

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	22 AUGUST 2018
TITLE OF REPORT:	181825 - PROPOSED 4 BEDROOMS LOW LEVEL DWELLING AT WOODYATTS FIELD, WOODYATTS LANE, MADLEY, HEREFORDSHIRE, HR2 9NN For: Mr & Mrs Amos per Mr Garry Thomas, Ring House Farm, Fownhope, Hereford, Herefordshire HR1 4PJ
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181825&search=181825
Reason Application submitted to Committee – redirection	

Date Received: 16 May 2018
Expiry Date: 29 August 2018

Ward: Stoney Street

Grid Ref: 342250,238504

Local Member: Councillor SD Williams

1. Site Description and Proposal

- 1.1 The site lies on the eastern side of Woodyatts Lane, which is a private road accessed from the B4352, to the southeast of Madley. The southerly section of the private road, including the section alongside the site, is a public right of way (MY13). It is within the SSSI Impact Zone. The essentially rectangular plot currently forms part of the garden serving Woodyatts Field and has an average depth of 37 metres and width of 16 metres. It is relatively flat with hedgerows to the boundaries and a wooden gate to the road.
- 1.2 Permission is sought for a detached, one and half storey dwelling with an 'L' shaped footprint and detached double car port. The property would be set back some 7.5 metres from the road. The principal elevation would face west, towards the road, and would include a brick gable end to the right hand side and open sided porch. To roof ridge the dwelling would be 7.3 metres and to eaves some 3.9 metres and 2.8 metres. The ground floor area would be some 142 square metres excluding the front and rear porch areas, with a total floor area of some 272 square metres. The property would provide an open plan kitchen/dining area, living room, utility, lobby, hall, W.C with shower and bedroom at ground floor with a further three bedrooms (one with ensuite shower room) and bathroom at first floor. The first floor accommodation would be partially within the roof void, with roof lights and windows to the gable ends and south elevation to provide natural light. Externally materials would be predominantly brick, with a standing seam roof, but also incorporated some timber cladding to the north and east elevations and polycarbonate sheeting to the open fronted lean-to. The detached, open sided car port with timber posts would be some 6 metres by 6 metres. It would have a dual pitched, standing seam roof, with a ridge height of 3.4 metres and eaves of 2.5 metres.

- 1.3 Foul drainage would be to a Private Treatment Plan with soakaways, as clarified by the applicant's agent and indicated on the amended Proposed Site Plan. A sustainable drainage system (SuDS) is proposed for surface water.
- 1.4 The application is accompanied by a Design and Access Statement, Ecology Report and Transport Assessment including visibility splay calculations. The Design and Access Statement asserts that the proposal is for a local need, to enable to the applicants' daughter and family to live close to them for personal reasons. It states that a low level dwelling is proposed within a modestly built up area and it would be constructed to a high quality and sustainable design standard to enable high energy performance rating.

2. Policies

- 2.1 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

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
RA1 - Rural Housing Distribution
RA2 - Housing in settlements outside Hereford and the Market Towns
RA3 – Herefordshire's countryside
H1 – Affordable housing – thresholds and targets
H3 – Ensuring an appropriate range and mix of housing
MT1 - Traffic Management, Highway Safety and Promoting Active Travel
LD1 - Landscape and Townscape
LD2 - Biodiversity and Geodiversity
SD1 - Sustainable Design and Energy Efficiency
SD3 - Sustainable Water Management and Water Resources
SD4 – Waste water treatment and river water quality
ID1 – Infrastructure delivery

- 2.2 The Madley Neighbourhood Development Plan area was designated on 14.4.2015. The Plan is at drafting stage and as such whilst a material consideration cannot be afforded any weight at this time.

- 2.3 NPPF
Section 1 – Introduction
Section 2 – Achieving Sustainable Development
Section 4 – Decision-making
Section 5 – Delivering a sufficient supply of homes
Section 6 – Building a strong, competitive economy
Section 9 – Promoting sustainable transport
Section 11 – Making efficient use of land
Section 12 – Achieving well-designed places
Section 15 – Conserving and enhancing the natural environment
Annex 2 – Glossary

- 2.4 National Planning Policy Guidance

3. Planning History

3.1 None

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water

SEWERAGE

As the applicant intends utilising a septic tank facility we would advise that the applicant contacts the Environment Agency who may have an input in the regulation of this method of drainage disposal. However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation

4.2 Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of River Wye Special Area of Conservation
- damage or destroy the interest features for which River Wye / Lugg Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Foul sewage to be disposed in line with Policy SD4 of the adopted Herefordshire Core Strategy. Where a package treatment plant is used for foul sewage, this should discharge to a soakaway or a suitable alternative if a soakaway is not possible due to soil/geology.
- Surface water should be disposed of in line with Policy SD3 of the adopted Herefordshire Core Strategy and the CIRIA SuDS Manual (2015) C753.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. Subject to the above appropriate mitigation being secured, we advise that the proposal can therefore be screened out from further stages in the Habitats Regulations Assessment process, as set out under Regulation 63 of the Habitats Regulations 2017.

Natural England's advice on other natural environment issues is set out below.

Further advice on mitigation

To avoid impacting the water quality of the designated sites waste and surface water must be disposed in accordance with the policies SD3 and 4 of the adopted Herefordshire Core Strategy.

Foul sewage

We would advise that package treatment plants should discharge to an appropriate soakaway which will help to remove some of the phosphate (see NE report below). Package Treatment Plants and Septic Tanks will discharge phosphate and we are therefore concerned about the risk to the protected site in receiving this. We therefore propose that the package treatment plant/septic tanks and soakaway should be sited 50m or more from any hydrological source. Natural England research indicates that sufficient distance from watercourses is required to allow soil to remove phosphate before reaching the receiving waterbody. (Development of a Risk Assessment Tool to Evaluate the Significance of Septic Tanks Around Freshwater SSSIs) Where this approach is not possible, secondary treatment to remove phosphate should be proposed. Bespoke discharge methods such as borehole disposal should only be proposed where hydrogeological reports support such methods and no other alternative is available. Any disposal infrastructure should comply with the current Building Regulations 2010.

Surface water

Guidance on sustainable drainage systems, including the design criteria, can be found in the CIRIA SuDS Manual (2015) C753. The expectation is that the level of provision will be as described for the highest level of environmental protection outlined within the guidance. For discharge to any waterbody within the River Wye SAC catchment the 'high' waterbody sensitivity should be selected. Most housing developments should include at least 3 treatment trains which are designed to improve water quality. The number of treatment trains will be higher for industrial developments.

An appropriate surface water drainage system should be secured by condition or legal agreement.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Other advice

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Internal Council Consultations

4.3 Conservation Manager (Ecology)

Objection (original submission)

The site lies within the River R Wye SSSI/SAC Impact Risk Zone "any discharges of water or liquid including to mains sewer". I note the applicant has indicated the use of Package Treatment Plant but under Habitat Regulations and in line with NPPF, NERC Act and Core Strategy SD4/LD2 this authority has a duty of care to ensure all relevant 'Likely Significant Effects' are fully mitigated. The identified LSE is the phosphate loading (not removed through standard PTP installations) in the final outfall, to mitigate this confirmation from the applicant that the PTP will discharge to a soakaway drainage field is requested. Direct discharge in to any local watercourse, stream or culvert would not be acceptable.

Subject to this soakaway discharge being confirmed and subject to implementation as part of the approved plans then I can not see any unmitigated LSE on the River Wye SSSI/SAC from this proposed development.

I note the supplied ecological report that includes detailed ecological working methods, retained tree and hedgerow protection measures along with recommendations and specifications for biodiversity enhancements. These recommendations should be subject to a relevant implementation condition.

Nature Conservation – Ecology Protection, Mitigation and Enhancement

The ecological protection, mitigation, compensation and working methods scheme including the detailed Biodiversity enhancement features, as recommended in the report by James Johnston Ecology dated April 2018 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority. The Biodiversity enhancements shall be maintained hereafter as approved unless otherwise agreed in writing by the Local Planning Authority.

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.

4.4 Conservation Manager (Ecology) – amended plans
Comments are awaited

4.5 Conservation Manager (Trees)

No objection.

I have no requirement for further information or any objections to the proposals.

4.6 Transportation Manager

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

CAB 2.4 X 20M

CAE, CAH, CAL, CAS, CAZ, CB2

I11, I45, I09, I47, I35

5. Representations

5.1 Madley Parish Council

It was agreed to fully support the above application. There is a lot of local support for this development and it was agreed that it will add to the environs.

5.2 Six letters of support have been received. In summary these state:

- Lovely to encourage young families into the area, can make use of great facilities in the village
- Little impact on the surrounding properties and people due to local level dwelling
- No reason to object

5.3 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=181825&search=181825

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

Policy context and Principle of Development

- 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 adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration. It is also noted that the site falls within the Madley Neighbourhood Area, but as the Plan is still at drafting stage (pre-Regulation 14 stage) no weight can be afforded to it at this time.
- 6.3 In terms of new housing provision across the County policy RA1 of the CS identifies that Herefordshire Rural areas will need to find a minimum of 5,300 new dwellings between 2011 and 2031 to contribute towards the county's housing needs. The dwellings will be broadly distributed across the seven Housing Market Areas (HMA's). Madley lies within the Hereford HMA and is listed as being one of the 'settlements which will be the main focus of proportionate housing development' (figure 4.14). This seeks a 18% minimum growth target over the plan period across the HMA. Policy RA2 of the CS states:-

"The minimum growth target in each rural Housing Market Area will be used to inform the level of housing development to be delivered in the various settlements set out in Figures 4.14 and 4.15. Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets."

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. In relation to smaller settlements identified in fig 4.15 proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement; and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned;*
- 2. Their locations make best and full use of suitable brownfield sites wherever possible;*
- 3. They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and*
- 4. They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlement, reflecting local demand.*

Specific proposals for the delivery of local need housing will be particularly supported where they meet an identified need and their long-term retention as local needs housing is secured as such."

- 6.4 Both the policy and preamble specify the need for the site to be located within or adjacent to the main built up area. Where appropriate, settlement boundaries (or a reasonable alternative) for those settlements listed in Policy RA2 will be defined in either NDPs or the Rural Areas Sites Allocation DPD. Presently neither the NDP nor DPD are at a stage where weight can be afforded to them. Consequently, as set out in the CS, any applications for residential developments in Figure 4.14 and 4.15 are to be assessed against their relationship to the main

built up form of the settlement. Outside of these settlements new housing will be restricted to avoid unsustainable patterns of development.

- 6.5 The application site clearly lies outside of the main built up part of Madley, which lies to the west. By road the distance separation is some 300 metres to the eastern extremities of Madley village and via the PROW the distance would be 286 metres. There is intervening open agricultural land and the site itself is bounded on three sides by agricultural land. As a result of this context it is visually divorced from the main built up area. To the north of the site on the same side of the road and beyond intervening agricultural land there is a detached bungalow and immediately to the south the detached dwelling known as Woodyatts Field. There are two detached dwellings on the western side of the road, some 71 metres apart and a further two detached properties at the southern end of no-through road, which are 89 metres from Woodyatts Field. These existing six properties are loose knit in layout and do not comprise a 'main built up area'.
- 6.6 As a result of the site not falling within a figure 4.14 or 4.15 settlement, it is within the countryside and CS policy RA3 applies. This policy states that, "In rural locations outside of settlements, as to be defined in either neighbourhood development plans or the Rural Areas Sites Allocations DPD, residential development will be limited to proposals which satisfy one or more of the following criteria:
1. meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or
 2. accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with Policy RA4; or
 3. involves the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage, of the existing dwelling; or
 4. would result in the sustainable re-use of a redundant or disused building(s) where it complies with Policy RA5 and leads to an enhancement of its immediate setting; or
 5. is rural exception housing in accordance with Policy H2; or
 6. is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 of the National Planning Policy Framework and achieves sustainable standards of design and construction; or
 7. is a site providing for the needs of gypsies or other travellers in accordance with Policy H4.
- 6.7 None of these exceptions apply to the proposal as submitted. Consequently it is contrary to the Development Plan in principle.
- 6.8 With regards matters of detail the Transportation Manager's no objection confirms that safe access, parking and turning can be provided in accordance with CS policy MT1. The NPPF, at paragraph 108, also requires safe access to be provided and encourages appropriate opportunities for sustainable transport modes to be taken up, given the type of development and its location. It recognises at paragraph 103 that options for these vary from urban to rural situations. In accordance with CS policy SS7, policy MT1 also encourages active travel behaviour. There are no footpaths to village facilities along the road and the B4352. Due to the nature of traffic and speeds along the 'B' classified road this would be a hostile environment to pedestrians, although confident cyclists may utilise this route. There is a PROW, but this is unmade ground and unlit, such that in inclement weather and at night time it would not be a

favoured route of access on foot. This poor connectivity weighs against the proposal. Secure and covered cycle storage can be conditioned.

- 6.9 In terms of ecological impacts, the site falls within a SAC/SSSI Impact Risk Zone "Any discharge of water or liquid waste including to mains sewer", which requires assessment through a Habitat Regulations Assessment screening. The foul drainage has been confirmed to be to a PTP discharging to soakaways. This addresses the Ecologist's initial comments.
- 6.10 An Ecological Report, tree and hedgerow protection measures and recommendations for biodiversity enhancement have been submitted. This is considered to accord with policy requirements, subject to the recommended implementation condition.
- 6.11 Financial contributions are not required, in accordance with the NPPG, for this development, which does not exceed 10 dwellings.
- 6.12 To conclude, the assessment of the proposal under the Development Plan it is considered that in terms of siting it is in the countryside, does not accord with any of the listed limited residential developments allowed as set out in CS policy RA3, and as a result is unacceptable. The statutory requirement, as set out in paragraph 6.1 of this Report, is that a determination should be in accordance with the Development Plan unless material considerations indicate otherwise. In this case the NPPF is a significant material planning consideration and in the current position of a lack of a 5 year housing land supply further assessment is required.
- 6.13 At present the Council cannot demonstrate a five year housing land supply (published figure of 4.54 years April 2017), and as such the policies which are most important for determining the application are to be considered as being out of date (paragraph 11d) footnote 7 of the NPPF). In such circumstances paragraph 11 continues that in decision-taking this means 'granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. 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.' 'Assets' includes designated heritage assets and the policies are as referred to in the NPPF and not the Development Plan (footnote 6).
- 6.14 With regards paragraph 11d) i there are no policies in the NPPF that protect areas or assets of particular importance and thus there is no clear reason for refusing the development proposed. As a result it is necessary to turn to ii – the familiar tilted planning balance test from the NPPF Whilst the NPPF supports growth, it is fundamental that this is 'sustainable'. Sustainability is assessed under three headings, now titled economic, social and environmental objectives.
- 6.15 It is acknowledged that the construction of a dwelling would contribute to the housing supply and the local economy through the employment of trades and purchase of materials and the New Homes Bonus. In social terms an additional dwelling would increase the residents in the area, which may help to sustain the village's services (shop, pub, school, church etc.). Nevertheless, for a single dwelling these would only be moderate and could equally be achieved if a dwelling were built within or adjacent to the village's main built up area.
- 6.16 In environmental terms, due to the site's location it is visually separate to the built form of the village and the provision of another dwelling would consolidate the very loose knit development along the lane. Paragraphs 77 to 79 of the NPPF provide the Government's position on rural housing objectives. It states that policies and decisions should be responsive to local circumstances and reflect local needs. Although the application asserts there is such a need here, it is not substantiated. There is no evidence that a dwelling in the village could not meet

this asserted need. Furthermore, and critically the proposal is for an open market property with no suggestion that it would be controlled by way of a legal agreement to either ever be or remain for a local need in perpetuity. These personal circumstances cannot be afforded weight.

6.17 Paragraph 78 of the NPPF states that sustainable housing development in rural areas should be located where it will enhance or maintain the vitality of rural communities. Paragraph 79 continues that policies and decision should avoid isolated homes in the countryside, unless it would comply with one of five listed circumstances. These are as follows:

- a) *there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) *the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) *the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) *the development would involve the subdivision of an existing residential dwelling; or*
- e) *the design is of exceptional quality, in that it:*
 - *is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
 - *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

6.18 None of these are applicable to this application.

6.19 In the case of Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] the High Court judge found that “isolated” should be given its ordinary objective meaning of, “far away from other places, buildings or people, remote”. Also, that it was subsequently held in the Court of Appeal, in Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] that, “...in its particular context in paragraph 55* of the NPPF, the word ‘isolated’ in the phrase ‘isolated homes in the countryside’ simply connotes a dwelling that is physically separate or remote from a settlement...” (* - now paragraph 79 of the July 2018 NPPF). Subsequent to this case law it does not necessarily follow that a site that is not ‘isolated’ in the terms of paragraph 79 (previously 55) will be reasonably accessible to services when considered in the context of other requirements of the NPPF. So while this application site may be reasonably proximate to six other dwellings, its degree of accessibility to essential services by alternative modes are very limited. As such it is considered that the site is not a suitable location for a new dwelling having particular regard to accessibility for future residents to essential services in line with paragraph 108 of the NPPF and the objective to support the transition to a low carbon future, which reliance on motorised travel modes would not facilitate.

6.20 The proposed dwelling, despite being described as ‘low level’ and a ‘dormer bungalow’, would in fact be 7.3 metres in height to the ridge and 3.9 metres to the highest eaves height and devoid of any dormer windows. Nevertheless, there are single storey and two storey properties along the road and given the site levels and existing vegetation, which is to be retained, the proposed development would not be visually intrusive. It would comprise good quality architecture and be sympathetic to local character in accordance with CS policies LD1 and SD1 and the requirements of the NPPF (chapter 12).

6.21 Overall it is considered that the locational unsustainability of the site would result in adverse impacts that significantly and demonstrably outweigh the limited benefits derived from a single dwelling. As a result the proposal fails the planning balance and it is recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reason:

1. **The proposal represents unsustainable new residential development within a countryside location divorced from any identified settlement and as such the proposal is contrary to Herefordshire Local Plan - Core Strategy Policies SS1, SS7, RA1, RA2 and RA3. The benefits would be significantly and demonstrably outweighed by the adverse impacts resulting from the locational unsustainability of the site, which conflicts with Herefordshire Local Plan - Core Strategy Policies SS4 and MT1 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 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.**

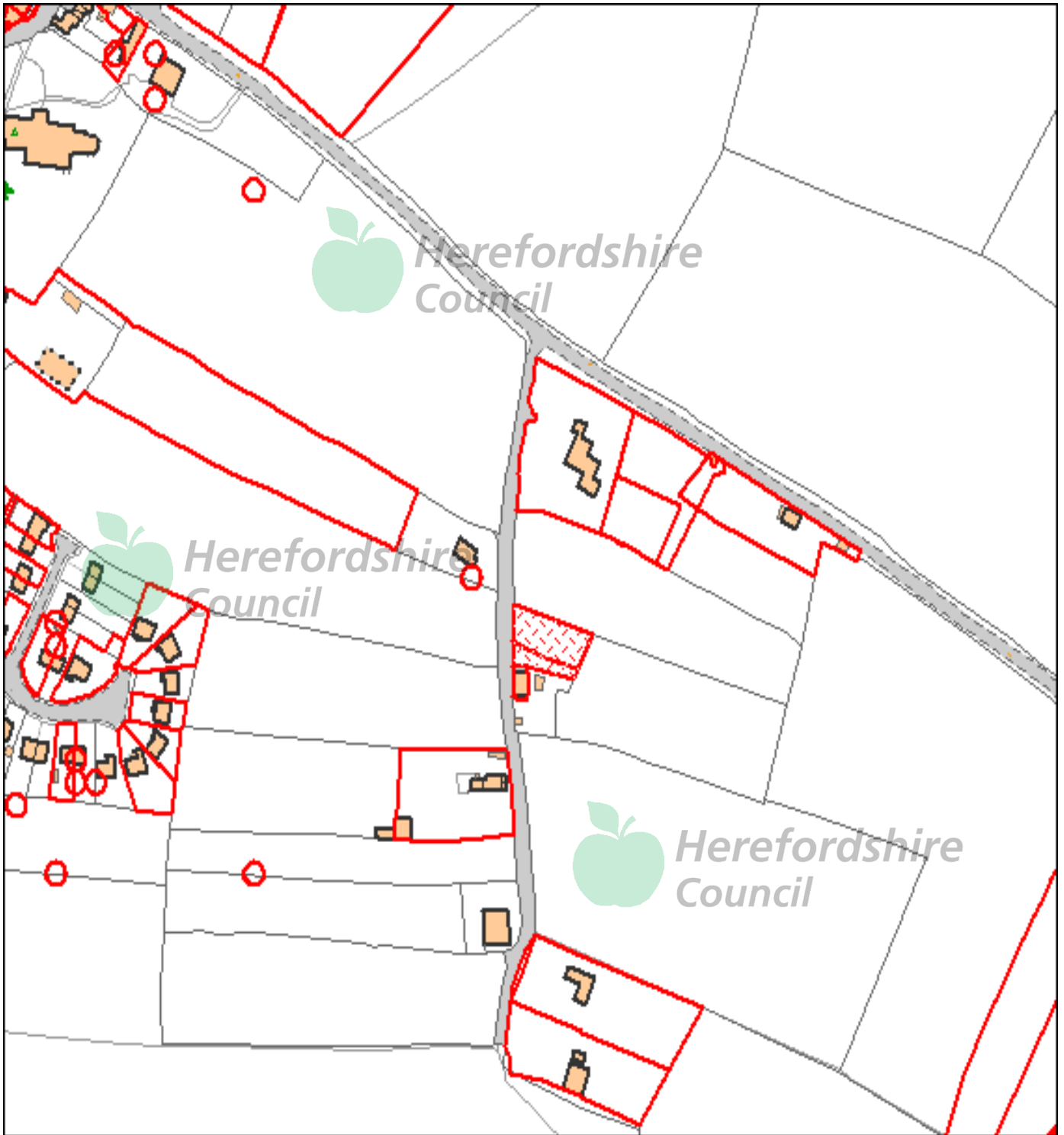
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: 181825

SITE ADDRESS : WOODYATTS FIELD, WOODYATTS LANE, MADLEY, HEREFORDSHIRE, HR2 9NN

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536