

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>24 June 2020</b>
<b>TITLE OF REPORT:</b>	<b>194052 - SITE FOR THE ERECTION OF ONE DETACHED DWELLING AND TWO BUNGALOWS. AT LEMS FORD, BROAD OAK, HEREFORDSHIRE, HR2 8DZ</b>  <b>For: Messrs Partridge per Mrs Julie Joseph, Trecorras Farm, Llangarron, Ross-On-Wye, Herefordshire HR9 6PG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=194052&amp;search-term=194052">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=194052&amp;search-term=194052</a>
<b>Reason Application submitted to Committee - Redirection</b>	

**Date Received: 21 November 2019**    **Ward: Birch**

**Grid Ref: 348093,221128**

**Expiry Date: 16 January 2020**

Local Member: Councillor Toni Fagan

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

- 1.1 The application site lies either side of the C1239, approximately 180 metres south of its junction with the B4521, which forms the central cross roads of Broad Oak. Currently both portions of the application site comprise agricultural fields with no access within the constraints of the existing site. Immediately to the north of the application site, to the west side of the C1239 lies a development of 4 residential dwellings (ref: 180061, later amended by 191721 and 192709).
- 1.2 The application seeks outline permission, with only access and layout for consideration, for the erection of three dwellings. The proposed layout is for a single detached dwelling on the portion of the site located to the west of the C1239 with a private access proposed. Then, on the portion of the site that lies to the east of C1239, two detached bungalows are proposed utilising a shared access. Scale, appearance and landscaping are reserved for later consideration. The application site is indicated on the below location plan, in relation to the junction of the C1239 and B4521 that form the central cross roads of Broad Oak. The red star indicates the application site with a blue star denoting the site of the four dwellings currently under construction (180061):



## 2. Policies

### 2.1 Herefordshire Local Plan - Core Strategy

SS1	-	Presumption in favour of sustainable development
SS2	-	Delivering new homes
SS3	-	Releasing land for residential development
SS4	-	Movement and transportation
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
RA1	-	Rural housing distribution
RA2	-	Housing in settlements outside Hereford and the market towns
RA3	-	Herefordshire's countryside
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
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 water quality

The Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

### 2.2 Garway Neighbourhood Development Plan (currently under examination)

GAR1	-	New Housing Development in Garway Village and Broad Oak
GAR2	-	Design in Garway Parish
GAR3	-	Flooding and Drainage
GAR4	-	Protecting Local Landscape Character
GAR6	-	Rural Environment and Tranquility
GAR10	-	Highways and Transport

The Plan can be given moderate weight.

### 2.3 National Planning Policy Framework 2019 (NPPF)

- Chapter 2 - Achieving sustainable development
- Chapter 5 - Delivering a sufficient supply of homes
- Chapter 9 - Promoting sustainable transport
- Chapter 14 - Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 - Conserving and enhancing the natural environment

### 3. **Planning History**

- 3.1 **P193265/F** - Application for permission in principle for the erection of two bungalows and one two storey dwelling – Withdrawn - 14-Nov-2019
- 3.2 **P192729/EN** - Proposed installation of a new three phase overhead electricity line - No objection - 19-Sep-2019
- 3.3 **SW2002/1397/F** - Secure touring caravan storage area surrounded by ditch and mound. Includes collection area, electronic perimeter beam system, fencing and gates, anti ram posts and 3 lights. Formation of vehicle passing place on road – Refused - 03-Jul-2002

### 4. **Consultation Summary**

#### Statutory Consultations

#### 4.1 Welsh Water – **No objection**

We note from the application that the proposed development does not intend to connect to the public sewer network. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development.

#### 4.2 Natural England – **No objection**

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Notwithstanding the above, your authority should be aware of a recent Ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of Coöperatie Mobilisation (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17 ).

The Coöperatie Mobilisation case relates to strategic approaches to dealing with nitrogen. It considers the approach to take when new plans/projects may adversely affect the ecological situation where a European site is already in ‘unfavourable’ conservation status, and it considers the acceptability of mitigating measures whose benefits are not certain at the time of that assessment.

Competent authorities undertaking HRA should be mindful of this case and should seek their own legal advice on the implications of these recent ruling for their decisions.

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

European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The SAC is notified at a national level as the River Wye Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

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 Wye 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.

Internal Council Consultations

#### 4.3 Environmental Health Officer – **No objection**

My comments are with regard to potential noise and nuisance issues that might arise from development.

It is noted that 2 of the proposed dwellings are just over 100m away from a slurry lagoon and that there are other dwellings also in reasonably close proximity.

I have not witnessed any smells coming from this lagoon and we have no general history of complaints or problems being reported to our department with regard to slurry storage issues.

In the event of failure to manage the slurry lagoon site appropriately, our department has powers to investigate and take action against alleged Statutory Nuisances under the Environmental Protection Act 1990.

Our department therefore has no objections to this proposal.

#### 4.4 Area Engineer – **No objection**

No objections to the proposed. Please condition as follows

CAB - Visibility Splays 54 x 2.4m

CAD - Access gates 5m

CAE - Vehicular access construction

CAH - Driveway gradient  
CAI - Parking – single/shared private drives  
CAT - Construction Management Plan  
CB2 - Secure covered cycle parking provision

I11 – Mud on highway  
I09 – Private apparatus within the highway  
I45 – Works within the highway  
I05 – No drainage to discharge to highway  
I47 – Drainage other than via highway system  
I35 – Highways Design Guide and Specification

#### 4.5 Ecology – **No objection**

The site location in the River Wye SAC triggers the requirement for a Habitat Regulation Assessment process. The appropriate assessment completed by the LPA is subject to consultation with Natural England prior to any planning consent being granted.

It is noted that the foul water management system for the adjacent, previously approved housing development (180061) has been subject to consultation with the Environment Agency who are satisfied that it is compliant with General Binding Rules and includes the use of individual PTP systems and a reed-bed pond system prior to final outfall in to a local watercourse. This additional development by the same owner/applicant proposes additional connection to this existing agreed system. The LPA ecology team have no reason not to believe that this 'combined' system will not be achievable and with the maximum flow rates still fall within General Binding Rules. The River Wye SAC at this catchment area is not currently failing its conservation status water quality levels and any phosphates finally released are a significant distance from the River Wye SAC and can be managed with the existing 'phosphate allowance' as agreed with Natural England.

Surface water can be managed through an appropriate SuDS scheme.  
A condition is requested to secure the relevant mitigation:

Habitat Regulations (River Wye SAC) – Foul and Surface Water Management

All foul water shall discharge through connection to new private foul water treatment system with final outfall to existing Environment Agency compliant outfall on land under the applicant's control; and all surface water shall discharge to appropriate SuDS; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), and Herefordshire Core Strategy (2015) policies SS6, LD2, SD3 and SD4

It is noted that NO ecological report has been submitted with this application however the ecology report submitted with approved application 180061 did cover this area of land and based on the findings can still be considered relevant and appropriate. This existing ecology report by Janet Lomas should be formally appended to this current application. It is noted that the previously approved Biodiversity Net gain (Enhancement Plan) does not refer to this current application and a scheme specific to this current application should be secured by a relevant condition.

Nature Conservation – Ecology Protection, Mitigation.

The ecological protection, mitigation, compensation and working methods scheme, as recommended in the ecology report by Janet Lomas dated June 2018 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority. No external

lighting should illuminate any boundary feature, highway corridor, adjacent habitat or area around the approved mitigation.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2017 (as amended), Policy SS6 and LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006

As identified in the NPPF, NERC Act, Core Strategy LD2 and draft Environment Bill all developments should clearly identify how they are going to achieve enhancement of the local biodiversity values. To secure this a condition is requested:

Nature Conservation – Biodiversity and Habitat Enhancement

Prior to any construction above damp proof course levels, a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including significant provision for bat roosting, bird nesting, hedgehog homes and movement corridors across the site, amphibian and reptile hibernacula and pollinating insect ‘nesting’ should be supplied to and acknowledged by the local authority and then implemented in full. The approved scheme shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any biodiversity net gain feature.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2017, Core Strategy SS6, LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.

#### 4.6 Land Drainage Consultant – **No objection**

*19th December 2019*

I have reviewed the proposed drainage strategy for the three houses.

The proposals involves discharging treated effluent to a dry ditch. This will not be compliant with the Binding Rules as discharges require a constant flow of water.

On this basis I recommend refusal of the outline planning submission

*16th January 2020*

I note recent correspondence between the applicants designer and the EA regarding compliance with the Binding Rules

Separate to this particular issue, I have some reservations regarding the proposed drainage layout. There will be practical difficulties associated with identifying when a Package Treatment Plant is not functioning, if a further 3 additional dwellings discharge into the pipe that has already been approved to receive flow from 4 properties ( 7 in total)

The law has evolved to include the term ‘knowingly pollute’. So in a hypothetical scenario, if a package treatment plant was found to be defective the owner would only be breaking the law if he or she allowed the PTP to continue to cause pollution.

With the drainage system that has been approved to date, there are two properties draining from the north to one headwall. In the event of pollution of the watercourse, the pond would be inspected. The headwalls are close together, but presumably the grass adjacent to the headwall where pollution was occurring would be discoloured, with a black sewage fungus. If the

inspector had a plan showing the drainage network then it would be possible to approach the two home owners to the north to check which PTP was not working.

Likewise with the drainage system that has been approved to date, there are four properties draining from the east to one headwall. In the event of pollution of the watercourse, the pond would be inspected. Presumably the grass adjacent to the headwall where pollution was occurring would be discoloured, with a black sewage fungus. If the inspector had a plan showing the drainage network then it would be possible to approach the four home owners to the north to check which PTP was not working.

If the application is approved, the likelihood of identifying the source of pollution will reduce as there will be 7 properties connected on the eastern side.

Note that providing sampling chambers on the site is not an easy remedy to this problem, because organic pollution is released in batches. This is because domestic properties release bath water, dish water etc in between batches of foul water from WCs etc. Accordingly identifying pollution by means of lifting an inspection chamber is difficult

The proposals do not offer assurance regarding pollution mitigation

21<sup>st</sup> May 2020

I was aware that the planning system is geared this way

On this basis we do not object

Yes I suggest that we condition to ensure that the alarm system referred to in earlier emails is utilised.

#### 4.7 Senior Landscape Officer - **Objection**

This is a desk based response, however the site setting was visited 16th December 2019. The landscape character type is Sandstone Farmlands. The site is located on the southern edge of the small village of Broad Oak. The village includes a Grade II listed building, an ancient tree and a small triangle of Common land at the village centre. Construction work is underway on the adjacent residential development to the site.

The site is outside of the settlement boundary (Broad Oak Village Policies Map) and is contrary to the ambitions of the local community as set out in the Garway Neighbourhood Development Plan (Submission Version Nov 2019). The Objectives of the NDP include to ensure that "All development will be designed to ensure it has minimal impact on the area's distinctive character and environment" (no. 4). It is considered that in landscape terms the location for new development proposed in this application does not conserve or enhance the rural character of Broad Oak (Objective 2), nor will it integrate well into its setting (Objective 3). This is due to the incremental effect of developments collectively that encroaches on and erodes the rural landscape features of the setting of the settlement. The cumulative impact of 7 new buildings, rather than just 4 permitted, will create a 'creeping' change to stretch out the village further south in a more suburban character which is not locally distinctive. Continuing development further south along this road reduces the rural gap between the village and the farm buildings at Caldicott Farm, an important separation that should be retained so that the cumulative impact of built development does not dominate views and character of the area.

In terms of the indicative layout proposed the driveways would require gaps and widening in the important roadside hedgerow, which is a key landscape feature as well as an important biodiversity corridor. The large mature tree is shown for retention within Plot 2 but it's long term viability could be put at risk as it is not an ideal size and species for a garden tree, as well as potential root damage due to hedgerow works to create a visibility splay.

The application lacks any demonstration that the character of the landscape has positively influenced the site selection for residential development. It does not conserve or enhance the natural environment or protect the area's character. The indicative location of new hedgerows would need to be fully specified, but does not off-set the intrusive increase in built infrastructure. A tree and hedgerow survey in accordance with BS5837:2012 would be required.

The application is contrary to Core Strategy Policy LD1 and LD3.

## 5. Representations

### 5.1 Garway Parish Council – Object

Garway Parish Council considered the proposals set out in planning application 194052 and are not prepared to support the application on the following grounds:

- The proposed development is too close to a slurry lagoon.
- The proposed development falls outside the village settlement boundary.

### 5.2 Third Party Representations – to date a total of 12 representations have been received, comprising of 11 letters of objection from 10 individuals and 1 letter of support.

The contents of the objecting representations are summarised below:

- Overdevelopment of the hamlet that goes beyond proportional growth
- Contrary to the emerging Neighbourhood Plan
- Increase in traffic without sustainable transport options and lack of local services
- Lack of parking
- Loss of light, privacy and general amenity
- Loss of green space and habitats
- No details regarding design
- Concerns the drainage would impact the River Wye SAC

The contents of the supporting representation is summarised below:

- Development of three further dwellings would help support local businesses, services and hamlet as a whole
- Scale of development proportionate to Broad Oak
- Bungalows always sought after and provide for a wide demographic

### 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=194052&search-term=194052](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=194052&search-term=194052)

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 Garway Neighbourhood Area, which submitted a draft Neighbourhood Development Plan (NDP) for independent examination on the 3 April 2020. At this time the policies in the NDP can be afforded moderate weight as set out in paragraph 48 of the National Planning Policy Framework 2019, which itself is a significant material consideration. While there are a range of objections to GAR1 in relation to Map 2, which defines the settlement boundary of Broad Oak, none specifically relate to the current application site.
- 6.3 It is a matter of fact that currently the Council is unable to demonstrate a 5-year housing land supply. This leads to the policies for housing supply being considered out of date. As set out in paragraph 11 of the NPPF, in such circumstances that the policies most important for determining an application are considered to be out of date permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole. As such this tilted balance in favour of development is adopted as directed by paragraph 11(d)(ii) of the NPPF.
- 6.4 The spatial strategy relating to housing distribution within the county is set out in the CS at Policy SS2. Hereford, as the largest settlement and service centre is the recipient of up to 6,500 of the required 16,500 homes, with the market towns identified in the second tier as recipients of approximately 4,700 dwellings. Housing in the rural parts of the County is delivered across the settlements identified at figures 4.14 and 4.15 of the Core Strategy. Here the identified settlements are arranged according to the seven identified housing market areas. Figure 4.14 identifies the settlements which will be the main focus of proportionate housing development. Figure 4.15 classifies the ‘other’ typically smaller settlements where proportionate housing will be appropriate. There are 119 ‘main’ villages (figure 4.14) and 98 ‘other settlements’ (figure 4.15), giving 217 rural settlements where proportionate growth will be acceptable in principle, Broad Oak is a settlement so defined by figure 4.15.
- 6.5 It is of note that the spatial strategy for the location of housing contained within the CS is considered to be sound and consistent with the Framework; which itself seeks to avoid the development of isolated homes in the countryside through paragraph 79. It is therefore considered that Policies RA1 and RA2 of the CS continue to attract significant weight in the decision making process despite being considered out of date.
- 6.6 Notwithstanding the above, the preamble to CS Policy RA2 states that NDPs will be the principal mechanism by which new rural housing will be allocated. However, as stated above, at this stage the NDP policies for Garway can only be afforded moderate weight.
- 6.7 With the foregoing paragraph in mind, it is the relationship between the proposal site and the main built up part of the settlement which is to be assessed. The site is indicated on the plan below by the red star with the black line of the settlement boundary contained at policy GAR1 of the NDP for context (dotted area indicates housing commitments). This policy states that within the defined boundaries of Garway and Broad Oak new housing will be supported where they meet a set of criteria.



- 6.8 The application site is mostly outside of the identified settlement boundary, although some of the west element of the site overlaps the housing commitment to the north (180061) as shown in paragraph 1.2 of this report. The application site lies adjacent to the southernmost extremity of the settlement and forms a continuation of the emerging linear pattern along the C1239, to which 180061 represents the latest addition.
- 6.9 The centre of Broad Oak is, arguably, the cross roads formed between the C1239 and the B4125 which is located 180m north of the application site. A further 80m east of the cross roads lies the only services in Broad Oak, a shop and garage. These distances are considered to be walkable from the application site even in the absence of pedestrian footpaths. As such it is considered that the application site does not form part of the main built-up part of Broad Oak but that it does lie adjacent to it and would form a natural extension of it.
- 6.10 The degree to which the site is considered to be sustainable is derived, in part, from the access to alternative modes of transport beyond that of a private motor vehicle. The lack of a pedestrian footpath into the centre of Broad Oak may discourage some walking, however, it is such a short distance over which driving would be impractical. While there was historically a bus stop located in Broad Oak, outside the garage, there does not appear to currently be a service running and prior to the COVID-19 travel restrictions it was unclear how regular this service was. In either event there would likely be a heavy reliance upon the private motor vehicle to access employment and basic services such as doctors, pharmacies and groceries.
- 6.11 Notwithstanding the above reservations, when having regard to the aforementioned policy provisions relating to the delivery of housing, the application site is adjacent to the main-built up part of the settlement in accordance with CS RA2. The principle of residential development is therefore considered broadly acceptable and the sustainability of the location will feed into the overall balance.

### *Landscape Impact*

- 6.12 The impact of the proposed development and layout upon the landscape character is to be primarily assessed against CS policy LD1, which seeks to ensure development proposals demonstrate how the character of the landscape and townscape has positively influenced the nature and site selection of the proposal. Furthermore LD1 seeks to maintain and extend tree cover where important to amenity. These aims are broadly reflected in NDP policy GAR4. Paragraph 127 of the NPPF reinforces this further by stating that development should be sympathetic to local character including the landscape setting.
- 6.13 The Senior Landscape Officer has objected to the proposal for three dwellings across the site primarily on the grounds that it represents incremental encroachment that erodes the rural landscape features and reduces the important separation between Broad Oak and farm buildings at Caldicott Farm, to the south.
- 6.14 The southern boundary of the dwelling known as Lemsford, which lies immediately to the north of the application site, is laid to hedge. This boundary forms a clear distinguishing feature between the residential extent of Broad Oak and the agricultural fields beyond. This boundary hedge extends north-east to the corner of the field. While the proposal is in outline form it is accepted that boundary treatments could remedy some of this harm, however it would, nevertheless, create an incursion into the field pattern which would not only lie to the south but also around to the east and north east of the application site. As such I concur with the assessment of the Senior Landscape Officer and consider that there is clear tension in relation to this proposal and the requirements of both CS policy LD1 and the emerging NDP policy GAR4.
- 6.15 The location and design of the access to the eastern element of the site is such that it would require the removal of approximately 6.5m of hedgerow to enable access to be gained to the site. This would result in further localised harm to the character of the area.
- 6.16 The extent of the resulting harm of the above noted conflicts is, however, mitigated somewhat by the characteristics of the site. The site does not hold any notable topographical landscape features and has little value beyond that of a visual and physical separation between the settlement and the adjacent farm complex.
- 6.17 The scale, appearance and landscaping of the proposal will be important to ensure any harm is mitigated and will be dealt with at reserved matters stage and the associated balance in relation to the extent of harm and other benefits will be addressed in the planning balance below.

### *Amenity*

- 6.18 CS policy SD1 states that development should safeguard amenity of existing and proposed residents and ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination and therefore scale, height and proportion needs consideration. Furthermore policy GAR2 of the emerging NDP states that proposals should not adversely impact on the residential amenity of existing and future residents. Given appearance and scale are both reserved matters the assessment is whether the principle of residential development through the layout proposed is considered to adversely affect the privacy of the adjacent dwellings: Lemsford to the east of the C1239 and the southernmost dwelling of the approved 180061 to the west of the C1239.
- 6.19 In relation to the effect on Lemsford the two dwellings proposed directly to the south of this property are both to be bungalows. This will inevitably reduce the likelihood of privacy and overshadowing concerns as they will remain single storey. The single detached dwelling to the west is suitably separated from Lemsford and views from the application site would be of the front of the dwelling, an inherently less private area. In officer's opinion a scheme could be

designed to suitably take account of privacy of Lemsford in compliance with CS SD1 and NDP GAR2.

- 6.20 In relation to the southernmost dwelling of the approved 180061 the current application site could essentially form a fifth dwelling in the approved row of 4. In this regard there is no concern that a suitable design could not adequately make provisions for the privacy of future residents of both the current proposal and the approved 180061 in accordance with both CS SD1 and NDP GAR2.

#### *Access and Parking*

- 6.21 Policy MT1 of the CS and NPPF policies require development proposals to give genuine choice as regards to movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.'(NPPF para. 109). Policy GAR10 of the NDP requires new development to include any necessary and appropriate traffic management measures and avoid the use of large areas of hardstanding by adequately landscaping and screening them.
- 6.22 The application proposes two wholly new accesses on the C1239, one to serve the west element of the site and proposed detached dwelling and the other to serve the east element of the site and proposed two bungalows. Both of the proposed accesses lie within the extent of the 30mph for Broad Oak. The plans indicate an achievable visibility splay of 54m in both directions for the access proposed to serve the bungalows with 50m north and 54m south achievable for the access proposed for the single detached dwelling.
- 6.23 Given the levels of accommodation proposed as part of the scheme, a minimum of two car parking spaces is required for the bungalows which the application form indicates would be three bedroom properties. A minimum of three spaces for the detached dwelling which the application form indicates would be a four bedroom dwelling. Noting the area of hardstanding in front of the dwellings and the inclusion of garages for each dwelling I consider this level of parking and turning to be achievable.
- 6.24 As touched on above in paragraph 6.10, the sustainability of the site is in large part derived from the ability to access a range of sustainable transport methods. The Department for Transport 'Manual for Streets', NPPF, CS MT1 and NDP GAR10 recognise the importance of walking and cycling as modes of transport which offer a more sustainable alternative to car travel and can make a positive contribution towards the overall character of a place, improved public health and in helping to tackle climate change. The site is within walking distance of the basic services provided by Broad Oak and the Area Engineer has recommended a condition ensuring secure cycle storage is provided on the application site. While access to employment and a wider range of services will be reliant on the private motor vehicle this is typical of rural settlements across Herefordshire. The NPPF clearly highlights that the opportunities to maximise sustainable transport solutions will vary from urban to rural areas and encourages decision makers to take this into account.
- 6.25 The comments received from the Area Engineer endorse the view that both access and parking/turning for the proposed dwellings are acceptable and raise no objection to the scheme. On this basis the proposal accords with CS MT1 and NDP GAR10.

## *Ecology*

- 6.26 Noting the nature of the site, policies LD2 and LD3 of the Core Strategy are applicable. Policy LD2 states that development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire through the retention and protection of nature conservation sites and habitats and important species, restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological networks and creation of new biodiversity features and wildlife habitats. Policy LD3 states that development proposals should protect, manage and plan for preservation of existing and delivery of new infrastructure.
- 6.27 While no specific Ecology report was undertaken with this application the Ecologist was happy to receive the report submitted with 180061 (produced by Janet Lomas dated January 2018) as it covered the current application site as well. The Council's Ecologist was satisfied with the details contained within the report and that subject to the recommended conditions the proposal would comply with current policy.
- 6.28 The application site is within the Garren Brook subcatchment of the wider River Wye Special Area of Conservation (SAC) and as such the proposal triggers the need for a Habitat Regulation Assessment. The completed Appropriate Assessment concluded that there would be no likely effects upon the integrity of the SAC subject to appropriate mitigation conditions being attached to any approval. This was reviewed by Natural England who confirmed there was no objection to the proposal.

## *Drainage*

- 6.29 CS Policy SD3 states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.30 The application proposes individual package treatment plants (PTP) with discharge to an attenuation pond to the west of the application site on land owned by the applicant. The attenuation pond forms the approved discharge point for 6 dwellings in total, four approved under 180061 and two on a site further north fronting the B4125. The proposal is considered to be able to meet the general binding rules and so an Environment Agency permit was not deemed to be required. If the general binding rules are not met an Environment Agency permit would be required under obligations outside of the planning process.
- 6.31 The drainage consultant had initially raised concerns that inclusion of 3 additional dwellings to the accepted system would mean that identifying any faults in the system would be increasingly difficult and that this may lead to pollution entering the watercourse. However, the applicant has agreed to the imposition of a condition requiring a flashing beacon alarm system be installed to the PTPs to ensure any failure is identified by the owner or a contracted maintenance company.
- 6.32 The NPPF, at paragraph 183, states the following:

*The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes).*

*Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.*

- 6.33 The proposed foul and surface water drainage strategies provide a policy compliant arrangement and the final comments from the Drainage Consultant confirm their satisfaction with this providing the recommended conditions are adopted.

#### *Conclusion and Balance*

- 6.34 The Council's housing land supply position is such that the policies most important for determining the application are considered out of date. These are still considered to accord with the NPPF and should be provided significant weight in this decision. Via paragraph 11(d)(ii) the NPPF directs decision makers to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole.
- 6.35 The site is found to be adjacent to the main built up part of the settlement and while it is outside of the settlement boundary included within the NDP, as this has moderate weight at the present time, there is no direction to refuse but rather the decision maker is required to consider the benefits of the proposal as a whole and weigh this against the harm.
- 6.36 The proposal is considered to have an adverse landscape character impact in that residential development in this location would be an incremental encroachment that erodes the rural landscape features and reduces the important separation between Broad Oak and farm buildings at Caldicott Farm, to the south. The harm attributed to this erosion is, however, somewhat mitigated by the characteristics of the site. The site does not hold any notable topographical landscape features and has little value beyond that of a visual and physical separation between the settlement and the adjacent farm complex. Conflict with CS LD1 and GAR4 of the emerging NDP, which should be attributed moderate weight, is therefore identified.
- 6.37 The Parish of Garway has fared reasonably well in regards to housing provision of the Core Strategy plan period. With a minimum growth target of 25 dwellings for 2011-2031 the Parish had at 1 April 2019 completions and commitments totalling 28 dwellings. Since that time I note P193555/F approved the conversion of a barn to a single residential dwelling at Oaklands Farm, P191330/F approved the erection of a single dwelling at Ivy Cottage and P192922/F approved the conversion of a barn to a single dwelling at Haskells. This takes the total completions and commitments to date to 31 dwellings.
- 6.38 While there may not be an acute shortage of housing in the Parish in the absence of the requisite housing land supply or an NDP that satisfies all of the criteria of paragraph 14 of the NPPF the tilted balance is engaged. The figure of 25 dwellings remains a minimum growth target and not an upper limit. In officer's opinion the proposal represents proportionate housing growth for the settlement of Broad Oak.
- 6.39 The construction of three further dwellings towards the wider undersupply of housing in Herefordshire would derive modest benefits. Furthermore the introduction of three additional dwellings in Broad Oak would help to support local businesses and provide short term economic benefits associated with the construction period. Finally the proposed inclusion of 2 bungalows would provide dwellings that are more widely accessible to all members of the community. The location accords with CS RA2 in that it is adjacent to the main built form of Broad Oak. The adverse landscape effect as identified by the Senior Landscape Officer is not sufficient to significantly or demonstrably outweigh the benefits of the scheme. In the absence of further adverse impacts I therefore recommend that planning permission be granted subject to the below conditions.

## **RECOMMENDATION**

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

- 1. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990**

- 2. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.**

- 3. Approval of the details of the scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.**

**Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 4. The development shall be carried out strictly in accordance with the approved plans (drawing number 7703/200 dated 12-11-19 and Project Number 3566 No. 001 Revision P03 dated August 19), except where otherwise stipulated by conditions attached to this permission.**

**Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with policy SD1, SD3, SD4 and MT1 of the Herefordshire Local Plan – Core Strategy, Policy GAR10 of the Garway Neighbourhood Development Plan and the National Planning Policy Framework.**

- 5. Development shall not begin until details and location of the following have been submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved:**

- A method for ensuring mud is not deposited onto the Public Highway**
- Parking for site operatives**

**The development shall be carried out in accordance with the approved details for the duration of the construction of the development.**

**Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy GAR10 of the Garway Neighbourhood Development Plan and the National Planning Policy Framework.**

6. Prior to the first occupation of the dwellings hereby approved full details of the proposed alert system, which will notify owners or maintenance contractors of faults in the foul water drainage strategy shall be submitted to and approved in writing by the local planning authority.

**Reason:** To compensate for the number of individual systems flowing into the attenuation pond and to prevent pollution in compliance with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy, Policy GAR3 of the Garway Neighbourhood Development Plan and the National Planning Policy Framework.

7. Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to:

- Plot 1 - 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 54 metres south and 50m north along the nearside edge of the adjoining carriageway.
- Plot 2 and 3 - 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 54 in both directions along the nearside edge of the adjoining carriageway.

Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

**Reason:** In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy GAR10 of the Garway Neighbourhood Development Plan and the National Planning Policy Framework.

8. Prior to the first occupation of the dwellings hereby approved an area shall be laid out within the curtilage of each property for the parking and turning of Plot 1: 3 cars, Plot 2 & 3: 2 cars which shall be properly consolidated, surfaced and drained at a gradient not steeper than 1 in 8 in accordance with details to be submitted to and approved in writing by the local planning authority and that area shall not thereafter be used for any other purpose than the parking of vehicles.

**Reason:** In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy GAR10 of the Garway Neighbourhood Development Plan and the National Planning Policy Framework.

9. Prior to the first occupation of the development hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage of each dwelling shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained;

**Reason:** To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform

with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy, Policy GAR10 of the Garway Neighbourhood Development Plan and the National Planning Policy Framework.

10. Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 shall be submitted to and approved in writing by the local planning authority and implemented as approved.

Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy, Policy GAR3 of the Garway Neighbourhood Development Plan and the National Planning Policy Framework

11. Prior to any construction above damp proof course levels, a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including significant provision for bat roosting, bird nesting, hedgehog homes and movement corridors across the site, amphibian and reptile hibernacula and pollinating insect ‘nesting’ should be supplied to and acknowledged by the local authority and then implemented in full. The approved scheme shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any biodiversity net gain feature.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2017, Herefordshire Local Plan - Core Strategy policies SS6 and LD2, National Planning Policy Framework, NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.

12. The construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy GAR10 of the Garway Neighbourhood Development Plan and the National Planning Policy Framework.

13. All foul water shall discharge through connection to new private foul water treatment system with final outfall to existing Environment Agency compliant outfall on land under the applicant’s control; and all surface water shall discharge to appropriate SuDS; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD2, SD3 and SD4 and policy GAR3 of the Garway Neighbourhood Development Plan

14. The ecological protection, mitigation, compensation and working methods scheme, as recommended in the ecology report by Janet Lomas dated January 2018 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, highway corridor, adjacent habitat or area around the approved mitigation.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats &

**Species Regulations 2017 (as amended), Policy SS6 and LD2 of the Herefordshire Local Plan - Core Strategy, National Planning Policy Framework and NERC Act 2006.**

- 15. The landscape scheme required by condition 3 shall include a scaled plan identifying:**
- a) Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.**
  - b) Trees and hedgerow to be removed.**
  - c) All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.**
  - d) All proposed hardstanding and boundary treatment.**

**Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy, Policy GAR4 of the Garway Neighbourhood Development Plan and the National Planning Policy Framework.**

- 16. All planting, seeding or turf laying in the approved landscaping scheme (as required by condition 3) shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner.**

**Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.**

**Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy, Policy GAR4 of the Garway Neighbourhood Development Plan and the National Planning Policy Framework.**

- 17. Any new access gates/doors shall be set back 5 metres from the adjoining carriageway edge and shall be made to open inwards only.**

**Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy GAR10 of the Garway Neighbourhood Development Plan and the National Planning Policy Framework.**

- 18. During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times:**

- Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.**

**Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy**

## Framework.

### INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
3. This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 261800), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

4. This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

5. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway.

No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

6. It is the responsibility of the developer to arrange for a suitable outfall or discharge point. It cannot be assumed that the highway drainage system can be used for such purposes.
7. The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.

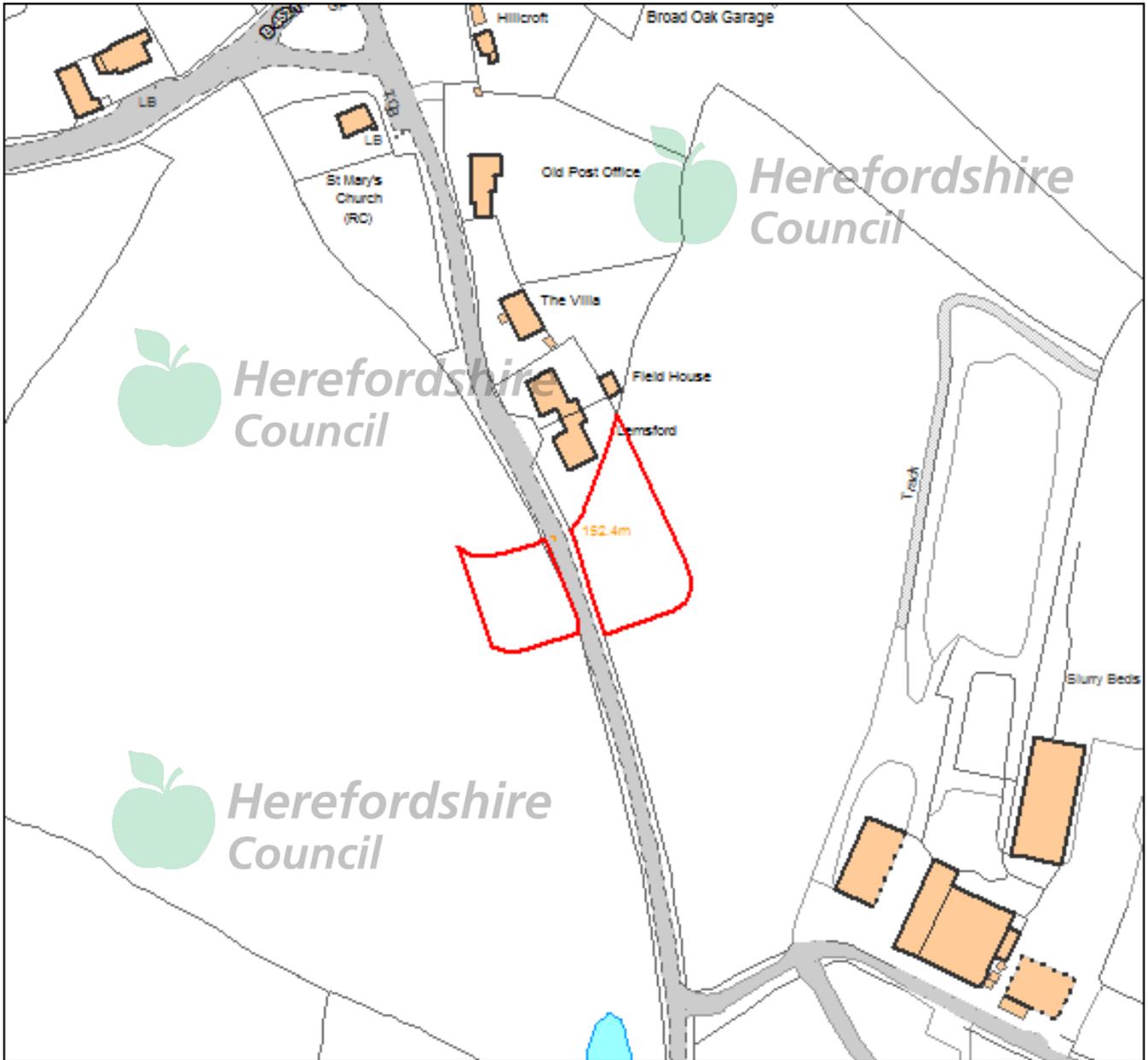
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 194052

**SITE ADDRESS :** LEMS福德, BROAD OAK, HEREFORDSHIRE, HR2 8DZ

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Further information on the subject of this report is available from Mr David Gosset on 01432 261588