

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	18 DECEMBER 2018
TITLE OF REPORT:	<p>181494 - PROPOSED LAND FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORK TOGETHER WITH PUBLIC OPEN SPACE AND LOCAL GREEN SPACE AT LAND ADJACENT TO SPRING COTTAGE, HEADBROOK, KINGTON, HR5 3DY</p> <p>For: Mr & Mrs Turner per Mr Peter Draper, Yew Tree Cottage, Byford, Hereford, Herefordshire HR4 7LB</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181494&search=181494
Reason Application submitted to Committee – Redirection	

Date Received: 23 April 2018

Ward: Kington

Grid Ref: 330174,256478

Expiry Date: 30 July 2018

Local Member: Councillor TM James

1. Site Description and Proposal

- 1.1 The site is situated on the north side of Headbrook, east of Kington's town centre and west of the A44 by-pass. It is currently in agricultural use but is adjacent to existing residential areas along Headbrook, Old Eardisley Road and Bridge Street.
- 1.2 The site amounts to 3.83 hectares (9.46 acres) of land. It is an irregularly shaped, flat area, bounded to the north by the River Arrow and to the south by dwellings that front onto Headbrook. There are good views into and across the site from its edges and there are defined visual boundaries created by the existing development and the mature trees and hedgerows within and along the boundaries, especially to the north and east.
- 1.3 Properties arranged in a linear fashion along Headbrook are all set in narrow plots with little in the way of residential curtilage to the rear. The aerial photograph below shows the site and its immediate environs:



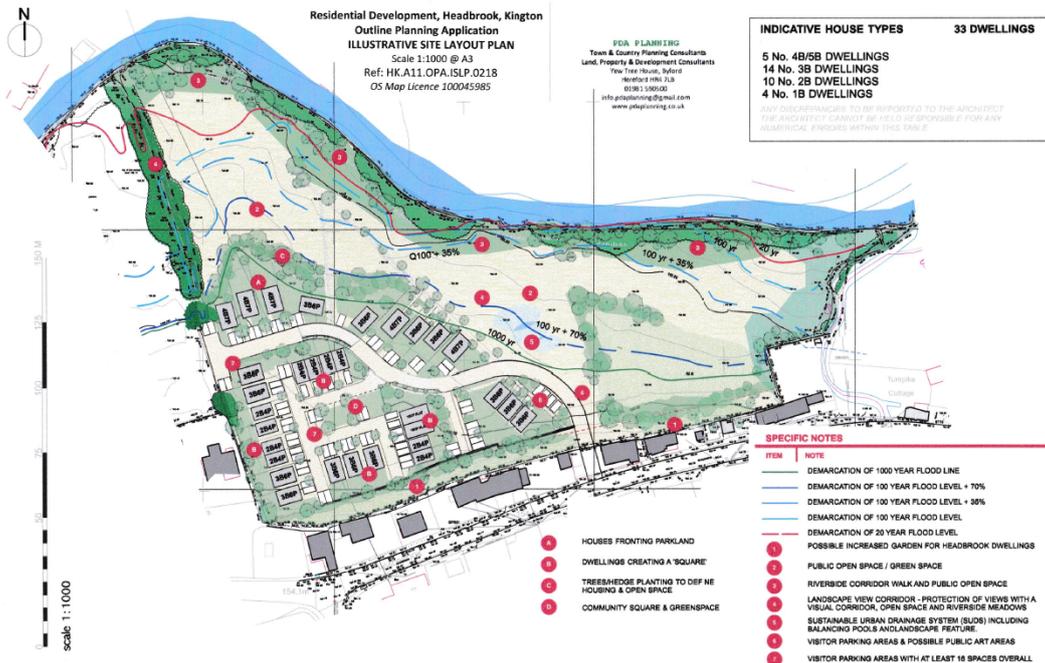
- 1.4 The Council's Landscape Character Assessment describes the site as part of a Riverside Meadow landscape character designation. The description of such areas reads as follows:

These are linear, riverine landscapes associated with a flat, generally well defined, alluvial floodplain, in places framed by steeply rising ground. They are secluded pastoral landscapes, characterised by meandering tree lined rivers, flanked by riverside meadows which are defined by hedge and ditch boundaries. Settlement is typically absent. Throughout these landscapes, the presence of extensive areas of seasonally grazed waterside meadows has in the past provided a strong sense of visual and ecological unity. These are landscapes that accommodate a degree of annual flooding, a factor which has been reflected in the traditional patterns of land use, the lack of settlement and development.

- 1.5 There is an existing field access to the site; a narrow field gate between 45 and 47 Headbrook. This is considered to be inadequate to serve the proposed housing development and consequently the application site includes land immediately to the west of 45 Headbrook.
- 1.6 There are no definitive Public Rights of Way into or across the site, but north of the site and river and within 300 to 400 metres are several local public footpaths and stretches of Offa's Dyke Path and the Herefordshire Trail, both National and Local Long Distance Paths. The application submission highlights opportunity for new footpath and cycle routes to be created and linked into existing routes, and includes the possibility of a new footbridge across the River Arrow in the north-west corner of the land.
- 1.7 At its closest the site is approximately within 300 metres of the town centre, which includes a post office, the bulk of shops, services and public transport facilities. The site is all within easy walking and cycling distance of the town centre and its full range of services.
- 1.8 The application is made in outline and is for residential development, associated works and the provision of public open space and green space, with all matters reserved for future consideration. The submission is accompanied by illustrative plans as shown below, and a suite of documents which include the following:
- Design & Access Statement
 - Planning Statement
 - Housing Assessment
 - Design & Development Brief
 - Flood Risk Assessment (including a detailed Drainage Strategy)
 - Heritage Impact Assessment
 - Landscape and Visual Impact Assessment

- Ecological Assessment
- Transport Assessment
- Heads of Terms

Indicative site layout



2. Policies

2.1 Herefordshire Local Plan – Core Strategy

The following policies are considered to be of relevance to this application:

- | | | |
|-----|---|--|
| SS1 | - | Presumption in Favour of Sustainable Development |
| SS2 | - | Delivery New Homes |
| SS3 | - | Ensuring Sufficient Housing Land Delivery |
| SS4 | - | Movement and Transportation |
| SS6 | - | Environmental Quality and Local Distinctiveness |
| KG1 | - | Development in Kington |
| RA1 | - | Rural Housing Distribution |
| H1 | - | Affordable Housing – Thresholds and Targets |
| H3 | - | Ensuring an Appropriate Range and Mix of Housing |
| OS1 | - | Requirement for Open Space, Sport and Recreation Facilities |
| OS2 | - | Meeting Open Space, Sport and Recreation Needs |
| 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 |
| SD3 | - | Sustainable Water Management and Water Resources |
| SD4 | - | Waste Water Treatment and River Quality |
| ID1 | - | Infrastructure Delivery |

Kington Area Neighbourhood Development Plan

- 2.2 The Kington Area Neighbourhood Development Plan is post Regulation 16; its public consultation period having expired on 14th November. Details of examination are currently to be confirmed. At this stage the plan has moderate weight as there are ten unresolved objections following the regulation 16 consultation. The policies that are of relevance to the determination of this application are considered to be as follows:

ENV1 – A Valued Natural Environment – Amongst other matters, this policy makes specific provision to:

- protecting and enhance the River Arrow and the Back Brook from the impacts of development;
- respect, protect and enhance important open spaces, views and the area's landscape quality as identified in the Characterisation Assessment and the list of 'Cherished' Places
- conserve, protect and enhance local habitats and areas of biodiversity value;

ENV3 – A Valued Built Environment – The stated aim of this policy is to ensure that development proposals will be required to conserve, protect and where possible enhance the heritage assets and the wider historic environment within the neighbourhood area

ENV 4 – Flood Risk & Drainage – Requires that new development takes appropriate account of flood risk and provides appropriate drainage arrangements.

SB1 – Settlement Boundaries – Identifies a settlement boundary for Kington. The policy states that the town will seek to accommodate around 200 new dwellings and development proposals will be directed to sites that fall within this boundary.

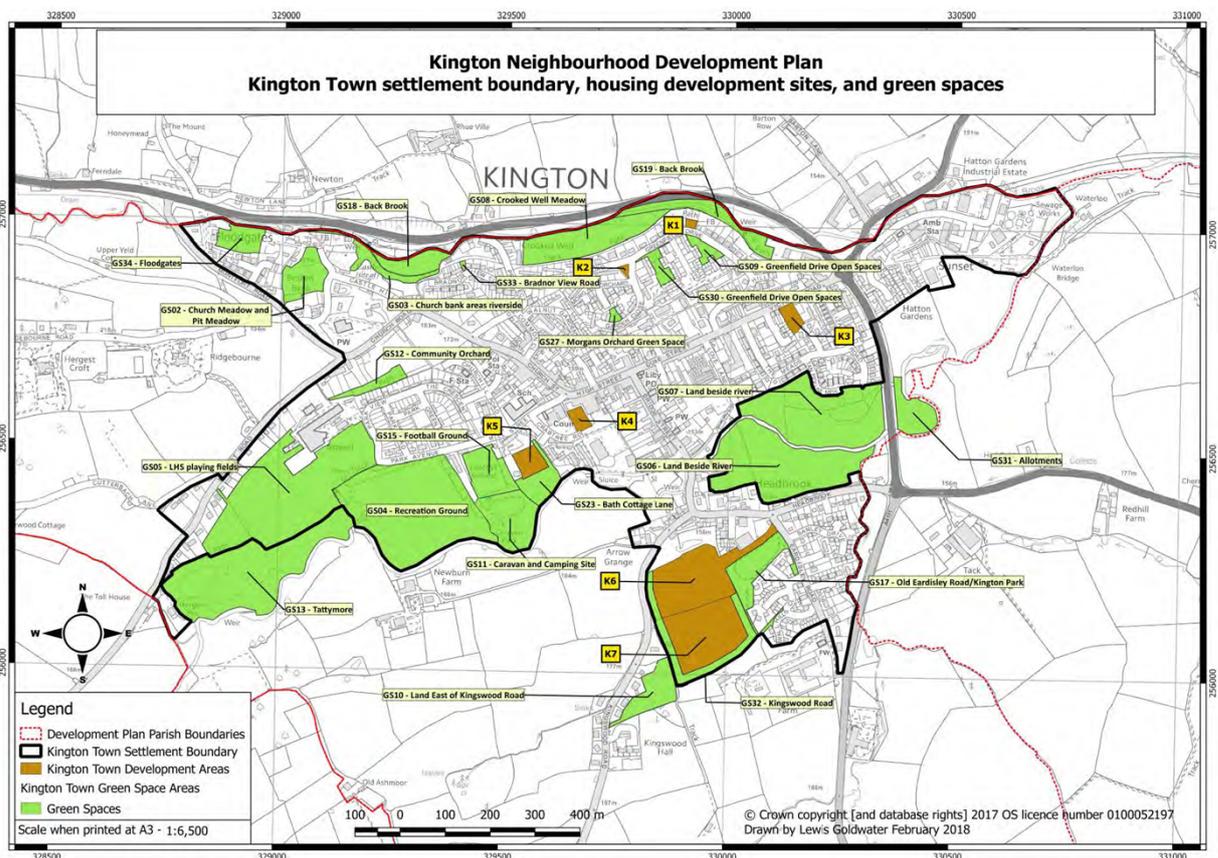
H1 – Housing Delivery Kington Town – Reinforces the need to deliver around 200 new homes and that these will be delivered on allocated sites, and within the settlement boundary.

LGS1 – Local Green Spaces – Recognises the special recreational, wildlife, historic and setting value of certain areas, and their importance to the community. The policy requires that these are to be protected from development and the list includes the application site.

GI1 – Green Infrastructure – Advises that development proposals will be assessed for the contribution they make to the enhancement of biodiversity.

https://www.herefordshire.gov.uk/download/downloads/id/16079/neighbourhood_development_plan_september_2018.pdf

- 2.3 A copy of the plan identifying particular designations, including the settlement boundary for Kington, allocated housing sites and green open spaces is shown below:



National Planning Policy Framework

2.4 The following sections of the NPPF are considered to be of relevance to this proposal:

- Section 2 - Achieving sustainable development
- Section 4 - Decision-making
- Section 5 - Delivering a sufficient supply of homes
- Section 9 - Promoting sustainable transport
- Section 11 - Making effective use of land
- Section 12 - Achieving well-designed places
- Section 14 - Meeting the challenge of climate change, flooding and coastal change
- Section 15 - Conserving and enhancing the natural environment
- Section 16 - Conserving and enhancing the historic environment

2.5 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/info/200185/local_plan/137/adopted_core_strategy

3. Planning History

3.1 There is no planning history that relates specifically to this site.

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water – **Recommend Conditions** and comment as follows:

We have reviewed the information submitted as part of this application with particular focus on the Flood Risk Assessment Statement (HKB4) Ref PJD/pjda.HR.1020908.18 which indicates that foul water will drain to the public combined sewer and surface water will discharge to the nearby watercourse.

We are aware of flooding concerns on the main road but our investigations have concluded that the root cause is not due to hydraulic overload on the sewer network.

Therefore, if you are minded to grant planning permission we request that the following Condition is included within any subsequent consent:

Condition

Foul water from the development site shall be allowed to discharge to the public sewerage system and this discharge shall be made between manhole reference number SO60560422 and SO30560529 as indicated on the extract of the Sewerage Network Plan attached to this decision notice. Thereafter, no surface water, land or highway water shall drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

4.2 Natural England – **No objection**. Comments as follows:

European site - River Wye SAC - No objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

River Lugg SSSI – No objection

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

4.3 Historic England – **Objects** to the application on heritage grounds. Their comments are as follows:

Summary

The outline application affects land within the setting of Kington Conservation Area that makes a positive contribution to the conservation area's significance in terms of its historic,

aesthetic and communal value. Historic England objects to the application on the grounds that the supporting information does not comply with paragraph 128 of the NPPF and the design, amount, location and density of the development will result in harm to the conservation area that is unjustified in terms of paragraphs 131, 132, 134 and 137.

Historic England Advice

Kington Conservation Area encompasses the historic town of Kington established as a borough in the twelfth century. The heart of the conservation area is characterised by a typically tight urban form deriving from the layout of medieval burgrave plots along the High Street. This area has dense two and three storey buildings set at the back of pavement providing a high degree of enclosure to the street and funnelled views with a rich visual texture of historic building materials. A similar plot pattern characterises Bridge Street but the density of development is significantly lower and gaps between buildings and views through carriage arches allow garden greenery and trees to come through into the streetscape experience.

The form of the landscape around the town is such that setting contributes much to the significance of the conservation area. Kington is located between and contained by the course of two rivers, the Arrow and Back Brook which flow from the Radnorshire Hills to the west to form a confluence just east of the town. The rivers cut through higher ground to the north, Bradnor Hill, and west, Hergest Ridge and these hills form a prominent rural setting for the conservation area. At the end of Bridge Street the flood meadows of the River Arrow that form the town's natural southern boundary make themselves apparent particularly to the southeast where views from a public footpath have a distinctly rural feel and layers of trees, open space and topography limit the impact of linear development on the north side of Headbrook and the more substantial new development on rising ground to its south side. The application site forms part of the rural, water meadow setting and the wider landscape setting which contribute to the significance of the conservation area in terms of its aesthetic quality, its historic interest as a settlement developed within the natural constraints of the river confluence and its communal value.

While the detailed impact of the proposed development cannot be assessed due to the outline nature of the application, it is clear to Historic England that the scale and amount of development represents a change in setting that will impact on the significance of the conservation area. The application should therefore be assessed against the policy contained in Section 12 of the NPPF which places great weight on the conservation of heritage assets and most particularly against paragraphs 128, 131, 132, 134 and 137. The Historic England publication 'The setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3' provides relevant advice on the identification of setting and assessment of the impact of change within it on significance.

Historic England is concerned that, for a number of reasons, the Design and Access Statement submitted in support of the application does not meet the requirements of paragraph 128. It relies on a compartmentalised landscape assessment and views analysis that does not draw out the contribution of setting to the historic, aesthetic and communal value of the conservation area and does not follow the staged approach to assessment set out in our guidance referred to above. We are also concerned that, in its outline form, the application does not demonstrate the design quality required by paragraphs 131 and 137. On the basis of the information submitted Historic England considers that, while the proposals have sought to reduce impact by locating housing in the southwest corner of the site, the amount, density and location of the development and loss of green space will result in an urbanisation of the water meadows that will change their character considerably. Taken with the existing development on the south side of Headbrook, the aggregative amount of development in the setting of the conservation area will increase considerably.

We consider that this will harm the significance of the conservation area by obscuring the links between its historic pattern of development and the Arrow's water meadows and diminishing the aesthetic value of its undeveloped, rural, green setting and the communal value of the conservation area that lies in this setting.

We note that the Kington NDP identifies land between Headbrook and the River Arrow as important green space forming part of the river corridor that contributes to the character and setting of Kington Town and that housing would lead to loss of its rural character. Historic England concurs with this conclusion. The NDP indicates that potential for alternative sites to meet the town's housing needs exists and in this context we would suggest that the harm caused by the proposal to the significance of the conservation area is unjustified in terms of paragraphs 132 and 134.

Recommendation

Historic England objects to the application on heritage grounds.

We do not consider that the application meets the requirements of the NPPF, in particular paragraph numbers 128, 131, 132, 134 and 137. In determining this application you should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Internal Council Consultations

4.4 Transportation Manager

Site Location and Access

The application site is located on Land adjacent to Spring Cottage Headbrook Kington. The proposal sets out the creation of a new access through land between 43 and 45 Headbrook which is within the ownership of the developer. The proposed development site lies in an area designated in the emerging Kington Neighbourhood Development Plan as a Local Green Space. Headbrook road is subject to 30mpg speed limit however the 85th percentile speed in the transport assessment for the development shows speeds at 33mph.

The new access would adjoin the existing public access. A transport assessment sets out the proposed access and associated works. It must be ensured that the access does not deviate in location from this point as access from another location, between 45 and 47 Headbrook for instance, would not be appropriate.

There is a bus service near the site, including hourly services which connect Hereford with Llandrindod Wells via Kington.

Traffic Generation

The information provided by the transport assessment is for 60 dwellings. Using this as a baseline, 33 two-way trips were associated with the proposal. As the current proposal is indicative of approximately half the number of dwellings, then it is logical to assume that half the number of two-way trips will be associated with this site. The highway network should not be adversely affected by this increase in movement.

Visibility

The visibility splays set out in the transport assessment (51m) in line with the 85th percentile speeds are appropriate and achievable at the proposed location of the access.

Drainage

The developer should ensure that run off does not flow to the public highway.

Waste Collection

A waste collection strategy should be provided by the applicant.

Policy

Section 106 contributions are mentioned in the planning statement and the developer is happy to contribute an average of £9,284 per dwelling.

As a new public road and footway is proposed, the developer should adhere to section 38 highways adoption agreement and section 278 of the Highways Act 278.

Conclusion

The transportation department has **no objections to this application, subject to conditions**

4.5 Conservation Manager (Landscapes) – **Objects** to the application on the following grounds:

The proposed development site lies in an area designated in the emerging Kington Neighbourhood Development Plan as a Local Green Space. Even though the NDP is not in an advanced stage, this green space should be protected as a valued community and environmental resource for the future.

The proposed development would deplete the size of the existing Riverside Meadows adjacent to the River Arrow flood plain. This existing green space is an historic, aesthetic and communally valued open space. This depletion of existing environmental, historical and locally valued aesthetic would therefore not contribute or enhance the natural, historical and locally valued landscape.

This proposal is adjacent to the River Arrow flood plain. With climate change there is the potential to exacerbate the present flood issues and water quality issues in this area with this proposed development.

4.6 Conservation Manager (Historic Buildings) – **Objects** to the application and comments as follows:

The River Arrow makes a strong visual and historic contribution to the significance of the Conservation Area. Historically this is a primary reason for the Town being in this location, the crossing point allowed for traders to meet and also the means for a Mill, tanneries and other industries to develop. In terms of the character of the Conservation Area there are key views from the Bridge to the South of the town, looking East and from the East towards the Town. It is the view from the Conservation Area which would be most affected by the proposals, in particular the proposed housing towards the north of the site. The transition from Headbrook to the River Arrow Corridor is an important aspect of views from the Conservation Area. Those views from the south extremity of the town looking directly south should not be entirely discounted, although it is noted that this is an area of more modern housing and not within the Conservation Area.

The corridor of the River Arrow makes a strong contribution to the setting of the Conservation Area and the housing proposed to the North of the site would cause less than substantial harm to this setting. Policy 196 of the NPPF would apply.

4.7 Conservation Manager (Archaeology) – **No objection**

4.8 Conservation Manager (Ecology) – **No objection** subject to conditions

I note my colleague has completed the HRA assessment process for this satisfactorily. With regard to the ecological assessment, I welcome the updated survey which finds much remains unchanged. However, the presence of two riparian species (otter and white clawed crayfish) have been raised and confirmed as present along this stretch of the R. Arrow. I believe the plans to be ultimately adequate in habitat creation along the stream corridor here and so good water quality and lack of disturbance will be of utmost importance to maintain before and after construction. The bulk of the development will fall outside the flood plain and will lie some distance from the course of the river but a Construction Environmental Management Plan (CEMP) should be produced to ensure no construction materials/fuels etc. will be placed near the buffer zone. Except for planting there should be no need to enter this buffer zone during construction. Certainly no heavy machinery should be allowed the CEMP should clearly designate this zone as fenced off from the rest of the site. I do not believe it is possible, enforceable or even reasonable to adopt an exclusion zone around the river post-construction but site development should in no way impede the use of the river by these two species including barrier installations, lighting or bank access points. If the footbridge across the proposed in the Design and Access Statement is intended as part of this application, then details of construction must be submitted as part of the approval and accommodated in the species' mitigation..

In addition, the recommendations of the ecological report should be encompassed within a ecology mitigation and enhancement plan. This should include a programme of Reasonable Avoidance Measures for two species above. I would also advise that information boards should be installed as part of the interpretation and advisory element of enhancement highlighting the features living adjacent to such a spectacular biodiversity resource. The signs should also indicate controls on disturbance which people should exercise (such as by dogs, vegetation damage and any water-sports intended).

4.9 Housing Officer – **No objection** and comments as follows:

I have reviewed the above outline planning application and would advise that the applicant is meeting the requirement to provide 35% affordable housing. Local connection in relation to the affordable units would need to be included within the S106 and the units would need to be tenure neutral and will integrated within the open market units.

The proposed layout for the open market and affordable units are only indicative and I would advise that the exact mix and tenure for both, needs to be agreed prior to the submission of any reserved matters application. Therefore, I would look for a condition to be applied to the outline planning permission to ensure that this happens.

4.10 Parks & Countryside Officer

The illustrative site plan shows on-site POS /SUDS areas as detailed in both the accompanying Planning Statement and Design and Access Statement.

The POS comprises smaller ancillary areas of play and public open space within the housing areas and a larger green space area which is in the flood plain and bounds the river corridor. The total amount is shown as 1.8ha (4.5 acres) and covers over half of the application site. That said, it is understood from the Planning Statement that should this application go forward the applicant is considering a future phase subject to EA consultation which would potentially mean 0.5ha (1.3acres) of this land would be used for housing.

Taking this into account the applicant has exceeded the policy requirements for POS as outlined above. The illustrative site plan shows 33 houses. For a development of up to 33 houses and an occupancy rate of 2.3 (population 75.9) the developer would be required to provide as a minimum of 0.09ha (900sq m) of on-site green infrastructure comprising:

- 0.03 ha (300sq m) of Public Open Space @ 0.4ha per 1000 population
- 0.06ha (600sq m) of Children's play @ 0.8ha per 1000 population: of this 0.018ha (180sq m) should be formal play @ 0.25ha per 1000 population

However the land does not make provision for outdoor sports and this is supported. An off-site contribution towards Outdoor Sports will be sought based on the Playing Pitch Assessment for Kington and the Outdoor Sports Investment Plan as described below.

It is noted that this is an outline application and the illustrative proposal may change if the application progresses to reserved matters and the areas shown as POS may not necessarily appear as shown in a subsequent detailed proposal. Whilst it is recognised that the provision far exceeds policy requirement the site does provide an opportunity to create an impressive area of open space. Planning for healthier spaces is good practice and as the plan develops any on site provision should be well designed and of a usable size to offer a range of recreation opportunities and experiences appropriate to the site and location. Open space needs to be well connected and safe and accessible networks of green spaces should incorporate both walking and cycling opportunities where possible. The applicant's approach to provide POS for both recreation and biodiversity/wildlife, formal and informal children's play space including a dedicated play area and recreational activity, together with a managed environmental/ wildlife zone based around the River Arrow's tributary brook is supported.

Open space needs to be well connected incorporating both pedestrian and cycling opportunities. The applicant has indicated that the site will be fully integrated into the neighbourhood via existing and new public routes for walking and cycling and possibly a new footbridge across the river towards the north-west of the land, which could connect into existing town walkways and this too is supported.

Any POS and children's play areas should be overlooked and housing should be orientated to provide natural surveillance. Given the size of development proposed the policy requirement for formal play provision is small at 180sq m. In this instance, it may be more appropriate to provide more natural play opportunities in keeping with the nature of the proposed POS.

It is noted that the SuDS will be designed to incorporate balancing ponds into the future open-space and landscaping schemes as appropriate. SuDS areas if designed accordingly to take account of health and safety and standing water issues can provide good opportunities for both informal recreation and biodiversity.

Adoption and Maintenance: Suitable management and maintenance arrangements will be required to support any provision of open space and associated infrastructure within the open space in line with the Council's policies. This could be a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use

The Council's SuDS Handbook provides advice and guidance including national guidance on the inclusion of SuDS on new development. The applicant should seek further advice from the Council at the earliest opportunity.

Off site requirements for outdoor sports: It is noted that the applicant will negotiate with Herefordshire Council the s.106 requirements arising from this development as part of the overall planning application discussions.

An off-site contribution will be sought in accordance with the NPPF and evidence bases: Kington Area Playing Pitch Assessment 2012 and the Outdoor Sports Investment Plan 2018.

The Outdoor Sports Investment Plan, has been prepared by a partnership of Sport England, Herefordshire Council, the National Governing Bodies (NGB) for cricket, football, hockey and rugby and the County Sports Partnership. It is annually reviewed and provides up to date information on clubs and facilities in accordance with Sport England's requirements to review the Playing Pitch Assessment. A list of projects for cricket, football, rugby and hockey are included which are considered to be sustainable and deliverable in helping to meet the needs of both the existing and future populations (future proofed to 2031). All projects have the support of the relevant NGB in both their regional and local facilities development plans.

Summary of Projects for Kington:

Football: Kington Town Football Club: used by Kington Town Football club both senior and junior teams.

- Quality Deficiency: Improvements to the existing changing facilities required. Its quality rating has deteriorated to below a quality required by Sport England since 2011.
- Support: The FA has rated this as a priority project to enable the club to develop and to move up the football pyramid.

Cricket: Kington Recreation Ground: Used by Kington Cricket Club both senior and junior teams.

- Quality Deficiency: improvements to the facility including the 3 lane nets required. Its quality rating has deteriorated to below a quality required by Sport England since 2011.
- Support: The HCB supports this project.

The methodology used to assess requirements arising from new development is considered to be CIL compliant and contributions are calculated using the following methodology:

- **Total Investment costs**: £285,000:
- **Total housing planned for Kington (Core Strategy)**: 200 new houses
- **Cost per market house**) £1,425

- **Total off-site contribution arising from this development of 21 market houses: £29,925**

4.11 Land Drainage Engineer – **No objection subject to conditions.** Comments as follows:

We have no objections to this outline planning application but recommend that the Applicant submits the following information within any subsequent reserved matters application:

- Amended calculations of the greenfield runoff rates and proposed discharges rates and attenuation volumes using FEH methods and 2013 rainfall data for the site area included within the planning application;
- Results of infiltration testing at the location(s) and proposed depth(s) of any proposed infiltration structure(s), undertaken in accordance with BRE Digest 365 methodology;
- Confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels;
- Detailed drawings of proposed features such as attenuation features and outfall structures;
- Confirmation that the attenuation pond will not situated above ground; if it is proposed to be situated above ground level the Applicant must provide an assessment of breach.

- Consideration of the risk of water backing up the drainage system from any proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere, noting that this also includes failure of flap valves;
- Description and drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system;
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features;
- Confirmation where the proposed connection into the foul sewer network will be and if access to third part land will be required.
- If discharge to the public sewerage system is proposed, confirmation that this has been agreed with the relevant authority;
- If access or works to third party land is required, details of these works and agreement in principal with necessary landowners/consenting authorities to cross third party land and/or make a connection to the proposed watercourse/sewer;

If the results of infiltration testing indicate that infiltration will provide a feasible means of managing surface water runoff, an alternative drainage strategy must be submitted to the Council for review and approval. Best practice SUDS techniques should be considered and we promote the use of combined attenuation and infiltration features that maximise infiltration during smaller rainfall events.

4.12 Environmental Health Officer (noise) –**Qualified comment**

The proposal has not yet taken into account the acoustic environment in which the houses are proposed to be built and I note that there are alternative site layout plans which could have different noise exposure risks. I am of the opinion that these risks are a relevant factor when determining site layout.

The applicant is requested to undertake a noise risk assessment using Stage 1 of the ProPG guidance. This would capture the noise levels across the site and will be useful in assisting in the determination of the proposed site layout. Should the noise risks be more than negligible, which is likely at the eastern boundary of the site, the application is also requested to follow Stage 2 of the ProPG guidance and supply an Acoustic Design Statement.

5. **Representations**

5.1 Kington Town Council

Kington Town Council considered this application at its meeting on June 4th and resolved to object to the application for the reasons detailed below.

1. The Council's views on the application are informed by its role in preparing the Kington Area Neighbourhood Plan (KANP) and the central role it has played in identifying housing development sites. This role is a formal requirement of the Herefordshire Core Strategy which delegates the task to the Town Council. (Core Strategy. Policy KGI. Development in Kington)
2. The KANP completed the Regulation 14 stage in 2017 which included consultations which fully "demonstrated engagement and consultation with the community" (KGI). In light of the consultations the Plan has been revised and in the form of the Draft Regulation 16 Plan is ready to be submitted to Herefordshire Council for the final stages of the Neighbourhood Plan process.

3. In preparing the draft KANP, the Town Council carried out detailed assessment of the sites throughout the town in relation to the criteria in KGI. In this task it received wide ranging professional and technical support through grant provision provided by locality as agents for the National Government's Neighbourhood Planning policies. Our objection to the application is based on the extensive assessment we undertook to fulfil the delegation of site selection to Kington Council (KGI).
4. Local Green Space - The Kington Area Neighbourhood Plan has designated all the land south of the River Arrow at Headbrook as Local Green Space. The designation has had the strong support of the community . Together with the land on the opposite side of the river it has been described as a 'green lung' linking the eastern area of the town to the western end with its green riversides. As an open green space it is perceived to contribute to the spatial character and form of the town, providing a green entry to the town and a wildlife habitat for birds including owls, bats and riverside trees and plants.
5. Green Infrastructure - Herefordshire Council's Green Infrastructure Study (2010) shows this land north of Headbrook as part of a Local Strategic Corridor embracing the south side of the town. A Local Strategic Corridor is defined in the Study as "aconnected linear component of green infrastructure around the town",thus echoing in more technical terms the views of local people. The Study contains a description of the land as being "wet grassland and wet woodland that should be preserved and enhanced" .

Core Strategy Policy LD3 Green Infrastructure states that "Development proposals should protect, manage and plan for the preservation of existing and delivery of new green infrastructure...". By its nature a housing development on this land will be unable to comply with this policy since it will building on the green infrastructure, thereby removing it and impacting on the adjacent remaining land.

6. Biodiversity - Core Strategy Policy LD2 Biodiversity and geodiversity states "Development proposals should conserve, restore and enhance the biodiversity ...".

Para 5.3.12 "Wildlife is not confined to designated sites and many features serve as wildlife corridors, links and stepping stones. Ecological networks are vital to the survival and dispersal of species. Herefordshire 's biodiversity makes a major contribution to the economy, supporting the tourism sector and providing a healthy and attractive environment for its residents."

The land of this application is not an AONB or SSSI but it is an important feature of the Kington Town landscape and losing this area of biodiversity will diminish the local pool of ecological habitats by urbanising the riverside biodiversity. The application does not comply with LD2.

A development of 33 or so dwellings will inevitably lead to 60 or more vehicles coming and going on this land. This is low-lying area where it is likely that air currents,winds etc are not going to ensure rapid dispersal of emissions such as nitrous oxides.The cumulative impact of NO2 is well documented as being harmful to butterflies, bees and other insects as well as a range of plant life. The likelihood is a deterioration in any remaining green space adjacent to the development rather than enhancement .

7. Landscape and Townscape - The application does not comply with Core Strategy Policy LDI which requires that "development proposals should demonstrate that the character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements...".

The application site borders the Conservation Area and buildings therein of an historically important small Market Town. The site area is part of the setting of the Town. No evidence is presented as to how the development proposed will meet the objective of LDI.

It does not comply with NPPF paras 132 and 134 which are concerned with the settings of designated heritage assets; settings are important components of the value of historic buildings. The site where development is proposed is a part of the setting of the heritage assets of the Town. Any alteration to the setting such as new build development will inevitably harm the setting and thereby the assets themselves. It would lead to a loss of space and a diminution of the rural setting of the Town.

8. Requirement to Meet the Core Strategy Housing Target for Kington - Any public benefits that might accrue from developing housing on this area can be obtained from other sites that are identified in the draft Neighbourhood Plan which fully meets the target set for housing provision (200 dwellings) and which more adequately meet the requirements of KGI.
9. Relationship of the Application to the draft Settlement Boundary as defined in the draft plan - The implication of development on various sites in the town was assessed at the Regulation 14 stage. This led to a revision of the current UDP Settlement Boundary to exclude the application site and its counterpart to the north of the Arrow from within the settlement . This more clearly identify their long term value as a green setting for the town as open country on the town's border.
10. Previous Site Planning History - The identification of the application site as Local Green Space in the KANP is in line with previous planning guidance for Kington.

The Leominster District Local Plan (1999) which included Kington, strongly emphasised the importance of the site for the setting of the town. "There should be no development on the river meadows of the Arrow and Back Brook which form essential elements in the setting for Kington as defined on the map. Landscape proposals will be encouraged which would enhance the river meadows, enable recent developments to fit more sensitively into the town's setting, encourage a diversity of wildlife and promote a riverside walk.

These river meadows contribute significantly to the character and setting of the town and should be protected from intrusive development in particular in accordance with Policy A.25. Much of the area is subject to serious flooding or is described as flood prone and so is not suitable for development in accordance with Policy A15. The River Arrow is designated a SWS by the Herefordshire Nature Trust "

The Herefordshire Unitary Development Plan (2007) sustained this policy by designating the whole site as "Protection of Open Areas and Green Space" (Inset Map Kingl)

A portion of the site was included in Herefordshire's 2012 Strategic Housing Land Availability Assessment (SHLAA) but identified as "Land that had Significant Constraints". As a result, the site was re-assessed at the first stage of the Neighbourhood Plan process. The Town Council did consider whether a small development of 15 houses might be appropriate but unanimously resolved (December 2015) that the importance of the site as part of the green setting for the town militated against any development and that the whole site should be designated as Local Green Space. This decision has been fully supported in all subsequent public consultations on the Plan and confirmed by Kington Town Council when it signed off the Draft Regulation 16 Plan in December 2017.

11. Ambiguities in the Application - The extensive documentation provided by the applicant provides confusing information about the level of development proposed which vary from 33 to 70 dwellings in the text and attached site plans.
12. Requirement for More Detailed Site Assessment - Though this is an outline application, we would strongly suggest, given the potential impact of the proposed development on the setting and environment of the town, that much more detailed information is required at this stage on:

Landscape assessment including issues of sensitivity and capacity site biodiversity given frequent reports of bats and owls on the site, site archaeology, in view of other investigations in the Arrow Valley impact on the Conservation Area, (See Historic England's objection for detail on this) impact on the river systems (the Arrow, the Lugg SSSI and the Wye Special Area of Conservation) of waste water,

Impact on the sewerage system. The following guidance provided to us by Welsh Water in response to our Regulation 14 Consultation should be noted:

Wastewater treatment works (WwTW) - Kington's WwTW is currently overloaded and there are no improvements planned within Welsh Water's current Capital Investment Programme (AMP6 - 1st April 2015-31st March 2020). An improvement scheme will form part of their submission to the Industry Regulators for the next Capital Investment Programme (AMP7 - 1st April 2020-31st March 2025). As such, should a developer wish to progress this site in advance of their future Regulatory Investment they will need to fund the improvements themselves, firstly by commissioning Welsh Water to undertake a feasibility study of the WwTW, before entering into a Section 106 Agreement (of the Town & Country Planning Act 1990) to pay for the improvements required.

A more detailed flood risk assessment by the Environment Agency.

The following additional comments have also been submitted:

As was specified in the Council's objection to this application, the Kington and Area Neighbourhood Development plan is now nearing the Regulation 16 Stage. The Plan has been fully revised in relation to the Regulation 14 Consultation and the voluminous consultation appendices have had a final edit. The completed Plan will be submitted to Herefordshire Council's NDP Team on Wednesday Sept 19th. As previously identified the Plan proposes that the whole of application site should be designated Local Green Space and identifies a range of other sites which will fully meet the housing allocation for Kington specified in Herefordshire's Core Strategy. These policies have been strongly supported in the various consultations during the development of the NDP and we trust they will be given full consideration by the Planning Committee when this application is considered.

- 5.2 Lyonshall Parish Council – Observe that consideration should be taken regarding the extra traffic using the Headbrook road, as this is the main entrance to Kington for locals living East of the town.
- 5.3 Wye Valley NHS Trust – Request a financial contribution through the completion of a Section 106 Agreement and comments as follows:

In the circumstances, it is evident from the above that the Trust's request for a contribution is not only necessary to make the development acceptable in planning terms it is directly related to the development; and fairly and reasonably related in scale and kind to the development. The contribution will ensure that Health services are maintained for current and future generations and that way make the development sustainable.

- 5.4 CPRE – **Object** to the application. In summary the points raised are as follows:

- The proposed development would harm the setting of Kington Conservation Area which lies immediately adjacent to the site.
- The site has been identified as a green space in the emerging Kington NDP
- Should this application be allowed then it would set a precedent for further development in green space with the potential to hugely damage the setting of this important historic town

- It is recognized that Herefordshire Council has not identified a 5 year housing land supply and that the Local Plan may be considered out of date thus invoking paragraph 14 of the NPPF, the presumption in favour of sustainable development.
- However, for the reasons outlined above this development proposal is not sustainable, conflicts with several specific NPPF policies and in line with the final clause of paragraph 14 should be refused: *“For decision-taking this means where the development plan is absent, silent or relevant policies are out of date granting permission **unless** any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole or specific policies in this Framework indicate development should be restricted”.*

5.5 Twenty two letters of objection have been received in response to the statutory consultation period. In summary the comments made are as follows:

Flood Risk

- Parts of the field are prone to flooding
- If the area is surfaced, where will excess water go?
- Development could well result in existing properties in the locality flooding, as well as those proposed.

Ecology / Biodiversity

- The area is a haven for wildlife, including red kites, herons and bats
- The land is outstandingly beautiful and an important wildlife habitat; a ‘green lung’ for the town
- There is a duty to preserve and conserve the natural environment. This is an ancient meadow and once lost, it can never be replaced

Highway Safety

- Concerns around the safety of the proposed access off Headbrook.
- Access is too narrow and vision will be obscured by parked vehicles
- Not a suitable road system to support any more housing

Compliance with Kington area NDP

- The application does not accord with the Kington Area Neighbourhood Development Plan
- The NDP clearly defines the whole of Headbrook meadow as green space
- Proposals were put forward in the NDP to allow for 15 dwellings on the site. The town council voted unanimously to exclude it as a potential housing site
- The NDP has established sufficient potential housing sites to meet its targets for growth

Other Issues

- There are no employment opportunities in the area
- Doctors surgery and local schools are all at capacity
- Earlier plans have all concluded that the site should not be built on. What has changed now?
- Barn conversion scheme adjacent to the site was dismissed on appeal with an Inspector saying it was ‘inappropriate’ to build on the site
- Construction of affordable housing for elderly people would free up existing housing for families
- The sewerage system in Kington is not able to cope with the increased amount of housing proposed

5.6 Four letters of support have also been received. In summary the points raised are as follows:

- Kington is under pressure to provide new homes and this is the best proposal put forward
- The town would benefit from the opening up of a riverside walk
- Development would be 'in' town and not looming over it from some higher point
- The NDP is still some way from being adopted
- There has been extensive research as part of the application submission with respect to flooding
- The 2011 Herefordshire Strategic Land Availability Assessment deemed that the site was suitable, in part, for housing, unlike other land put forward by the NDP
- Home owners will be able to walk to local shops, schools and other services
- The proposal provides new public open space

5.7 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=181494&search=181494

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). It is also noted that the site falls within the Kington Neighbourhood Area, which published a draft Neighbourhood Development Plan (NDP) for Regulation 16 consultation on 3 October 2018. The consultation period expired on 14 November and confirmation is awaited as to when the plan will go to Examination. There are outstanding representations and so for the purposes of the determination of this application the plan is considered to have moderate weight.

6.3 The National Planning Policy Framework (NPPF) is also a significant material consideration.

6.4 In accordance with the National Planning Policy Framework (the NPPF), the delivery of sustainable housing development to meet objectively assessed need is a central theme of the Core Strategy. Policy SS2 'Delivering new homes' confirms that Hereford, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable "where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community."

6.5 Policy SS2 of the Core Strategy makes an overall provision for the delivery of a minimum 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. Of these, just over two thirds are directed to Hereford and the market towns. With specific regard to Kington, Policy KG1 says that the town will accommodate around 200 new homes over the plan period.

6.6 It has been well rehearsed in many previous reports to Planning Committee that a failure to maintain a supply of housing land will render the housing supply policies of the Core Strategy as

being non-compliant with the NPPF and therefore out-of-date. Policy SS3 'Ensuring sufficient housing land delivery' thus imposes requirements on the Council in the event that completion rates fall below the trajectory set out in Appendix 4 of the Core Strategy.

- 6.7 Despite the adoption of the Core Strategy, a housing land supply deficit persists. The Council's most recently published position advises of a supply of 4.55 years (April 2018).
- 6.8 The Core Strategy sets out a number of policies in chapters 3, 4 and 5 for the supply of housing which are relevant to the present application. As a consequence of the housing land supply position, the policies in the Core Strategy relating to the supply of housing are out of date by reason of paragraph 74 of the NPPF. Although these policies are out of date, the weight that they should receive is a matter of planning judgment for the decision-maker. This is a matter that has been reinforced in the recent Richborough Estates Supreme Court ruling.
- 6.9 Policy KG1 is most relevant in this regard. While it identifies a minimum proportionate growth target of around 200 dwellings and is clearly a housing supply policy, it also sets out a number of criteria against which new development proposals will be assessed. These are material to the determination of the application and, in your officer's view, can be attributed weight in the planning balance.
- 6.10 Policies SB1 and H1 of the Kington Area NDP are also policies for the delivery of housing, reiterating the requirement to deliver 200 new homes across the neighbourhood area. Representations have been made through the Regulation 16 consultation process to the housing delivery policies and they are to be given moderate weight.
- 6.11 The site is located to the south of the substantive residential part of Kington, and to the north of the linear pattern of residential development along Headbrook. More recent development has taken place further north around Eardisley Road and this has served to create a secondary residential area that is separate from the rest of the town. It is approximately a 500 metre walk from the town centre and the location of the site is considered to be sustainable. However, the proposal must be assessed under the three indivisible dimensions of sustainable development – economic, social and environmental, if it is to be considered as sustainable. Paragraph 8 of the NPPF is clear that these roles are mutually dependent upon one another and that to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The following sections of this report consider aspects of the scheme and the characteristics of the area that will be material to the determination as to whether the scheme represents sustainable development.

Impact on designated heritage assets

- 6.12 The proposed development site is just 60 metres separate of the Kington Conservation Area within which are a number of listed buildings; those closest being on Bridge Street.
- 6.13 Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting:
- “to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*
- 6.14 With particular regard to Conservation Areas, Section 72 of the Act goes on to say:
- “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*

- 6.15 Appeal decisions have subsequently informed the precise meaning of “preserving” in that it means doing no harm.
- 6.16 It follows that the duties in section 66 do not allow a local planning authority to treat the desirability of preserving the setting of listed buildings merely as material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm “considerable importance and weight”.
- 6.17 Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.
- 6.18 The NPPF offers further guidance about heritage assets, recognising that they are irreplaceable resources that should be conserved; ‘...in a manner appropriate to their significance.’ Paragraphs 189 to 196 offer particular clarity about the assessment to be made of the significance of heritage assets. Paragraph 192 outlines three criteria to be taken account of in the determination of planning applications. These are as follows:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.19 Paragraph 193 reiterates the presumption of great weight being afforded to the preservation of heritage assets and is clear that; ‘The more important the asset, the greater the weight should be.’
- 6.20 It is also clear that significance can be harmed or lost through alteration or destruction of a heritage asset, and that proposals that require this should be fully justified and wholly exceptional.
- 6.21 Paragraph 195 is clear that;
- ‘Where a proposed development will lead to substantial harm to or loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss...’*
- 6.22 Paragraph 196 has been confirmed through case law to be a restrictive policy and deals with development that would lead to less than substantial harm. It has two limbs, stating that harm should be weighed against the public benefits of the proposal. The same case law confirms that the second limb; the public benefits, should go first, and that the test is effectively different to paragraph 195 – the identification of harm does not immediately direct one to refuse planning permission.
- 6.23 Policy LD1 also makes reference to a need to conserve historic features, amongst which it includes conservation areas, while Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance. As a result, and in order to properly consider the

effects of development on heritage assets, recourse should be had to the NPPF in the first instance.

Paragraphs 4-10 of Historic England's Good Practice Advice Note 2 (Managing Significance in Decision-Taking in the Historic Environment) explains that applications have a greater likelihood of success and better decisions will be made when applicants and local planning authorities assess and understand the particular nature of the significance of an asset and, in this case, the contribution the setting makes to significance.

6.24 The National Planning Policy Framework provides a very similar message in paragraphs 189 and 190 expecting both applicant and local planning authority to take responsibility for understanding the significance of a heritage asset and the impact of a development proposal, seeking to avoid unacceptable conflict between the asset's conservation and any aspect of the proposal.

6.25 The detailed consultation response from Historic England is clear that the landscape that surrounds the town contributes to its significance as a conservation area:

"The form of the landscape around the town is such that setting contributes much to the significance of the conservation area."

"The application site forms part of the rural, water meadow setting and the wider landscape setting which contribute to the significance of the conservation area in terms of its aesthetic quality, its historic interest as a settlement developed within the natural constraints of the river confluence and its communal value."

6.26 The advice from Historic England and the Council's Historic Buildings Officer is clear that they are concerned about the impact of the proposed development on the significance of the conservation area. Your officers are of the view that the impact on the setting of the conservation area is less than substantial but that it will be towards the upper end of that spectrum. In particular, Historic England's consultation response acknowledges that the site has some significance in terms of forming the setting for the conservation area. The landscape character of the area and its visual relationship to the conservation area is integral to this. In the words of Historic England the proposal will result;

"... in an urbanisation of the water meadows that will change their character considerably. Taken with the existing development on the south side of Headbrook, the aggregative amount of development in the setting of the conservation area will increase considerably. We consider that this will harm the significance of the conservation area by obscuring the links between its historic pattern of development and the Arrow's water meadows and diminishing the aesthetic value of its undeveloped, rural, green setting..."

6.27 Whilst the harm to the significance of the conservation area as a heritage asset is less than substantial it is clear from the advice of Historic England as a statutory consultee and in the minds of your officers that significant weight should be attributed to these impacts. The proposal will cause harm that renders the proposal contrary to Policy LD4 of the Core Strategy, but this will need to be balanced against the public benefits of permitting the scheme.

Landscape impact and effects on the setting of Kington

6.28 The site is very typical of a riverside meadow landscape type as defined by the council's Landscape Character Assessment (the LCA). It is a flat, well defined, alluvial floodplain with the river lined by trees on either side. A similar flat area of meadow land flanks the river on its northern bank. The LCA suggests that such landscapes are often framed by steeply rising ground and that settlement is typically absent and this is the case as far as the site is concerned. The site forms an attractive setting for this part of Kington.

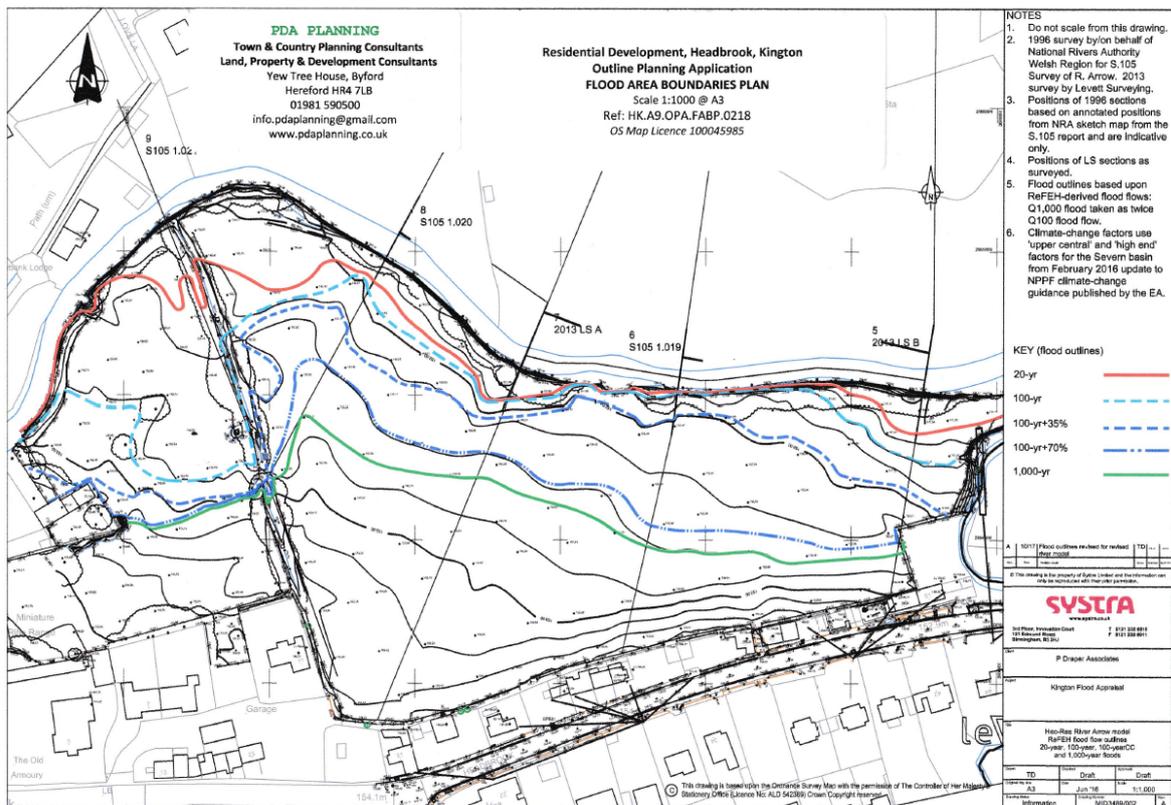
- 6.29 Policy LD1 of the Core Strategy covers matters relating to landscape and townscape. It advises that development proposals should demonstrate that the character of the landscape and townscape has been a positive influence on its design, scale, nature and site selection. It also suggests that proposals should incorporate new landscape schemes in order to integrate development, and that existing tree cover should be maintained and extended where it is important to amenity.
- 6.30 The proposal shows that the areas immediately adjacent to the river are to be kept free from development. This enables the tree-lined bank to remain undisturbed. The hedge line that runs south in the western quadrant of the site is to be retained and enhanced, and; whilst the application is made in outline and landscaping is a matter to be reserved for future consideration, the submission indicates that substantial areas of new planting would be proposed.
- 6.31 However, the inherent character of the landscape is of an open meadow that is free from development. It is the view of your officers that the land forms an important setting to Kington and its conservation area when approaching the town from an easterly direction, and this will be changed to the detriment of the area through the introduction of development. This is reinforced by the fact that the site has been designated as a local green space by Policy LGS1 of the Kington Area NDP.
- 6.32 The setting of settlements is an important material planning consideration and one that has been found to have significant weight on appeal. In recent cases in Bridstow, Bosbury and Lea separate Inspectors all found that the setting of the respective villages would be harmed and that this was not outweighed by the council's lack of a five year housing land supply (Appeal references APP/W1850/W/15/3003671, 3010446, and 3053084).
- 6.33 Members attention is also drawn to the fact that, in relation to an appeal in 2007 for a barn conversion adjacent the site (Headbrook Barn Appeal Reference APP/W1850/A/07/2038659), the Inspector commented on the significance of the area of land to which your enquiry relates, stating that:
- "...I consider that it (the site) makes an important contribution to the attractive appearance and open rural setting of this part of Kington."*
- 6.34 In dismissing the appeal on grounds, amongst others, relating to the detrimental impact of the development on the open character of the area, the Inspector considered the benefits of bringing the building back into use and providing an additional dwelling and said that:
- "...I consider that these benefits do not outweigh the harm that would be caused to an important open area of green space which contributes to the character and setting of Kington."*
- 6.35 Although the proposal is entirely different from that to which the appeal relates, it does serve to demonstrate the importance of the site in terms of its contribution to the setting of Kington. This has not changed in the intervening period and the other recent appeal decisions show that the setting of settlements carries significant weight in the planning balance. This is simply reinforced by the fact that a significant proportion of the town is designated as a conservation area. It is your officer's view that the proposal does not respect the landscape character of the area and consequently fails to accord with Policy LD1 as it does not protect or enhance the landscape setting of Kington.

Drainage and Flood Risk

- 6.36 The majority of the letters of objection received express concerns about the potential for the development to increase the risk of flooding in areas immediately surrounding the application

site. They note the proximity of development to the River Arrow and the fact that the land is a water meadow.

- 6.37 Review of the EA's Flood Map for Planning indicates that the site is located outside of, but close to Flood Zones 2 and 3. This is confirmed by the Flood Risk Assessment (FRA) submitted with the application and in the response from the Council's Land Drainage Engineer.
- 6.38 In accordance with Environment Agency standing advice, the FRA clarifies the extent and depth of fluvial flood risk within the site boundary and considers the potential effects of climate change. It also identifies how flood risk to the proposed development has been minimised, how the development has been made safe, and how the impacts of the development on people and property elsewhere have been avoided.
- 6.39 The FRA considers the risk of flooding on site from all sources, including surface water, groundwater, sewers, reservoirs and any other manmade sources. The FRA also assesses the potential effects of climate change on the probability and extent of the flood risk, this being shown on the plan below:



- 6.40 The detailed consultation response from the Land Drainage Survey Engineer confirms that the FRA includes an update of the Environment Agency's hydraulic model of the River Arrow. The Flood Appraisal drawing (above) shows the flood extents derived from the updated model for the 1 in 100yr +35%CC, 1 in 100yr +70%CC and the 1 in 1000yr return periods. The illustrative site plan drawing indicates the residential dwellings will be located outside of the modelled 1 in 1000 year flood extent. On this basis the proposed development does not displace flood water from the floodplain to other parts of the town during periods of heavy rainfall and is not considered to increase flood risk elsewhere.
- 6.41 The submission also provides a draft strategy for surface water attenuation which confirms that runoff rates will not exceed existing Greenfield runoff rates. The Land Drainage Engineer is

content with the assumptions made and confirms that there is no objection to the proposal subject to the imposition of conditions to require the submission of a detailed drainage strategy.

- 6.42 In light of the fact that the site lies outside of flood zone 2 and 3, the application of the Sequential Test as outlined in the NPPF, which requires 'more vulnerable' development to be steered away from areas at flood risk, is not required. Notwithstanding, it is clear that the Kington Area NDP does allocate areas for housing land that are at a significantly lower risk of flooding.
- 6.43 On the basis of the consultation responses received, your officers are satisfied that the proposal takes full account of the risk of flooding and that any potential impacts can be mitigated through the imposition of conditions. The scheme is therefore considered to comply with Policy SD3 of the Core Strategy.

Ecology

- 6.44 The Council's Ecologist has considered the application, both in terms of its impacts on water quality in accordance with Policy SD4 of the Core Strategy and also in respect of its potential impacts on biodiversity and protected species.
- 6.45 With regard to the first point, and in accordance with its duties as a 'responsible authority' a Habitat Regulations Assessment has been completed by the Council's Ecologist, and this finds 'no likely significant effects' on water quality in either the River Wye Special Area of Conservation (SAC) or the River Lugg Site of Special Scientific Interest (SSSI). Natural England have confirmed that they have no objection to the HRA findings.
- 6.46 In terms of impacts on biodiversity and protected species, the presence of two particular riparian species; otter and white clawed crayfish, have been raised and confirmed as present along this stretch of the River Arrow.
- 6.47 The application is supported by an Ecological Assessment, the detail of which has been considered by the Council's Ecologist. He concludes that the plans are adequate in habitat creation along the stream corridor, but emphasises the importance of good water quality and lack of disturbance along the river corridor. He notes that the bulk of the development will fall outside the flood plain and will lie some distance from the course of the river but that a Construction Environmental Management Plan (CEMP) should be produced to ensure no construction materials/fuels etc. will be placed near the buffer zone. This is a matter that could be addressed through the imposition of an appropriately worded condition.
- 6.48 On the basis of the above, officers find that the potential impacts of development on ecology and biodiversity can be mitigated. Responses for the Council's Ecologist and Natural England confirm 'no likely significant effects' on the River Wye SAC and therefore Policy SD4 of the Core Strategy is complied with. Policy LD2 places a requirement on development to conserve, restore and enhance biodiversity assets and, whilst this is not entirely evident from this outline submission, officers are sufficiently content that further details as part of a Reserved Matters submission by way of a detailed Biodiversity Enhancement Plan could address this.

Highway Impacts

- 6.49 Core Strategy Policy MT1 relates to the highways impacts of new development, and requires that proposals demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. It also requires under (4) that developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space, having regard to the standards of the Council's Highways Development

Design Guide. This approach accords with the principles outlined in section 9 of the NPPF, in particular Paragraphs 108-9 which advises that it should ensure that safe and suitable access can be achieved for all users and that development should only be refused on highways grounds if there would be an unacceptable impact on highways safety.

- 6.50 Whilst the application reserves all matters for future consideration, the opportunities for the provision of access are limited to a single point onto Headbrook. Concerns have been raised by some local residents about the impacts of a new access and increased vehicle movements on highway safety, particularly given that there are limited off-street parking opportunities for existing properties on Headbrook and that on-street parking will obscure visibility from the proposed new access.
- 6.51 The application is supported by a Transport Statement that has been written on the basis of an initial proposal for a development of up to 60 dwellings. The Council's Traffic Manager has commented in detail on this aspect of the submission and has also been mindful of the objections received.
- 6.52 As referred to previously, the information provided by the transport statement is for 60 dwellings. It assumes 33 two-way trips at peak hourly periods. As the current proposal is for just over half the number of dwellings it is reasonable to assume that it would generate 15 to 20 two-way trips. The view of the Traffic Manager is that there is sufficient capacity and that the highway network should not be adversely affected by this increase in movement.
- 6.53 The transport statement includes a speed survey along Headbrook which shows 85th percentile speeds to be 33 and 34mph in each direction respectively. The visibility splays set out in the transport statement are set at 51 metres in each direction and reflect the known speeds along the road. The Traffic Manager is content that the splays are achievable at the proposed location of the access and therefore officers are content that the application is compliant with Policy MT1 of the Core Strategy.

Planning Balance and Conclusions

- 6.54 Both Core Strategy policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan. The NPPF encompasses the government's view of what is meant by sustainable development in practice. The three themes, economic, environmental and social should be pursued jointly and simultaneously.
- 6.55 The application in this case is for housing and in the light of the housing land supply deficit must be considered in accordance with the tests set out by paragraph 11 and SS1. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole, or if specific policies in the NPPF indicate development should be restricted.
- 6.56 Kington is identified by the Core Strategy as a sustainable settlement where there is a presumption in favour of proportionate housing growth. The Kington Area NDP is post Regulation 16. Some representations have been made in respect of its housing delivery policies and therefore it attracts moderate weight in the determination of this application.
- 6.57 Officers are content that the site is immediately adjacent to Kington and, in simple terms of its location, it is sustainable. The town has a range of local services and the site is readily accessible to all of these. This will have some benefit in economic terms, as will the engagement of local trades during the construction period of the development. Some moderate benefits will be delivered through biodiversity enhancements and this weighs in favour of the development in environmental terms. There are also some social benefits as the site will provide affordable housing. The application also outlines the delivery of a riverside walk. Given

that the area in question is not currently accessible to the public this is also considered to be a social benefit.

- 6.58 However, the harm caused to the significance of Kington Conservation Area carries considerable weight in determining whether the proposal represents sustainable development, as does the impact on the riverside meadow as a valuable landscape resource. Officers have not been able to reconcile these negative impacts in environmental terms against the benefits of permitting development. For these reasons the proposal is not considered to represent a sustainable form of development and the application is consequently recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The application site forms part of the rural, water meadow setting and the wider landscape setting which contribute to the significance of the Kington Conservation Area in terms of its aesthetic quality and its historic interest as a settlement. The proposal will harm the significance of the Conservation Area by obscuring the links between its historic pattern of development and the River Arrow's water meadows and diminishing the aesthetic value of its undeveloped, rural, green setting and the communal value of the conservation area that lies in this setting. Whilst these impacts are considered to be less than substantial in terms of the significance of the conservation area as a heritage asset, they are towards the upper end of the less than substantial spectrum. The local planning authority does not consider that there are other public benefits that outweigh the harm caused by permitting the development. The proposal is therefore contrary to Policies LD2 and LD4 of the Herefordshire Local Plan – Core Strategy and paragraph 196 of the National Planning Policy Framework.**
- 2. The application site is described as a Riverside Meadow in the Council's Landscape Character Assessment. These are landscapes that are typically absent of built development. The introduction of a residential development in this location is contrary to the landscape character which also makes an important contribution to the attractive appearance and open rural setting of this part of Kington. The proposals fail to demonstrate that they have been positively influenced by the landscape and townscape character of their surroundings. Accordingly the proposal is contrary to Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**
- 3. Therefore, in light of the environmental harm caused by permitting the development and in considering the three overarching objectives of sustainable development the local planning authority does not consider that the proposal represents a sustainable form of development. The proposal is therefore contrary to Policy SS1 of the Herefordshire Local Plan – Core Strategy and paragraph 11 of the National Planning Policy Framework.**
- 4. The application is not accompanied by a completed Section 106 Agreement which is considered necessary to mitigate the impacts of the development and to ensure the delivery of affordable housing. In the absence of such an agreement the proposal is contrary to Policy ID1 of the Herefordshire Local Plan – Core Strategy and the Council's Supplementary Planning Document – Planning Obligations.**

Informative:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

