

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	13 SEPTEMBER 2017
TITLE OF REPORT:	171411 - PROPOSED DWELLING AT LAND ADJACENT TO SUNNYBANK COTTAGE, LITTLE BIRCH, HEREFORDSHIRE For: Mr & Mrs Jones per Mr John Phipps, Bank Lodge, Coldwells Road, Holmer, Hereford, Herefordshire HR1 1LH
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=171411&search=171411
Reason Application submitted to Committee – Re-direction	

Date Received: 13 April 2017

Ward: Birch

Grid Ref: 350899,231396

Expiry Date: 23 June 2017

Local Member: Cllr D Harlow.

1. Site Description and Proposal

- 1.1 The site comprises a narrow rectangular plot to the west of Sunnybank Cottage, adjacent to an unclassified road in the parish of Little Birch some 5.5 km south of Hereford city, and roughly 0.9 km due east of the A49 (Hereford to Ross road). The site is located some 600 metres south of what is considered to be the identifiable edge of the hamlet of Little Birch, a settlement identified for proportionate housing growth by policy RA2 of the Herefordshire Local Plan Core Strategy.
- 1.2 The proposal is an outline application for the erection of a dwelling with all matters reserved (namely layout, scale, appearance, access and landscaping).
- 1.3 The planning application is a resubmission of a previously refused proposal (P160575/O refers). The previous refusal reasons were as follows:

The proposal represents unjustified unsustainable residential development in an open countryside location contrary to Herefordshire Core Strategy policies SS1, SS6, RA2 and RA3 and the relevant aims and objectives of the National Planning Policy Framework.

The proposal through a lack of appropriate detail and assessment fails to demonstrate appropriate safe vehicular access can be achieved. As such the proposal represents an unacceptable risk to highway safety contrary to Herefordshire Core Strategy policies SS4 and MT1 and the relevant aims and objectives of the National Planning Policy Framework.

The proposal would result in an unacceptable harmful landscape impact, undermining the character and appearance of the open countryside location. Furthermore the loss and impact on existing green infrastructure has not been assessed. As such the proposal is contrary to Herefordshire Core Strategy policies SS6, LD1 and LD3 and the relevant aims and objectives of the National Planning Policy Framework.

The proposal has not assessed ecological impacts and the potential presence of protected species and habitats. It is essential and required by law that the potential presence and resultant impact on the protected species and their habitats must be assessed and mitigation, compensation, and/ or enhancement provided as necessary. As such the proposal is contrary to the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006, Conservation of Habitats and Species Regulations 2010 (and 2012 amendment), Herefordshire Core Strategy Policies SS6 and LD2 and the relevant aims and objectives of the National Planning Policy Framework.

- 1.4 The revised application is accompanied by an Ecology Survey, Traffic Speed Survey and a Topographical Survey. There is also a planning statement from the applicant (as a rebuttal to the earlier refusal), along with enclosed letters of support.

2. Policies

2.1 The Herefordshire Local Plan Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
SD1	-	Sustainable Design and Energy Efficiency
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
RA3	-	Herefordshire's Countryside
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
ID1	-	Infrastructure Delivery

- 2.2 The emerging Little Birch and Aconbury Neighbourhood Development Plan is at Regulation 14 stage and has no material weight in decision making.

2.3 National Planning Policy Framework (NPPF)

Chapter 6:	Delivering a Wide Choice of High Quality Homes;
Chapter 7:	Requiring Good Design;
Paragraph 14:	Presumption in Favour of Sustainable Development;
Paragraph 49:	5 Year Housing Land Supply (presently 4.39 years);

- 2.4 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>

3. Planning History

3.1 170575/O: Proposed dwelling. Refused 18 April 2016

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water: We advise that there are no public sewers within the vicinity of the proposed site

Internal Council Consultations

4.2 Transportation Manager: No objection.

Proposal acceptable, subject to the following conditions and/or informatives:-

Please condition the following:

CAB - 2.4 x 40m
CAD - 5m
CAH
CAL
CAZ
CB2

I11, I09, I45 - Vehicle Crossing licence, I05, I47, I35

4.3 Conservation Manager (Ecology): No objection.

The site falls within a SSSI/SAC Impact Risk Zone "All discharge of water including to mains sewer" and so this application should be subject to statutory consultation with Natural England – but only after the proposed foul and surface water plan is available to review. This IRZ designation also means that we will need to assess the application through a Habitat Regulations Assessment screening to ensure there are no unmitigated 'likely significant effects'- this includes ensuring that any final outfall from proposed foul water management system (as it has been confirmed there is no opportunity to connect to a mains sewer system) such as the preferred system of a Package Treatment Plant is managed through a spreader soakaway system to ensure that no residual phosphates, nitrogen or suspended particulates directly enter in to any local watercourse. Any relevant percolation tests should also be undertaken and supplied.

4.4 This confirmation of foul water management system and outfall is required prior to determination of this outline application. Actual specification and final location details can be held over to Reserved Matters.

4.5 Subject to confirmation of PTP final outfall to soakaway/spreader I am happy that I can conclude through HRA review that this development should offer NO unmitigated 'likely significant effects' on the SAC/SSSI IRZ.

- 4.6 The ecological report notes and supplied images show that there are some significant trees and hedgerows bounding the site and it is important that these are properly protected during the development process. This can be achieved through the erection of some firmly fixed barrier fencing (eg mesh style orange safety netting on firm posts) at appropriate distances from the features to be protected. The relevant distances can be found in BS5837:2012. I would request that a Condition requiring this fencing to be in place before and throughout the construction process is included, should planning consent be granted.

Ecological mitigation and enhancement will be required by way of a planning condition.

5. Representations

- 5.1 Little Birch Parish Council: Support.

To date some 4 letters of support have been received.

- 5.2 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=171411&search=171411

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 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 The Herefordshire Local Plan (HLP) is the development plan. The Core Strategy (CS) is a fundamental part of the HLP and sets the overall strategic planning framework for the county, shaping future development.
- 6.3 Strategic Policy SS1 sets out a presumption in favour of sustainable development as required by the NPPF and directs that proposals which accord with the policies of the CS shall be approved, unless material considerations indicate otherwise. One such consideration is the NPPF which advises at paragraph 47 that Local Authorities maintain a robust five year supply of housing land. Failure to demonstrate an NPPF compliant housing land supply will render the housing supply policies of the CS. At present, the Council cannot demonstrate a 5-year supply of housing land.
- 6.4 The delivery of sustainable housing development to meet objectively assessed needs is a central CS theme, reflecting the objectives of the NPPF. Policy SS2 'Delivering new homes' directs that Hereford and the market towns shall be the main focus for new housing development with proportionate growth of sustainable rural settlements, which are exhaustively listed at figures 4.14 and 4.15, also supported.

- 6.5 In terms of rural settlements, CS Policy RA2 firstly requires that proposals accord with the relevant Neighbourhood Development Plan (NDP) or where there is no NDP with the Council prepared Rural Areas Site Allocation Development Plan Document, both of which will prescribe a settlement boundary. The application site is within the Parish of Little Birch where the emerging NDP currently has no weight in decision making. Little Birch is a settlement listed under Policy RA2 where proportionate growth is envisaged. There is no defined settlement boundary for Little Birch.
- 6.6 At the time of writing this report this Council does not have a 5 year housing land supply (presently 4.54 years) and paragraph 49 of the NPPF is engaged. Consequently less weight is given to Policies SS2, SS3 and RA2 of the Local Plan in respect of new housing supply. This approach follows the recent Supreme Court judgement in the Richborough Estates case. This confirmed that 'out of date' policies because of the housing land supply being under 5 years do not become irrelevant, it is simply for the decision maker to apportion weight. The decision is therefore one of planning judgment and balance, which includes the weight properly attributable to the NPPF and the shortfall and all other relevant policies and facts.

Sustainability/Policy RA2 Compliance

- 6.7 The initial consideration of a proposal for residential development is the sustainability of the location. Core strategy policy RA2 directs new residential development to appropriate sites within or adjacent to settlements identified under that policy. In this case the proposal lies 600 metres to the main cluster of dwellings that could reasonably be considered to be adjacent to Little Birch. This site is not in or adjacent to that cluster and therefore is considered to be in the open countryside as per Policy RA3. This proposal does not meet any of the criteria in Policy RA3.
- 6.8 The NPPF fundamentally requires development to be sustainably located.
- 6.9 Paragraph 17 describes the 12 core planning principles of sustainable development providing a concise definition of a 'sustainable location' as one where opportunity exists to maintain or improve the vitality of that area and where good opportunity exists for walking, cycling and using public transport. The application site is in open countryside within the vicinity of Kingsthorne, Little Birch and Much Birch. The closest facilities to the site are:
- A community centre, doctors surgery, church in Much Birch approximately c 1.8km via the road network or c 1.4km utilising public footpaths;
 - The School at Much Birch c 2.2 km via the road network or 1.6km utilising public footpaths;
 - The shop at Wormelow c. 3.5km via the road network or 3km utilising public footpaths; and
 - The bus stop at Kingsthorne which offers 4 journeys to and from Hereford c. 1.4km via the road network (no quicker route via public footpaths).
- 6.10 For one to access the above amenities it would be necessary to travel along a combination of unlit, winding roads with no dedicated pavements and unmade footpaths across fields. I find the nature of the route in conjunction with the distance between the site and the above mentioned amenities to be particularly restrictive to regular pedestrian movement. Furthermore, it would be unsafe to encourage pedestrian movement along some parts of the route. Although applications are judged on their own merits, there is significant appeal history supporting the position that it is highly unlikely that one would undertake everyday activities in a sustainable manner and one would be overly reliant on the private motor vehicle. As such the proposal represents unsustainable unjustified new residential development in the open countryside contrary to Core Strategy policies SS1, SS7, RA2 and RA3 and the relevant aims and objectives of the NPPF.

Accessibility/Highway Safety

- 6.11 The Transportation Manager raises no objection to the proposed access into the site subject to safeguarding planning conditions. This previous refusal reason has therefore been successfully addressed and secures compliance with Core Strategy Policy MT1.

Landscape Impact

- 6.12 While there was a landscape objection in the previous refusal, it is considered that this proposal relates sufficiently well to the small cluster of roadside of outlying dwellings at this isolated location. Subject to careful consideration of design, scale and layout at the reserved matters stag, it is considered that the development of this site would have limited wider landscape implications and is therefore capable of compliance with Core Strategy policies LD1 and SD1.

Ecology

- 6.13 In the light of the submission of an Ecological Survey with this revised application, no adverse ecological implications arise from the proposal. This is evidenced in the supporting information, with no objection raised by this Council's Ecologist on this point. Accordingly this proposal is considered to accord with Core Strategy policy LD2.

Other Matters

- 6.14 It is considered that matters in respect of foul and surface water can be addressed by condition.

Conclusion

- 6.15 It is concluded that whilst this proposal has addressed the technical reasons for refusal of the original submission, it represents unsustainable development in the open countryside when considered against the Herefordshire Local Plan Core Strategy and NPPF and as such the refusal of permission is recommended.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1. The proposal represents unjustified unsustainable residential development in an open countryside location contrary to Herefordshire Core Strategy policies SS1, SS6, RA2 and RA3 and the relevant aims and objectives of the National Planning Policy Framework.**

INFORMATIVES

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations 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 for the refusal, approval has not been possible.**

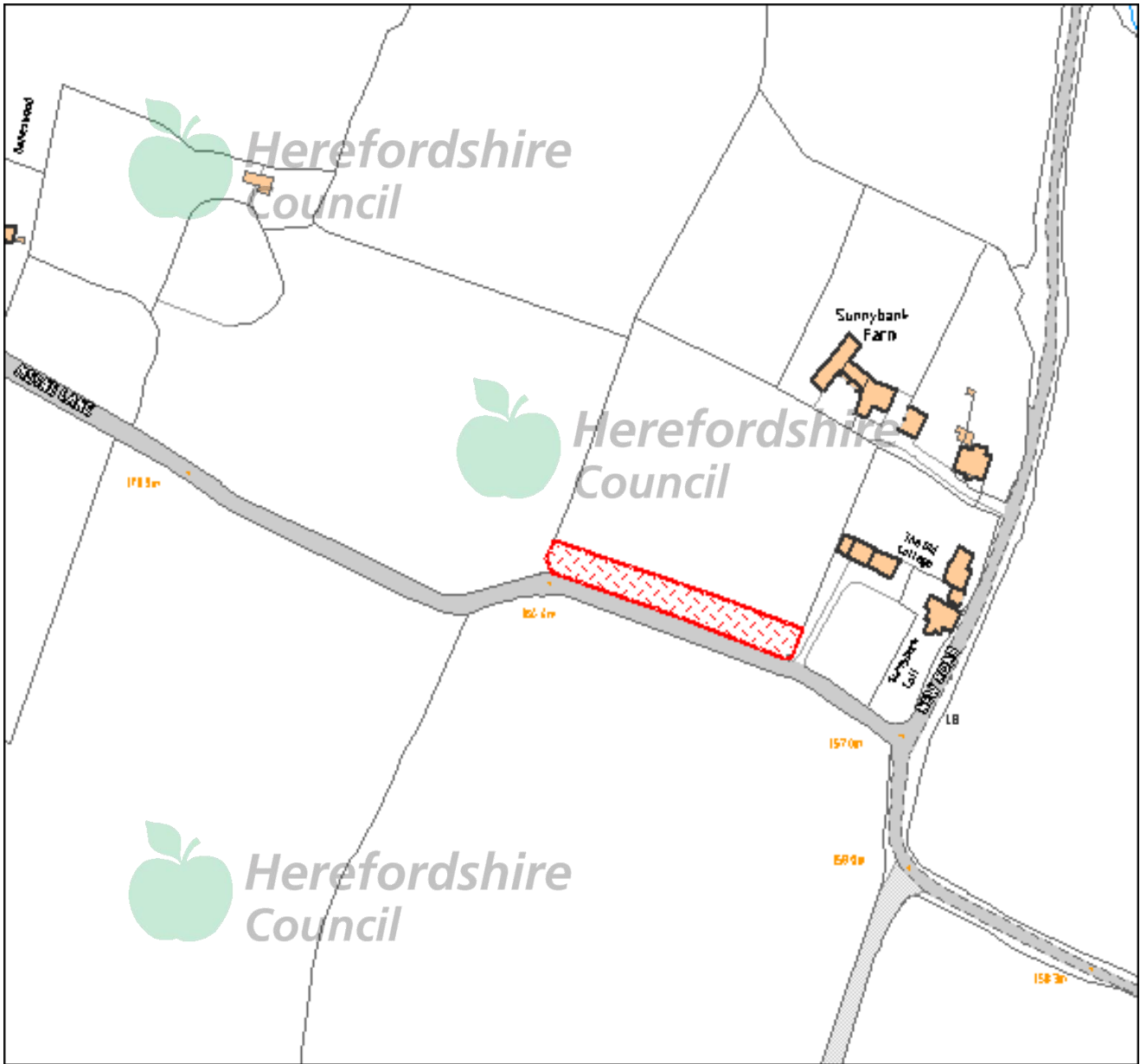
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 171411

SITE ADDRESS : LAND ADJACENT TO SUNNYBANK COTTAGE, LITTLE BIRCH, HEREFORDSHIRE

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