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| <b>MEETING:</b>                                                                           | <b>PLANNING AND REGULATORY COMMITTEE</b>                                                                                                                                                                                                                                                |
| <b>DATE:</b>                                                                              | <b>25 JULY 2018</b>                                                                                                                                                                                                                                                                     |
| <b>TITLE OF REPORT:</b>                                                                   | <b>181089 - PROPOSED CONSTRUCTION OF A SUDS DRAINAGE POND AND ASSOCIATED WORKS INCLUDING THE CONSTRUCTION OF A MAINTENANCE ACCESS ROADWAY AT LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD.</b><br><br><b>For: Mr Jones per Mr Chad Farmer, 28 Pickford Street, Birmingham, B5 5QH</b> |
| <b>WEBSITE LINK:</b>                                                                      | <a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181089&amp;search=181089">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181089&amp;search=181089</a>             |
| <b>Reason Application submitted to Committee - Council Interest (Development Partner)</b> |                                                                                                                                                                                                                                                                                         |

**Date Received: 23 March 2018**

**Ward: Bromyard  
Bringsty**

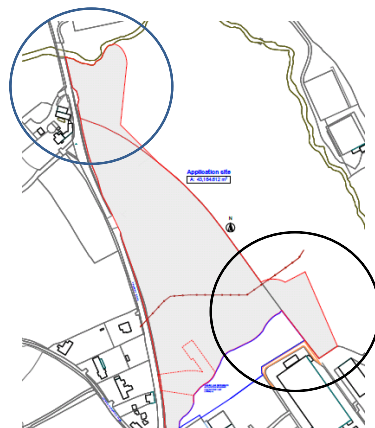
**Grid Ref: 365125,255550**

**Expiry Date: 21 June 2018**

Local Member: Councillor NE Shaw

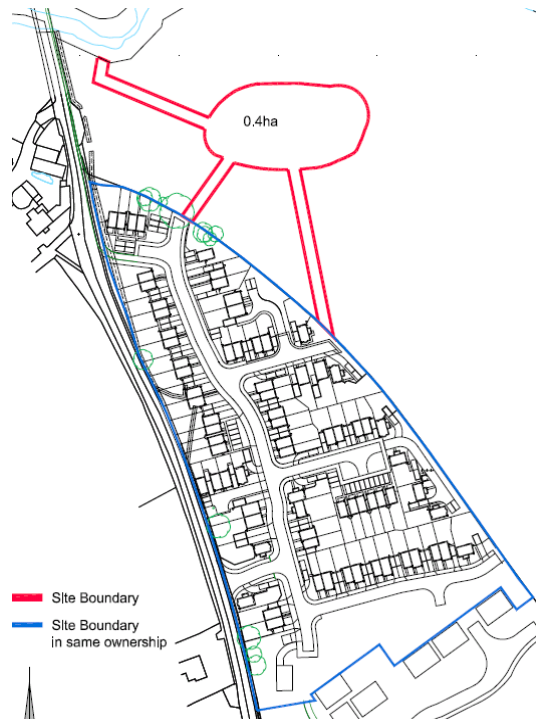
## **1. Site Description and Proposal**

- 1.1 Outline planning permission and approval of reserved matters has been granted for the erection of 76 dwellings and six B1 business units, subject to conditions. Work has commenced on the site and the first dwellings are complete and are ready to be occupied.
- 1.2 This application relates specifically to the construction of a sustainable urban drainage (SuDs) pond. The originally approved scheme included the construction of ponds in the northernmost and south easterly parts of the site circled below:



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

- 1.3 A flood risk assessment (FRA) was prepared and approved for the scheme as outlined above. The current proposal seeks to provide a single, but larger attenuation pond, to the north of the scheme. Essentially the revision to the extant permission is to simplify the surface water attenuation through the utilisation of a single, larger attenuation pond, with a single flow control structure, before discharge to the River Frome. The plan below shows the revised position:



- 1.4 This application is also supported by a bespoke Flood Risk Assessment to consider and support the proposed change to the existing extant permission.

## 2. Policies

### 2.1 Herefordshire Local Plan - Core Strategy

|     |   |                                                  |
|-----|---|--------------------------------------------------|
| SS1 | - | Presumption in Favour of Sustainable Development |
| SS2 | - | Delivering New Homes                             |
| LD1 | - | Landscape and Townscape                          |
| LD2 | - | Biodiversity and Geodiversity                    |
| SD1 | - | Sustainable Design and Energy Efficiency         |
| SD3 | - | Sustainable Water Management                     |
| SD4 | - | Waste Water Treatment and River Quality          |

### 2.2 Bromyard Neighbourhood Development Plan

Bromyard and Winslow Town Council designated a neighbourhood area on 23 November 2015, however a decision was taken in their March 2017 meeting that they wish to withdraw from the neighbourhood planning process.

- 2.3 The Herefordshire Local Plan 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/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

### 3. Planning History

- 3.1 140285/0 - Hybrid application - part Outline for 76 dwellings (35% affordable) and a business centre for B1 uses, with all matters except access to be reserved. Part Full, for the development of a single B1 business unit and the means of access thereto – Approved
- 3.2 161188/RM - Application for approval of reserved matters following outline approval. (P140285/O) for 76 dwellings and associated works – Approved

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 Environment Agency - Based on the scale and nature of the proposed development, we would have no bespoke comments to offer. I would refer you to our Standing Advice and recommend you seek the views of your Land Drainage team.

#### Internal Council Consultations

- 4.2 Land Drainage Engineer – comments awaited
- 4.3 Ecologist – **Recommends conditions** and comments as follows:

I am aware that a SuDS was proposed and approved in relation to the associated housing development application; but that this was in a different location and obviously designed and integrated as part of the Biodiversity mitigation/enhancements this development was offering.

This current separate SuDS application is in a position closer to and with a more direct outflow in to the River Frome (Local Wildlife Site SWS\_SO65/010). Despite this separated and more sensitive location no account of local ecology, biodiversity or natural character appears to have been considered, nor any relevant supporting information supplied. The River Frome (LWS) is home to many species and is known to be frequented by protected species such as Otters and with potential for Crayfish. In line with the Council's Core Strategy, Duty of Care under the NERC Act, NPPF Guidance and Habitat Regulations a detailed ecological survey should be supplied. This report should clearly identify all relevant flora and fauna and provide relevant Ecological Working Methods and Risk Avoidance Measures.

This ecology survey should also then inform a revised design and biodiversity enhancement plan for the SuDS. In line with national guidance and the Council's Core Strategy (SD3 and LD1-3 and retained SPD/SPG on Green Infrastructure and Biodiversity)) and SuDS Handbook ([https://www.herefordshire.gov.uk/downloads/file/14026/sustainable\\_drainage\\_systems\\_handbook](https://www.herefordshire.gov.uk/downloads/file/14026/sustainable_drainage_systems_handbook)) all SuDS should show how they have considered local biodiversity and character in their design.

As currently proposed the design is not compliant with Policy or Guidance mentioned above. The supplied proposal is for a 'hard' engineered SuDS that does not consider how it integrates in to the local green and blue infrastructure, local character or distinctiveness and appears to offer little or no benefit for biodiversity. I would suggest the applicant looks at the SuDS associated with The Furlongs development off Roman Road in Hereford as to how a SuDS can be designed and implemented to make a positive contribution to biodiversity and fit in with the local green and blue infrastructure and local character and distinctiveness. The RSPB and WWT have also produced some excellent guidance on integrating SuDS and wildlife <https://www.wwt.org.uk/conservation/saving-wetlands-and-wildlife/influencing-action/guidance/sustainable-drainage-systems-suds/>. The Council's Landscape Team should also be consulted on any revised designs for their advice and comments.

I am happy that this application can be approved in principle but the relevant Ecological survey/report and revised designs should be subject to relevant pre-commencement Condition and approval by this LPA.

In addition as the actual construction process has the potential to harm the local environment and downstream along the River Frome (Local Wildlife Site) a full Construction Environmental Management Plan should be required as pre-commencement condition – in addition to mitigating general issues this CEMP will need to include any species/habitat specific mitigation measures as identified through the ecological survey.

- 4.4 Environmental Health Officer (contaminated land) - Given what's proposed and what is known about the site, it would seem unreasonable to recommend further site investigations be undertaken. However, the following condition to consider unforeseen contamination should be appended to any approval.

*If during the course of the development unexpected contamination not previously identified is found to be present at the site then the work shall be stopped and no further development shall be carried out unless or until the developer has submitted a written method statement to be approved in writing by the local planning authority. The method statement shall include details about how the unexpected contamination shall be dealt with. Thereafter the development of the site will be carried out in accordance with the appropriate method statement.*

## 5. Representations

- 5.1 Bromyard & Winslow Town Council - At its meeting held on Tuesday 8 May 2018, Bromyard and Winslow Town Council's Planning and Economic Development Committee resolved not to support the application, with the following comments: The location is unsuitable due to the high risk of flooding in the area and the potential for pollution.

Supporting documents (flood reports) relate to the previous application and are therefore out of date and not relevant for the current application. Why is the application not described as an amendment to the original full application?

- 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=181089&search=181089](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181089&search=181089)

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 Section 38 (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 In this instance the Development Plan for the area is the Herefordshire Local Plan - Core Strategy (CS). The CS policies, referred to at section 2.1, are relevant to development of this nature. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the National Planning Policy Framework (NPPF). SS1 confirms proposals that accord with the policies of the Core Strategy (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

- 6.3 In this particular instance planning permission has been granted for a residential development of 76 dwellings and the permission included the provision of a SuDS pond. This is accepted in

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

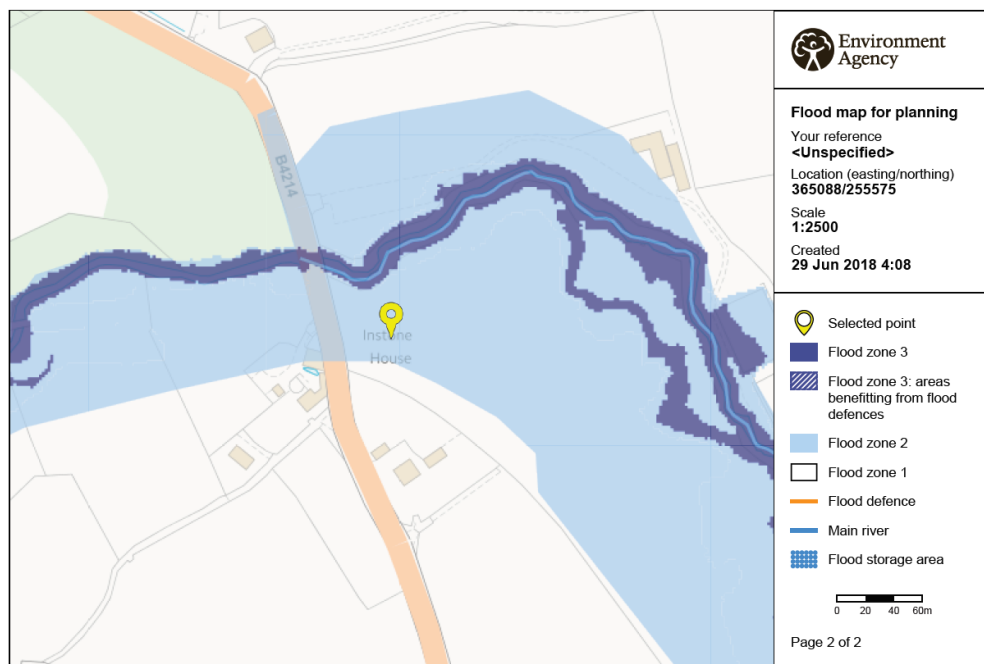
principle. The issue at stake here is simply whether the provision of a pond in an alternative location is acceptable and accords with CS Policies SD3 and SD4.

6.4 A bespoke Flood Risk Assessment has been prepared at the request of the case officer and in response to comments from Bromyard and Winslow Town Council. Its stated aims and objectives are as follows:

- to assess whether the revised proposal is likely to be affected by flooding, with consideration to the effects of climate change;
- assess whether the proposed scheme is appropriate in the suggested location in accordance with planning policy;
- present any flood risk mitigation measures necessary to ensure that the proposed development and future occupants will be safe, whilst ensuring flood risk is not increased (or where possible reduced) elsewhere; and
- Confirms that the scheme presents an acceptable, from a flood risk perspective, alternative sustainable strategy for managing surface water.

6.5 CS Policy SD3 refers to sustainable water management and reflects the NPPF's technical guidance on flood risk. In the first instance it promotes the use of sustainable drainage schemes to manage surface water and requires that development proposals are located in accordance with sequential and exception testing.

6.6 The plan below is an extract from the Environment Agency's flood map; the approximate location of the application site shown by the yellow tab. It confirms that the proposed attenuation pond is located in Flood Zone 2 – the same as the approved pond at the northern end of the site.



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6.7 In terms of surface water and groundwater flooding, the area is considered to be of low risk, and no other sources of risk have been identified.

6.8 The FRA supporting the application concludes that, due to the low/medium risk from all sources, the site of the proposed pond passes the Sequential and Exception Test and no flood protection is required for the development. Officers concur with this view on the basis of the flood risks identified above, and by virtue of the fact that the provision of a single pond as shown will reduce the area of attenuation to be provided and will consequently have a reduced impact on

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flood storage in an extreme flood event. The proposal is considered to be compliant with CS Policy SD3.

- 6.9 The Council's Ecologist has accepted that the application is acceptable in principle, particularly as the wider permission for housing development has granted permission for SuDs in a similar location. However, it is clear from the comments that there are potential improvements to be made to the detailed design of the scheme, but it is concluded that this can be addressed through the imposition of suitably worded conditions. On this basis the proposals would provide an enhancement to biodiversity in accordance with the requirements of CS Policy LD2.
- 6.10 In conclusion, the re-design of the SuDS scheme is considered to accord with the relevant policies in the Core Strategy and will not have any demonstrable detrimental impacts over and above the previously approved scheme. In fact, the reduced area of attenuation will have positive benefits in terms of impacts on flood storage capacity. Subject to the imposition of conditions the attenuation pond will also offer biodiversity enhancements in accordance with CS Policy LD2.
- 6.11 The Council's Environmental Health Officer has recommended the imposition of a condition to require further investigation if contaminated land is encountered during the course of development and this is reflected in the recommendation below.
- 6.12 Officers are of the view that there are no other matters of such significance to warrant the refusal of the application. The scheme therefore complies with the Core Strategy and on this basis the recommendation is one of approval subject to the imposition of conditions.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions and any further conditions considered necessary by officers named in the scheme of delegation to officers.:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. Development shall not commence until a final Works and Engineering Programme has been submitted to and approved in writing by the local planning authority. The scheme shall include details and plan sections of the engineered profiles and gradients of the attenuation basin. The development shall be carried out in accordance with the agreed Programme.**

**Reason: To ensure a satisfactory form of development and to accord with Policies LD2, SD1 and SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 4. No development shall commence on site until an ecological survey and habitat enhancement scheme (based on the recommendations of the survey) which contains proposals to enhance the habitat on site for wildlife and biodiversity has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.**

**Reason: The proper consideration of potential impacts on protected species and biodiversity assets is a necessary initial requirement before any groundworks are undertaken in order to ensure that diversity is conserved and enhanced in accordance with the requirements of the NERC Act 2006 and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy**

**Framework.**

- 5. **Before any work begins, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) shall be supplied to the planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.**

**Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.**

- 6. **If during the course of the development unexpected contamination not previously identified is found to be present at the site then the work shall be stopped and no further development shall be carried out unless or until the developer has submitted a written method statement to be approved in writing by the local planning authority. The method statement shall include details about how the unexpected contamination shall be dealt with. Thereafter the development of the site will be carried out in accordance with the appropriate method statement.**

**Reason: In the interests of human health and to comply with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

**INFORMATIVE:**

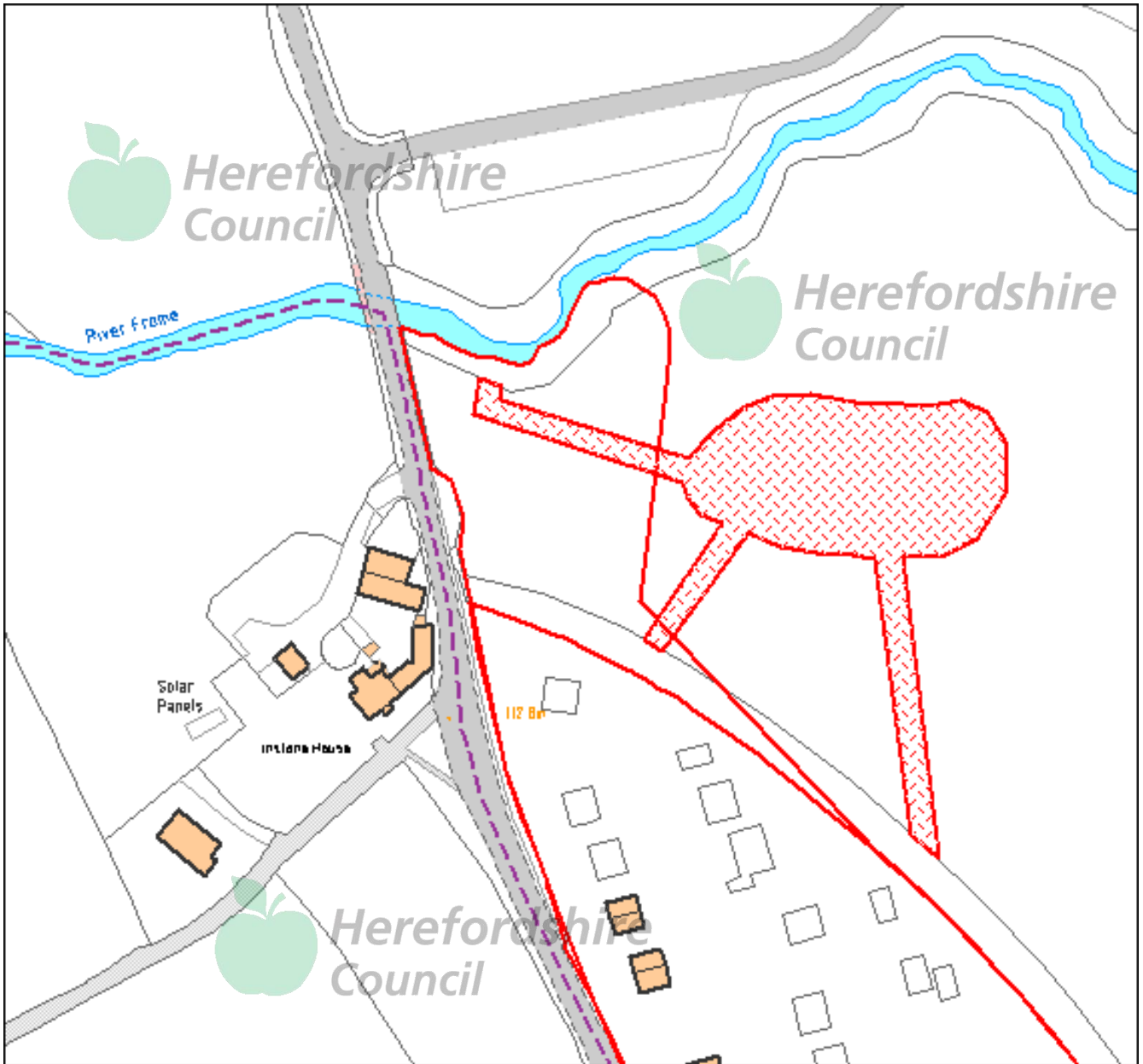
- 1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 181089

**SITE ADDRESS :** LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD

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