy. Furthermore, the design is not found to be reflective of the local characteristics and is therefore out of keeping with the application. As such, the application is recommended for refusal for the reasons stated below.

RECOMMENDATION

That planning permission be refused for the following reasons, or alternatively on the basis of Reason 1 and 2 only should the ongoing negotiations relating to the shared access arrangement address the concerns identified by the Area Engineer:

- 1. The proposal is considered to represent an unsustainable form of development where residential development of this type is not supported unless it meets exceptional criteria. As such, the application is found to be contrary to Policies M1 and M2 of the Marden Neighbourhood Development Plan and Policies RA2 and RA3 of the Herefordshire Local Plan – Core Strategy.**
- 2. The design of the proposal does not reflect the local context of the dwellings within the vicinity and intrinsically has a detrimental impact on the open countryside. As such, the proposal does not accord with Policies SD1 or LD1 of the Herefordshire Local Plan – Core Strategy.**
- 3. In the absence of sufficient information, the potential impact of the proposal on the trees on the site cannot be adequately assessed. As such, the application cannot be favourably assessed against Policy LD3 of the Herefordshire Local Plan – Core Strategy.**

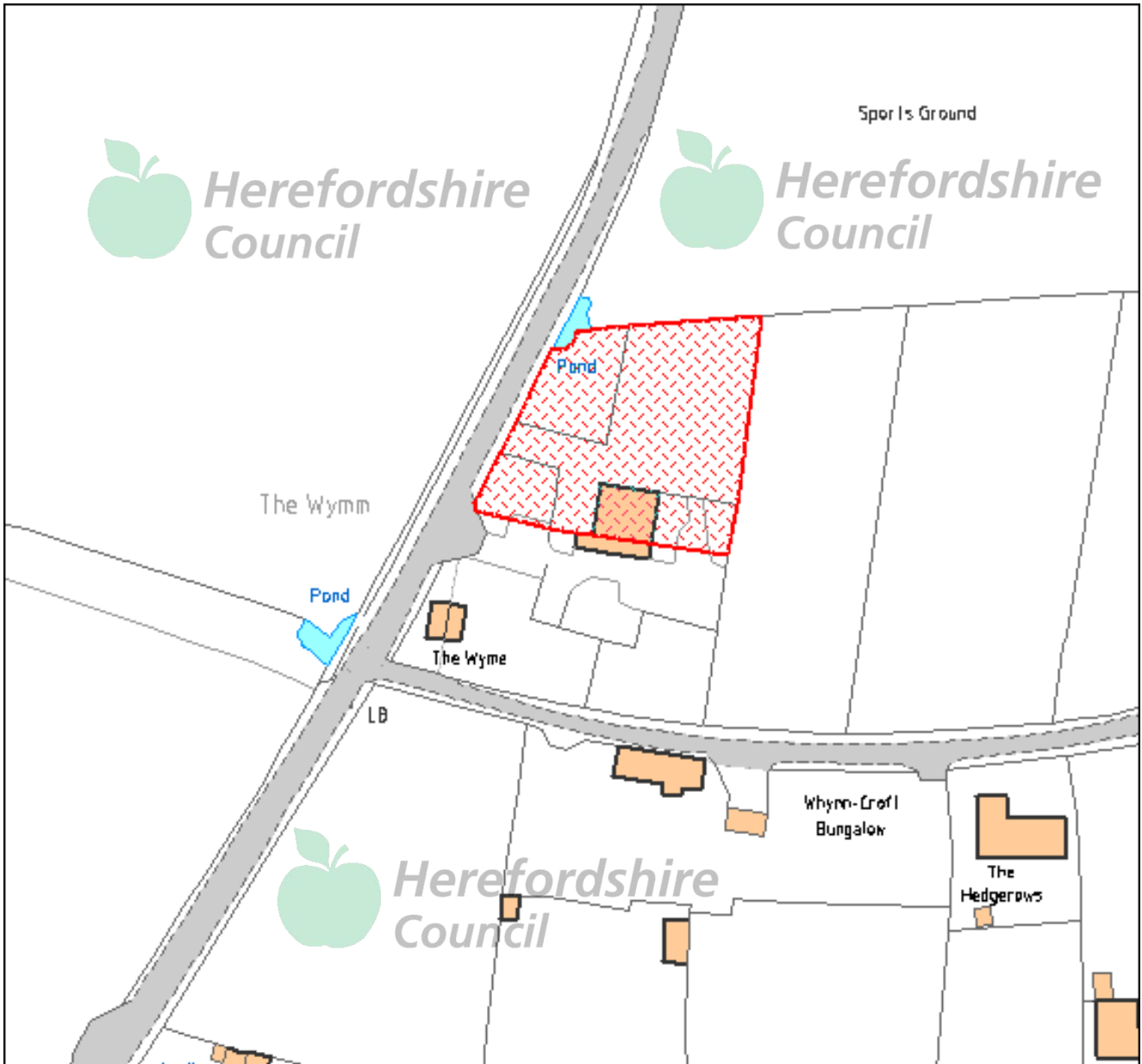
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 171040

SITE ADDRESS : WYMM HOUSE, SUTTON ST NICHOLAS, HEREFORD, HEREFORDSHIRE, HR1 3BU

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