

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	5 AUGUST 2020
TITLE OF REPORT:	200755 - PROPOSED ATTENUATION POND AS PART OF THE PROPOSED SURFACE WATER MANAGEMENT STRATEGY FOR EXTENT PLANNING PERMISSION REF 163707 FOR 15 HOUSES ON ADJOINING LAND AT LAND OPPOSITE MILL HOUSE FARM, FOWNHOPE, HEREFORDSHIRE For: S C Hardwick & Sons per James Spreckley MRICS, Brinsop House, Brinsop, Hereford, Herefordshire HR4 7AS
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200755&search-term=200755
Reason Application submitted to Committee – Member application	

Date Received: 3 March 2020

Ward: Backbury

Grid Ref: 357470,234913

Expiry Date: 15 July 2020

Local Member: Councillor John Hardwick (Councillor Sebastian Bowen has fulfilled the local ward member's role for this application.)

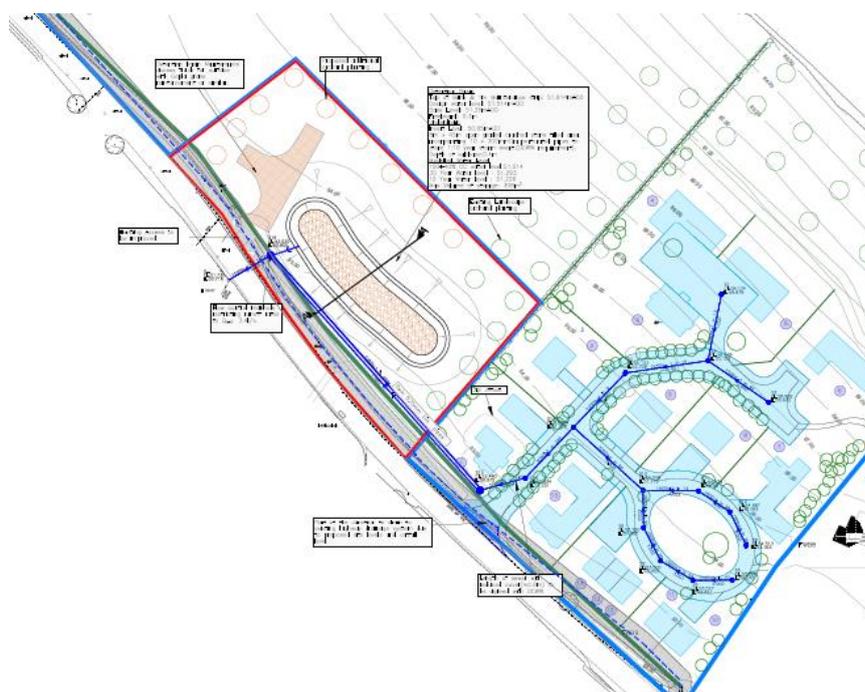
1. Site Description and Proposal

- 1.1 The roughly rectangular 0.46 hectare site lies at the north-western gateway to the village, adjacent to a site (Mill Field) allocated for residential development in the Fownhope Neighbourhood Development Plan and which also has an extant full planning permission for residential development (15 dwellings in total: 10 open market and 5 affordable units) and associated works (reference 163707/F). It comprises approximately the lower third of the wider rectangular, arable field and extends some 100 metres north-westerly from the approved housing site. The site descends from approximately 56mAOD to 53mAOD alongside the B4224. There is an existing agricultural vehicular access into the field, from the B4224, which runs along its south-western boundary. A mature hedgerow demarks the roadside boundary, with heavily wooded slopes of the Woolhope Dome to the northeast, including Cherry Hill Wood (Site of Special Scientific Interest). The Grade II listed Mill House Farm complex lies to the south-west, approximately 54 metres from the site boundary.

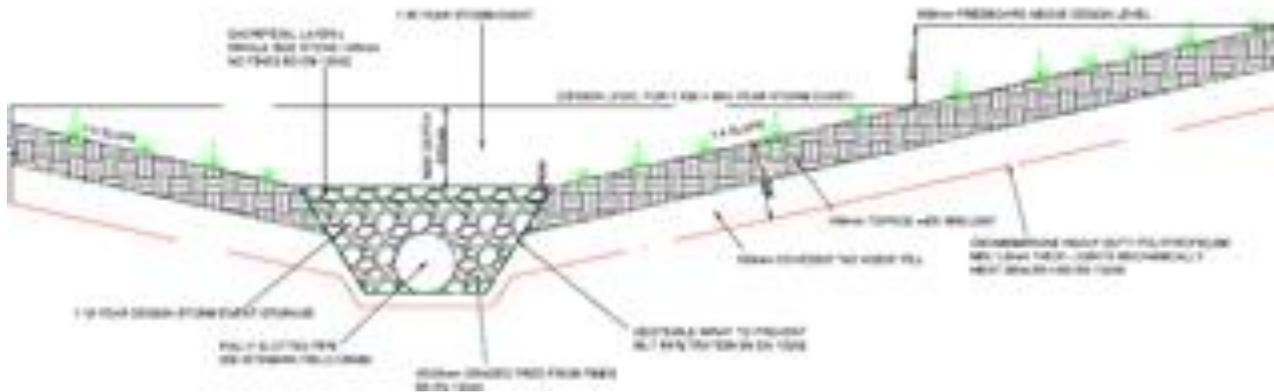


Extract from Location Plan (site outlined in red, extent of landownership in blue)

- 1.2 The site and wider settlement lie within the Wye Valley Area of Outstanding Natural Beauty (WVAONB). The site falls on the boundary of two Landscape Management Zones (LMZs): LMZ01 -Woolhope Dome and LMZ03 - Sollars Hope Ridges and Valleys as defined by the AONB's current Management Plan 2015 - 2020. The northwestern extent of the Fownhope Conservation Area lies some 90 metres distant, on the southeastern boundary of the allocated housing site (with extant permission 163707/F). Public footpath FWB9 runs parallel with roadside hedgerow within the site, before linking to FWB8 at a right angle which then continues in a northeasterly direction before taking a southeasterly alignment between numbers 13 and 14 Scotch Firs where it terminates at the turning head of the cul de sac.
- 1.3 Planning permission is sought for an attenuation pond with associated earthworks and drainage pipes, which would comprise part of the proposed surface water drainage for the extant residential development to the southeast. Initially soakaways on the housing site were proposed, but this solution has been demonstrated not to be feasible following infiltration test results. Due to land levels part of the entrance into the housing site would not drain into the proposed attenuation pond and instead a connection to the highway drain is proposed. The pond is also proposed to accommodate existing land drainage.
- 1.4 Amended plans and a surface water management strategy have been provided. These show a pond sited parallel with the roadside hedgerow, designed as a detention basin with underdrain, with a 1:4 slope either side. The proposed surface water drainage measures incorporate flow balancing facilities, to attenuate and store surface water runoff, comprising a detention basin with a filter drain underdrain (paragraph 2.22 Surface Water Drainage Strategy). This attenuated flow is proposed to connect to an existing drain on the opposite site of the B4224 and would include a flow control manhole restriction run of rates.



Extract of Drainage Plan (with extant housing development layout shown)



Extract of Dry Basin Cross Section

1.5 The application was initially supported by a Surface Water Drainage Strategy, which has been revised and later supplemented by the applicant's drainage consultant's response to the Land Drainage comments and an amended drawing including the approved housing, orchard planting and identifying Welsh Water's operational (but not non-operational) watermain and required 3 metre easement.

2. Policies

2.1 The Development Plan comprises the Herefordshire Local Plan - Core Strategy (CS) and the Fownhope Neighbourhood Development Plan (FNDP) – which was made on 22 July 2016.

2.2 The relevant CS policies are:

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS3 - Ensuring Sufficient Housing Land Delivery
- 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
- 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 - Wastewater Treatment and River Water Quality

2.3 The relevant FNDP policies are:

- FW1 - Sustainable Development
- FW2 - Safeguarding The Wye Valley Area of Outstanding Natural Beauty
- FW3 - Flooding
- FW4 - Sewage Treatment Works
- FW5 - Biodiversity
- FW6 - Countryside Access
- FW7 - Conservation of Fownhope's Historic Character

- FW9 - Housing Numbers
- FW27 - Highways & Infra-Structure

2.4 National Planning Policy Framework – 2019 (NPPF)

Introduction

- Section 2 - Achieving Sustainable Development
- Section 4 - Decision-making
- Section 5 - Delivering a sufficient supply of homes
- Section 6 - Building a strong, competitive economy
- Section 9 - Promoting Sustainable Transport
- Section 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 National Planning Practice Guidance

2.6 The CS 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

2.7 The FNDP policies can be viewed at:

https://www.herefordshire.gov.uk/directory_record/3057/fownhope_neighbourhood_development_plan_made_22_july_2016

3. Planning History

3.1 141828/F: Proposed residential development of 22 open market family homes and 11 affordable homes. Refused 11.2.2015 and dismissed on appeal 30.7.2015.

This application included the housing site allocated in the FNDP that now has an extant planning permission, the current application site and additional land to the northwest field parcel (site area of 4.61 hectares). At appeal the Inspector concluded the scheme represented major development within the Wye Valley AONB that would cause harm to the character and appearance of the designated landscape. In the absence of any material considerations of national significance, the appeal was dismissed.

3.2 163707/F - Proposed residential development of 10 open market family homes and 5 affordable homes. Granted 12.2.2018.

4. Consultation Summary

Statutory Consultations

4.1 Natural England SUMMARY OF NATURAL ENGLAND'S ADVICE

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.

Internationally and nationally designated sites

The application site is within the catchment of the River Wye which is part of the River Wye Special Area of Conservation (SAC) which is a European designated site, and therefore has the potential to affect its interest features. 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.

Cherry Hill Wood 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.

Other advice

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

4.2 Welsh Water

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We have reviewed the information submitted as part of this application with particular focus on drawing number S649/02 which shows the location of the proposed attenuation pond. Our record of public assets indicates the presence of a 180mm public watermain and 100mm non operational watermain. It is unclear whether these have been accurately located and if the required easement of 3 meters either side can be maintained. We therefore request further investigations and clarity on this matter.

Notwithstanding the above, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

Conditions

No development shall commence until the location of each public watermain within the site has been accurately located and further details indicating the proximity of the proposed attenuation pond to the public watermains have been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that an easement of 3 meters either side of the centre line of each watermain can be maintained. thereafter, no land, highway or surface water shall communicate to the public sewer network. Reason: To prevent hydraulic overloading of the public sewerage system, and to avoid damage hereto any public watermain.

Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com. The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

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

4.2.1 Welsh Water (amended)

I explained that the need to show the easement and maintain such a protection zone on both assets is paramount should we ever decide to bring the non-operational pipe back into use. However I did say I would check with colleagues to see if it was taken out of the ground when it was decommissioned.

I do not want to hold up matters and content for the application to progress with conditions if necessary

Internal Council Consultations

4.3 Land Drainage

We have reviewed the surface water drainage strategy and comment as follows :

Drawing S649/02

Please update the drawing to show the full extent of the regraded area around the pond. The cross section shows the extent of land that will need to be re-contoured but this is not shown on the plan view. This should demonstrate how far the inclined ground is from the road carriageway. We note that water will be retained above the carriageway.

If the system is to be adopted by Welsh Water, then a revised discharge rate of 5 l/s will be acceptable.

We note that the 300mm pipes and any respective manholes below the pond are not shown, presumably to avoid cluttering the drawing. From past discussions with Welsh Water, we understood that they were willing to adopt perforated drains below balancing ponds that are designed for cleansing. The standard detail that received in July 2019 showed a single pipe, not multiple pipes. We request that the applicant presents correspondence with Welsh Water demonstrating that the proposed design meets with their requirements.

We note that the microdrainage calculations show a 525mm dia pipes laid with a gradient of 1/500. These will not meet self cleansing criteria. We request clarification that Welsh Water have approved the proposals for two parallel pipes, normally parallel pipes are installed staggered to help prevent siltation.

Please confirm who the balancing pond will be maintained by. We had understood that Welsh Water only adopt features that attenuate flow for the 30 year storm.

Surface Water Drainage Strategy

Please provide the soakaway test to demonstrate that soakaways would not work.

We note that part of the entrance will be too low to drain into the SuDS and that a connection will be needed to the existing highway drain. We note that runoff already impacts the road drainage and accept this proposal.

The base of the pond is shown as 51.25 m AOD on the drawing. The 30 year design calcs show the top water level as 51.77m AOD. For welsh water to adopt the system the top water level would need to be at or below 51.25m AOD.

We note that the 100 year + 40% CC flood level is shown as 53. 048m AOD. This can be level with the adjacent ground (i.e. no freeboard required). However it should be demonstrated that the 100 year + 20% CC flood level can be achieved with 300mm freeboard, as outlined in our SuDS Handbook.

We note that the pond will also fill from land drainage. In this case we hold no objection to this as installing a bund would cause a pointy discharge onto the road.

4.3.1 Land Drainage - Amended

We have reviewed the revised surface water drainage strategy and comment as follows (recent comments are below the original queries):

Drawing S649/02

Please update the drawing to show the full extent of the regraded area around the pond. The cross section shows the extent of land that will need to be re-contoured but this is not shown on the plan view. This should demonstrate how far the inclined ground is from the road carriageway. We note that water will be retained above the carriageway.

BBLP 20-7-20:

Based on the plan there appears to be sufficient space along the edge of the road carriageway.

If the system is to be adopted by Welsh Water, then a revised discharge rate of 5 l/s will be acceptable

BBLP 20-7-20:

We note that if Welsh Water stipulate that the hydrobrake needs to have a minimum orifice of 100mm dia then a higher pass forward flow would be identified and the storage requirements would be less.

We note that the 300mm pipes and any respective manholes below the pond are not shown, presumably to avoid cluttering the drawing. From past discussions with Welsh Water, we understood that they were willing to adopt perforated drains below balancing ponds that are designed for cleansing. The standard detail that received in July 2019 showed a single pipe, not multiple pipes. We request that the applicant presents correspondence with Welsh Water demonstrating that the proposed design meets with their requirements

BBLP 20-7-20:

The applicant has included reference to a similar balancing pond for application 194364 that has been designed to DCWW standards.

We note that the proposed design would require access chambers where the pipework changes direction. Jetting points would also be required on higher ground built within the bund itself, otherwise water will spill through these covers. We appreciate that these details can be provided at a later date.

We note that the microdrainage calculations show a 525mm dia pipes laid with a gradient of 1/500. These will not meet self cleansing criteria. We request clarification that Welsh Water have approved the proposals for two parallel pipes, normally parallel pipes are installed staggered to help prevent siltation

BBLP 20-7-20

The applicant has suggested that the flow rate will achieve self cleansing velocity. In reality this could only occur during a storm. This feature is not shown on the Welsh Water standard detail.

Please confirm who the balancing pond will be maintained by. We had understood that Welsh Water only adopt features that attenuate flow for the 30 year storm.

BBLP 20-7-20:

We understand that the pond itself will be presented to DCWW for adoption. Maintenance of the grass will need to be confirmed by DCWW.

Surface Water Drainage Strategy

Please provide the soakaway test to demonstrate that soakaways would not work.

BBLP 20-7-20:

We note that the soakaway tests demonstrated that the ground is not permeable.

We note that part of the entrance will be too low to drain into the SuDS and that a connection will be needed to the existing highway drain.

BBLP 20-7-20:

A site visit has confirmed that there are no gullies, as shown on the topographical survey. It will be necessary to install additional gullies above the 100 year + 40% climate change pond flood level to intercept the water before it discharges onto the highway.

The base of the pond is shown as 51.25 m AOD on the drawing. The 30 year design calcs show the top water level as 51.77m AOD. For Welsh Water to adopt the system the top water level would need to be at or below 51.25m AOD

BBLP 20-7-20:

The designer has identified that this is how micro drainage simulated levels

We note that the 100 year + 40% CC flood level is shown as 53.048m AOD. This can be level with the adjacent ground (i.e. no freeboard required). However it should be demonstrated that the 100 year + 20% CC flood level can be achieved with 300mm freeboard, as outlined in our SuDS Handbook.

BBLP 20-7-20:

We note that the system has been designed to 100 year + 40% CC with 300mm freeboard which is adequate.

We note that the pond will also fill from land drainage. In this case we hold no objection to this as installing a bund would cause a pointy discharge onto the road.

Summary

It will be necessary to install additional gullies above the 100 year + 40% climate change pond flood level to intercept the water before it discharges onto the highway. This is needed owing to the risk of gullies blocking.

The applicant will need to negotiate with the adjacent landowner to complete remedial work to the land drain before a connection can be facilitated.

A final version of the surface water drainage strategy shall be submitted for approval after Welsh Water have reviewed and approved the balancing pond design.

The Land Drainage Engineer has since confirmed that these outstanding matters can be subject to conditions.

4.4 Principal Natural Environment Officer (Landscape)

Landscape comments in relation to the adjacent housing include (planning ref. P163707/F):

The site falls within the national landscape designation the Wye Valley AONB and as such is afforded a high degree of protection. At a local level it lies within the landscape character area; Principal Settled Farmlands and is prominent within the local landscape forming part of the rising land which extends from the floodplains of the River Wye to the historic hill fort at Cherry Hill Wood. Several PROW's run parallel with the site boundary on three sides linking to a wider network of footpaths taking in wider views of the site set within the open countryside. Both the quality of this landscape and the prominence of this site render it sensitive to change.

The (new housing has the) potential to soften this settlement edge and provide enhancement to the gateway of Fownhope. The proposals also incorporate extensive areas of landscaping including orchard planting to the north and west of the development assimilating the built form into its surroundings. I would also like to seek clarification as to the management and ownership of the orchard space to the north of the development.

This application is for the proposed surface water drainage pond to collect surface water from the adjacent proposed residential development described above. This is required because the ground conditions are unsuitable for infiltration and therefore the use of soakaways adjacent to the houses would not provide a suitable means of draining surface water runoff from development on the majority of the site. The proposed surface water drainage measures incorporate flow balancing facilities, to attenuate and store surface water runoff, comprising a detention basin with a filter drain underdrain (para 2.22 Surface Water Drainage Strategy).

Taking consideration of the above landscape comments, in terms of landscape character and visual impact, this is a suitable location for the balancing pond. The location at the bottom of a slope is suitable and the visual impact from nearby public footpaths will be the introduction of a relatively small, ground level feature.

I am concerned however about the lack of landscape consideration provided with the application:

- No information is provided about its setting in relation to the new houses or the orchard land that will be lost.
- No boundary treatment or new hedgerow is discussed.
- A label on the drawing (S649/02) states that the existing access is to be improved, however no details are given in relation to whether this means a new gate, widening or hedgerow loss to improve visibility.

Ideally a landscape scheme should be provided at this stage in order to demonstrate how the above issues will be addressed to ensure that the work suitably integrates with its surroundings. If necessary a condition should be added to any approval. This is required in accordance with Core Strategy Policy LD1 on Landscape and Townscape and LD3 on Green Infrastructure.

4.4.1 Principal Natural Environment Officer (Landscape) Amended

I have reviewed the recently submitted information and in relation to my previous concerns I offer the following:

- I note the drawing now shows the existing orchard trees on the adjacent land and that these will be continued next to the pond. This is suitable. A condition should be added for the specification and maintenance of these trees to be provided.
- The drawing shows no fence or hedgerow is required along the red line or around the pond – this is welcome as it reduces clutter and retains a more open landscape character.
- I note from the agents email (dated 12 June 2020), that no further works are required to the access. Again this is welcome, particularly retention of the existing hedgerow (which should be protected during construction works).

4.5 Principal Natural Environment Officer (Ecology)

Further information required.

The site is under 150m from the River Wye SAC and a Habitat Regulation Assessment process is triggered by this application. The required assessment completed by the LPA is subject to consultation with Natural England prior to any grant of planning consent.

It is noted that this proposal is for a Sustainable Drainage Scheme to manage surface water from the previously approved adjacent residential development. The proposed scheme will ensure all surface water run-off is discharged at or below existing greenfield run-off rates.

From plans supplied there appears to be no facility to catch pollutant or contaminant run-off from the site (e.g. oils and lubricants, waste deposited in to surface water drains) from being discharged in to the SuDS and thence either directly during flood conditions or indirectly via the detention basin in to the proposed final discharge to ditch on opposite side of the road that then has a hydrological link to the River Wye SAC.

In order for the LPA to complete the required HRA process the applicant must demonstrate how such potential contaminants and pollutants will be retained onsite and not discharged under any circumstances, including flooding in to the River Wye SAC hydrological network. Revised plans and relevant detailed specifications of traps etc. should be supplied to demonstrate this requirement can be met.

Notwithstanding the above additional information required the following comments also apply:

It is noted that no ecology report has been supplied in support of this application. The Ecology report from March 2017 supplied in support of application 163707 for the housing development indicates the site is primarily currently an Arable field and with low ecological potential. For current Habitat Regulations Assessment criteria with the site's proximity and hydrological connections to the River Wye SAC it is appropriate and relevant for the LPA to require a fully detailed Construction Environmental Management Plan – either for approval at this application stage or for this CEMP to be secured through a pre-commencement condition on any consent granted.

If a CEMP is not submitted and approved as part of any consent granted a relevant pre-commencement condition is detailed below.

Habitat Regulations (River Wye SAC) – Nature Conservation Protection -

Before any work, including any site clearance begins, equipment or materials moved on to site, a fully detailed Construction Environmental Management Plan (CEMP), with detailed ecological working methods, a fully detailed Tree and Hedgerow protection plan (based on BS5837:2012 – minimum 2m RPA for hedgerows), and clearly named 'responsible person(s)' shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), Wildlife & Countryside Act (1981), National Planning Policy Framework, NERC Act (2006), NPPF (2019) and Herefordshire Council Core Strategy (2015) policy SS6, LD2 and LD3.

As already noted by Landscape and Tree colleagues no details of any proposed green infrastructure planting – such as a boundary hedgerow and hedgerow trees and any planting of the attenuation basin with suitable aquatic/wetland plants has been supplied. This should be secured either in advance of planning consent being granted or as a pre-commencement condition. Such a scheme, based on locally characteristic, native species (with selection based on consideration of climate changes and pest-pathogens) would help demonstrate the required Biodiversity Net Gain that all developments are required to demonstrate. In line with the lifetime of the development it supports this landscaping and Biodiversity Net Gain enhancement scheme should be maintained and managed for the lifetime of the development it supports.

4.5.1 Principal Natural Environment Officer (Ecology) Amended

As previously advised this application and proposed development being within 150m of the River Wye SAC (and SSSI) and with a direct hydrological connection to this European designated nature conservation site triggers a requirement for Habitat Regulations Assessment process. The appropriate assessment completed by the LPA must be subject to formal consultation and approval by Natural England prior to any grant of planning consent. Natural England must also clearly make a 'no objection' response as regards the SSSI designation that also applies.

The actual construction processes involved and potential associated affects can be mitigated by the inclusion of a condition securing a fully detailed Construction Environmental Management Plan be approved prior to any works commencing on site.

Habitat Regulations (River Wye SAC) – Nature Conservation Protection -

Before any work, including any site clearance begins, equipment or materials moved on to site, a fully detailed Construction Environmental Management Plan (CEMP), with detailed ecological working methods, a fully detailed Tree and Hedgerow protection plan (based on BS5837:2012 – minimum 2m RPA for hedgerows), and clearly named 'responsible person(s)' shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), Wildlife & Countryside Act (1981), National Planning Policy Framework, NERC Act (2006), NPPF (2019) and Herefordshire Council Core Strategy (2015) policy SS6, LD2 and LD3.

The applicant has stated that the proposed attenuation system is compliant with the current standard CIRIA pollution assessment process. From information available to the LPA this 'standard' does not appear to have been tested in relation to potential unmitigated effects on statutory designated Nature Conservation Sites (EU or UK) - in particular where the final outfall has a potential direct link without any further natural mitigation in to such a designated site – as is the case here.

The LPA notes that the supplied drainage report proposes discharge through a pipe under the highway to a drainage ditch on the opposite side of the main road. No information is available to the LPA on any state of this ditch, how it is managed, existing flows or how it is finally discharged.

The LPA, based on available information proposes in the required HRA appropriate assessment, and as a comment on SSSI impacts, that the development will have no adverse effect on the integrity of the River Wye Special Area of Conservation and Site of Special Scientific Interest. This is subject to the plans and designs being implemented as detailed and this is secured by Condition on any consent granted.

This conclusion reached is subject to formal consideration and approval by receipt of a 'no objection' response from Natural England who may access to additional 'internal' guidance on the relevance of the standard CIRIA assessment. No planning consent should be granted until such time as this formal 'no objection' response has been received.

4.6 Principal Natural Environment Officer (Trees)

I fully support the Landscape comments regarding landscaping or lack of it at this stage.

There is a requirement for a landscape plan that show the proposed improvements where access has been proposed to mitigate for loss of a section of hedgerow.

Similarly, the landscape plan should also detail where new planting will be located that will aid softening the impact of the attenuation pond in its setting. I would suggest that new planting consists of species associated with aquatic margins and native.

- 4.6.1 Principal Natural Environment Officer (Trees) Amended
Having read the comments submitted by the Landscape officer I confirm that I don't have any further requirements and agree that a condition will be required that provides management details of the proposed orchard trees surrounding the attenuation pond.

Conditions

CK5 - Maintenance Plan

Before the development is first occupied or brought into use a schedule of landscape maintenance for a period of 3yrs shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with this approved schedule.

Reason: To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

- 4.7 Team Leader Area Engineer
No objection – with conditions

Due to the infrequent use of the access the local highway authority has no objection.

Condition: CAD (5m)

- 4.8 Public Rights of Way Manager
Public footpath FWB9 has not been shown on plans. The footpath falls within the site location but It is not clear how it will be impacted. PROW object until it is shown that the footpath will not be obstructed or otherwise affected by the works

- 4.8.1 Public Rights of Way Manager – Amended
Amended plans show the right of way. If the applicant guarantees that public footpath FWB9 will not be obstructed or otherwise negatively affected by the proposed work PROW will remove the objection.

- 4.8.2 Public Rights of Way Manager – Amended
As per previous comments – provided public footpath FWB9 remains unobstructed and there is no other negative impact on the path, PROW do not object

- 4.9 Principal Minerals and Waste Officer
No objection.

I can confirm that the site is not safeguarded for minerals. However the development does involve earthworks and has the potential for the generation of waste (spoil). If approved the applicant should therefore be advised through an informative on the decision notice that any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised.

5. Representations

5.1 Fownhope Parish Council Support the application.

The Planning Group for Fownhope Parish Council has considered this application and is minded to support it. It was noted that none feel they have the relevant expertise to make specific comment, therefore it is assumed this new drainage system will not overwhelm existing drainage.

Concerns were raised regarding the passage of water and the route it will follow when it leaves the pond. It was brought to the notice of the council that a great deal of water currently comes off the hill and onto the land surrounding the Mill Farm properties and it is assumed that solutions to this will be considered.

Finally, we should appreciate some explanation in due course of the proposed system and final description of materials to be used and plans for orchard replacement, as described in the approved plans.

5.1.1 Fownhope Parish Council (amended)

Fownhope Parish Council discussed this application at a full parish council meeting last night. It was understood that the scheme has been designed to slow the water run off from the bank thereby improving the current situation for residents below. This being the case, the Parish Council raised no objections and were minded to support the application.

5.2 The Ramblers

Unfortunately none of the drawings show where the existing Public Right of Way Fownhope FWB8 is located in relationship to the proposed attenuation pond therefore I have to object to this planning application until such times as a fully detailed drawing is provided showing how the footpath will be protected.

5.2.1 The Ramblers – Amended

Many thanks for the updated Drawing showing the Right of Way and its position relative to the proposed attenuation pond.

It would appear that there is sufficient room for the footpath running along the edge of the attenuation pond but I feel that once construction has been completed the PRoW Manager should be invited to consider if a simple post and rail fence would be needed for safety reasons?

I therefore rescind my original objection.

5.3 Four objections (from three objectors) have been received to the original submission. In summary they raise the following:

- Previously highlighted inability for housing site to accommodate soakaways, but permission was granted anyway
- How can the current proposal be trusted to be an improvement given previous failure to acknowledge poor drainage of the site?
- Poor drainage and maintenance of drains and culverts on the B4224 has resulted in numerous occasions (4 times in 4 years) of water overflowing verges, flowing at speed causing damage to garages and property at Mill Farm complex
- Flooding experienced is more than the 1:19 year storm event referenced on the plans
- General drainage problems in the area – water running from the woods into poorly maintained culverts caused the recent landslide on B4224

- Recent blockage of culvert pipe, which is considered to be of inappropriate design and not fit for purpose
- Water from culvert drainage across private property (Mill Farm Barn) and do not agreed to taking water from the housing development
- Site should be viewed in Winter months, when the full effects of wet weather can be noted, rather than in the state of the present poor crop
- Drainage Strategy refers to discharging of water onto the B4224 using an existing culvert and to the drainage system on the road
 - The culvert is not maintained properly by the highways department, so cannot take extra water
 - Experienced water damage at Mill Farm complex as a result of poorly maintained culvert
 - Who will provide consent for a connection to the culverted water course?
 - There are no surface water drains on this section of the road
 - Surface water either drains down Mill House Farm driveway or over the associated land
 - Using this land for drainage would limit potential for housing, as per the FNDP
- Proposal states there would be no increased flood risk elsewhere, can this be trusted and who would compensate if not?
- Who will accept responsibility for the surface water system and maintenance thereof – Developer, Herefordshire Council or Welsh Water?
- Health and safety concerns around the pond for children and dogs, which is adjacent to a PRoW
- Potential for stagnant water and attraction of insects etc. when low water levels
- None of the residents of 6 properties (2 x Grade II listed buildings) below the site have been informed of the proposal

5.4 Following consultations on amended and additional plans and information, two objections have been received, which in summary make the following additional points:

- Present drainage pipe was installed to help the Highways Authority for sole reason of alleviate flood water from the B4224 (at least 23 years ago) – it drains across our land (Mill Farm land)
 - Lack of maintenance of this drainage pipe means it frequently blocks and floods our properties/field
 - Pipe is understood to be inadequate and needs improvement
 - Currently there is no culvert under the road at this point
- Object to any culvert taking water from the proposed attenuation pond or any additional water being directed to the existing drainage pipe
- Lack of drainage proposed for new access to housing site is unacceptable – drainage strategy suggest it would drain to highway drains – there are no surface water drains on this stretch of the road
- Do not wish to be involved in drainage from Mill Field

5.5 The consultation responses can be viewed in full on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200755&search-term=200755

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) and the Fownhope Neighbourhood Development Plan (FNDP). The National Planning Policy Framework (NPPF) is a significant material consideration.
- 6.3 The development is proposed to provide the surface water drainage strategy for the extant permission of 15 dwellings and associated works. At the time of assessment of the housing proposal the scheme promoted infiltration of surface water, which is the sequentially preferable method in drainage hierarchy terms. The Land Drainage comments at that time confirmed that if further investigation revealed that infiltration was not feasible that a revised surface water drainage strategy would be required. Local objections flagged up the poor permeability and questioned the potential for infiltration. It was considered that a feasible drainage strategy would be achievable, either through infiltration, or another technical solution. On this basis planning permission was granted subject to condition 21, amongst others, which states:

No development shall commence until the Developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been submitted to and approved in writing by the local planning authority in liaison with Dwr Cymru Welsh Water's Network Development Consultant. The work shall be carried out in accordance with the approved scheme.

Reason: To ensure the effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system so as to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy 2011-2031, the National Planning Policy Framework and Policy FW4 of the Fownhope Neighbourhood Plan 2011-31.

- 6.4 Following more extensive testing of the infiltration on the development site, it has been established that an alternative strategy is required, because the infiltration on the site itself is inadequate. The proposed method is as per this current planning application. Planning permission is required for this alternative, rather than just the approval of details reserved by condition 21 of 163707, because it includes land outside of the application site at that time and engineering works to regrade the land and provide drainage infrastructure.
- 6.5 The key considerations are whether the proposal provides suitable surface water drainage in terms of not exceeding greenfield run off rates and not exacerbating flood risk elsewhere, the landscape and ecological impact of the proposal and the highway and PRoW implications.

Drainage/flood risk

- 6.6 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; to avoid an adverse impact on water quantity; to protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation.* It states that this will be achieved through a number of approaches, including:

where flooding is identified as an issue, new development should reduce flood risk through the inclusion of flood storage compensation measures, or provide similar betterment to enhance the local flood risk regime;

development includes appropriate sustainable drainage systems (SuDS) to manage surface water appropriate to the hydrological setting of the site. Development should not result in an increase in runoff and should aim to achieve a reduction in the existing runoff rate and volumes, where possible;

the separation of foul and surface water on new developments is maximised

development proposals do not lead to deterioration of EU Water Framework Directive water body status

proposals do not adversely affect water quality, either directly through unacceptable pollution of surface water or groundwater, or indirectly through overloading of Wastewater Treatment Works.

- 6.7 FNDP policy FW3 states that *Development on allocated sites will need to include detailed proposals setting out provision for storm water, Sustainable Drainage Systems (SUDs) and any proposed flood alleviation, including reliance on permeable surfaces.*
- 6.8 The NPPF steers development to areas sequentially at the lowest risk of flooding and at paragraph 163 requires local planning authorities when determining planning applications to ensure that flood risk is not increased elsewhere. It further confirms that where appropriate, applications should be supported by a site-specific flood-risk assessment. With regards major developments, which the extant permission for 15 dwellings comprises, NPPF paragraph 165 specifies that they should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
- 6.9 The site, and indeed the housing site, are in Flood Zone 1 the area at lowest risk of flooding. Foul and surface water are to be drained separately. The key aspect from a flood risk and engineered drainage solution perspective is whether the proposed detailed drainage scheme would ensure that there would not be increased flood risk elsewhere, as per the objectors' concerns, and if there is the ability for betterment from the existing situation, which already results in surface water flooding to the southwest of the site.
- 6.10 Following the Land Drainage request the application has been supplemented with soakaway test results that demonstrate that infiltration on the housing site is not feasible and an alternative is required. The attenuation pond has been designed to accommodate the surface water from the housing site and land drainage (existing greenfield run off). The effects of climate change have also been factored into the calculations. The proposal would attenuate the surface water discharge from the site to the existing drain on the opposite side of the road, meaning whilst there would be a net increase of run off it would be in a more controlled manner than presently to the land drain that already receives land drainage from the field via the road. The Highways Authority has a right of discharge onto lower land and the adjoining landowners have a duty to convey the water or allow it to spill across their property. Some remedial work is required to the land drain and this would need to be negotiated with the landowners. The Land Drainage comments identify some technical matters with regards the detailed design of the pond, however these can be controlled by condition and would also be subject to Welsh Water's detailed design criteria should they adopt it. Overall the strategy demonstrates, at worst no increased impacts with the potential for improvements due to the attenuation flows.
- 6.11 A modest element of the surface water drainage from the housing site is proposed to communicate with the highway drains, because due to the land levels redirection to the proposed attenuation pond is not feasible. In principle the Council's Land Drainage Consultant has no objection to this, given that runoff already impacts the road drainage, but the amended comments

note that there are in fact no gullies, as shown on the topographical survey. It would therefore be necessary to install additional gullies, above the 100 year + 40% climate change pond flood level, to intercept the water before it discharges onto the highway. The Land Drainage Consultant advises that this can be dealt with by condition. There is also no objection to land drainage entering the proposed attenuation pond, because a bund to divert it away would result in a pointy discharge to the road and this is not desirable.

- 6.12 With regards future maintenance the applicant has advised that the entire drainage scheme has been designed to accord with Welsh Water's strict criteria for adoptable attenuation basins. At this stage Welsh Water cannot advise if it will be adopted as that will be subject to future applications directly with them. Maintenance of the system is an important issue and if it will not be undertaken by Welsh Water a management company would need to undertake this. This can be reasonably dealt with by way of condition. The updated proposed site plan includes Welsh Water's operational asset (watermain) together with the requisite easement to provide a 3 metre protection zone. The non-operational watermain is not shown. The applicant has advised that it does not need to be shown, because it was replaced by the operational watermain. At the time of writing this report Welsh Water cannot confirm if the non-operational watermain was taken out of the ground when it was decommissioned. If it remains it should be included in the protection zone easement in case it should be decided by Welsh Water to bring it back into use. Notwithstanding this, Welsh Water do not object to the application and have made it clear that they do not wish to delay determination of the application. Their assets are protected by the easement and the grant of planning permission would not override this. On this basis an informative note is considered appropriate to bring this matter to the applicant/future developer's attention. In the event that the non-operational watermain remains and would conflict with the siting of the proposed development an amendment to the approved scheme would have to be sought from the Local Planning Authority by way of an appropriate application.
- 6.13 It has been satisfactorily demonstrated that the proposal would provide a suitable surface water drainage scheme for the housing development, without resulting in increased risk of flooding elsewhere. It is considered that the proposal therefore accords with the relevant development plan and NPPF drainage policy requirements.

Landscape

- 6.14 The site lies in the Wye Valley Area of Outstanding Natural Beauty (WVAONB) and would be sited alongside the approved housing scheme and PRoW. CS policies SS6 and LD1 are relevant. Firstly, policy SS6 states that '*Development proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.*' It re-emphasises the importance of an integrated approach to planning developments in the AONB, with a requirement for sufficient information to determine the effect on such a designation, amongst other environmental assets and confirms that the management plans and conservation objectives of the county's nationally important areas (AONBs) will be material to the determination of future development proposals. The WVAONB is a national designation and contributes towards the County's distinctiveness, further the site is adjacent to the edge of the settlement taking into account the FNDP housing allocation and the extant planning permission. Secondly, CS policy LD1 provides more detail in respect of the development plan policy requirements for those that impact on landscape and townscape. It states as follows:

Development proposals should:

- *demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas;*

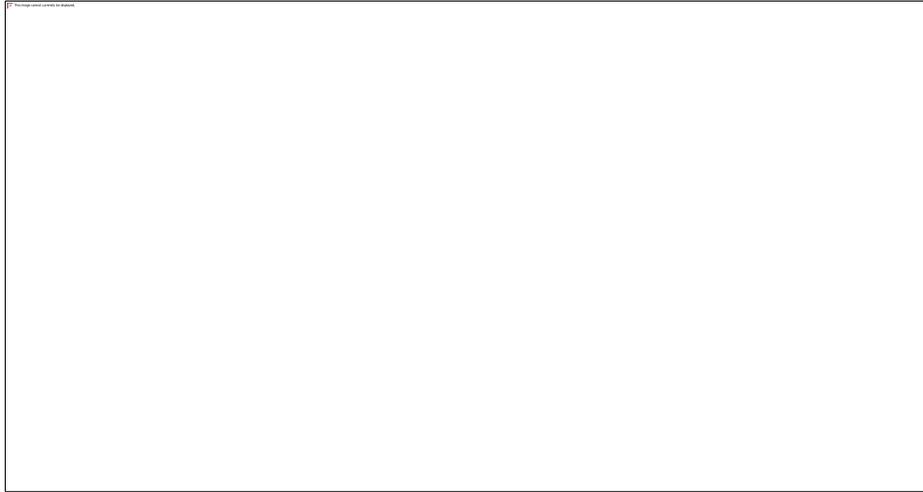
- *conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, nationally and locally designated parks and gardens and conservation areas; through the protection of the area's character and by enabling appropriate uses, design and management;*
- *incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings; and*
- *maintain and extend tree cover where important to amenity, through the retention of important trees, appropriate replacement of trees lost through development and new planting to support green infrastructure.*

6.15 The FNDP comprises the other component of the development plan. Firstly Policy FW1: Sustainable Development in principle supports sustainable development in the WVAONB and notes as a priority that they should have regard to conserving and enhancing its natural beauty and amenity. Policy FW2 specifically relates to safeguarding in the WVAONB, and in full states as follows:

Development should contribute positively to the area's rural character should –

- Give highest priority to conservation and enhancement of the amenity, visual quality, natural beauty, wildlife and cultural heritage of the Wye Valley Area of Outstanding Natural Beauty;*
- Not adversely affect landscape character but where appropriate include measures to conserve, restore or enhance this;*
- Contribute towards the ecological network of the area with measures, in particular, to support the biodiversity value of designated and local sites;*
- Maintain and where appropriate extend tree cover;*
- Retain important landscape and biodiversity features such as ponds, orchards and hedgerows, adding to the natural assets of the parish where opportunities are available.*
- Proposals for schemes which are judged to be 'major development' will, following guidance in NPPF para.116, be resisted except where a proposal is necessary for the public benefit and there are no alternative locations outside the AONB*

6.16 The NPPF provides further policy in respect of development in AONBs. Within chapter 15 - Conserving and enhancing the natural environment, at paragraph 170 it states planning policies and decisions should contribute to and enhance the natural and local environment by a) protecting and enhancing valued landscapes, followed by other considerations. At paragraph 172, it confirms that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, along with two other designations (National Parks and the Broads, which have the highest status of protection in relation to these issues. It continues that '*The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.*'



(photograph looking northwest across the site from PRoW FWB9 – March 2020)

- 6.17 The first assessment, given the contents of FNDP policy FW2f) and paragraph 172 of the NPPF, is whether the proposal is major development. The NPPF confirms at footnote 55 that in this context ‘major development’ is a matter for the decision maker taking into account the nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. In this case an attenuation pond, which would modify the natural land levels is proposed, on a predominantly open parcel of agricultural land that is adjacent to an extant permission for housing development. The Principal Natural Environment Officer (Landscape) has no objection in principle, considering the site to be ‘a suitable location for the balancing pond’. Further clarification on how the proposal would coexist with the approved landscaping for the associated housing scheme, any boundary treatments and access improvement works was requested. Supplementary information was subsequently submitted, providing details of the approved orchard planning for the housing scheme and confirming that no boundary treatments or alterations would be required and satisfied these landscape queries. The Principal Natural Environment Officer (Trees) advises that a condition requiring management details of the orchard planting surrounding the attenuation pond is required. Condition 20 of the extant planning permission (163707/F) for the housing requires a landscape management plan to be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. That plan should include the long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens. This proposal includes additional tree planting, around the perimeter of the pond and it is reasonable that it can be similarly controlled by condition.
- 6.18 In light of this assessment it is considered that the development does not constitute major development in this specific location and context. As a consequence there is no presumption to refuse permission for this development in the WVAONB, however great weight should still be given to conserving and enhancing its landscape and scenic beauty. No harm to the WVAONB has been identified, so the scheme would conserve or protect the landscape quality in accordance with CS policies SS6 and LD1, FNDP policies FW1 and FW2 and paragraph 170a of the NPPF.

Ecology/water quality

- 6.19 The site lies less than 150 metres from the River Wye Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) and the proposed surface water strategy would direct water to the river. The proposed scheme would ensure all surface water run-off would be discharged at or below existing greenfield run-off rates. This application does not include the foul water drainage strategy for the extant housing scheme. A Habitat Regulation Assessment process is required.

- 6.20 CS policy SS6 requires developments to conserve and enhance biodiversity, especially those with environmental designations, such as SACs and SSSI's. CS LD2 confirms at a) that development that is likely to harm sites and species of European Importance (such as a SAC) will not be permitted and at b) that development that would be liable to harm SSSI or nationally protected species will only be permitted if the conservation status of their habitat or important physical features can be protected by conditions or other material considerations are sufficient to outweigh nature conservation considerations. Finally CS policy SD4 stipulates that proposed developments should not undermine the achievement of water quality targets for rivers within the county, in particular through the treatment of wastewater. It continues that in the case of development which might lead to nutrient levels exceeding the limits for the target conservation objectives within a SAC river, planning permission will only be granted where it can be demonstrated that there will be no adverse effect on the integrity of the SAC in view of the site's conservation objectives; and where the nutrient levels set for conservation objectives are already exceeded, new development should not compromise the ability to reduce levels to those which are defined as favourable for the site.
- 6.21 Policy FW5 of the NDP deals with bio-diversity. It states that proposals for development should ensure that they do not harm the substantial network of sites designated for wildlife and nature conservation, including SSSIs and priority habitat such as traditional orchards and woodland. It is also an explicit requirement that no development will be permitted within 100 metres of the River Wye Special Area of Conservation, with development only permissible where any adverse effects on designated sites can be avoided or mitigated. Development will only be permitted when it does not compromise the ability of the Nutrients Management Plan to deliver the necessary nutrient reductions along those stretches of the River Wye SAC which exceed water quality targets or are at risk of doing so. Developments will be expected to maintain and enhance existing ecological corridors and landscape features including hedgerows, water courses and tree-lines.
- 6.22 The NPPF, at paragraph 175a), states that *'if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'* Continuing at 175b) *it confirms that development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest.'*
- 6.23 The proposed development fulfils the SAC 100 metre buffer requirement. The proposed discharge of the surface water would have a direct hydrological connection to the River Wye SAC. Following the submission of further information it has been confirmed that the proposed attenuation system would be compliant with the current standard CIRIA pollution assessment process. It advises that the proposed SuDS scheme would treat the surface water runoff so that the total mitigation equals or exceeds the pollution hazard, thus delivering water quality benefits.
- 6.24 The Habitat Regulations Assessment – Appropriate Assessment submitted to Natural England, by the Local Planning Authority (as the competent authority) concludes that the development would have no adverse effect on the integrity of the River Wye SAC and SSSI, subject to the development being carried out in accordance with the submitted plans and SuDS (as detailed in the updated Surface Water Strategy) and a pre-commencement Construction Environmental Management Plan (CEMP) condition. Section 100ZA(5) of the Town and Country Planning Act 1990 (as amended) provides that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant. The applicant's written agreement has been sought and has been received (agent's email dated 11.6.2020). Natural England concurs with the HRA AA and has no objection. On this basis it can be concluded that the proposal accords with CS and FNDP policy and NPPF requirements in respect of water quality and protecting international and national designated sites.

- 6.25 Cherry Hill Wood, a SSSI, lies just over 90 metres to the northeast of the application site. In light of the distance separation, nature of the proposal with access to it from the southwest, Natural England considers that there would be no adverse impact on the features for which the site has been notified. This means the proposal conforms with CS policy LD2 with regards this SSSI as well.

Highways/Public Right of Way

- 6.26 The site would be accessed off the eastern side of the B4224 to the north of the current periphery of the village. There is an existing agricultural access, which comprises a gap in the hedgerow and is unsurfaced. The submitted drawings are annotated 'existing access to be improved'. The applicant has since advised (email dated 12.6.2020) that on the basis of the Area Engineer (highways) comments no further works are now proposed to the point of access itself. It confirms that the access track would be surfaced using Golpla grass reinforcement or similar, as annotated on the proposed site plan (proposed surface water drainage strategy).



Existing access: eastern side of the B4224, to the north of the village

- 6.27 CS policy MT1 and FW27 of the FNDP require developments to provide safe and suitable access. At para 109 the NPPF advises that '*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*' The Team Leader Area Engineer (highways) has no objection, considering the infrequent use of the access arising from the nature of the development proposed. Only a condition requiring any new access gates to be set back 5 metres from the carriageway is suggested. It is therefore concluded that the proposal is acceptable in highway safety terms.
- 6.28 A PRoW runs between the roadside hedgerow and the southwestern side of the proposed attenuation pond. CS policy MT1 requires developments to protect existing local footways. FNDP policy FW6 states that developments that would diminish the value of the rights of way network and open views will be resisted. At paragraph 98 of the NPPF it requires that both planning policies and decisions to protect and enhance public rights of way.
- 6.29 Following submission of a revised site plan demarking the legal line of the PRoW both the PRoW Manager and The Ramblers have confirmed that they have no objections. Some local objections raise concerns about the potential dangers for PRoW users, when the attenuation pond is both dry and when it contains water. Given the distance between the proposed attenuation pond and

the PRoW, its gradients and that neither the PRoW Manager nor The Ramblers object I am not satisfied that this concern is substantiated. The proposed development would protect and not diminish the value of the right of way, such that it is planning policy compliant.

Conclusion

- 6.30 It is considered that the scheme would provide a suitable surface drainage solution to serve the extant permission for 15 dwellings and associated hard standings in a manner that would not be harmful to the scenic beauty of the WVAONB. Subject to conditions, the proposal would not be harmful to water quality and associated biodiversity in the River Wye SAC. The access is considered to be suitable for the construction phase and beyond, given the limited use anticipated for maintenance etc. The PRoW would be protected and its quality undiminished post development. The need to ensure it would not be obstructed during the engineering phase can be brought to the developer's attention through an informative note.
- 6.31 The submission has demonstrated that surface water infiltration on the housing site itself is not feasible. As a result without this proposed alternative, or indeed another viable alternative, the housing scheme could not be brought forward. Consequently, the site allocated in the FNDP to meet the 18% minimum housing growth target would not be developed. Presently, at the County level the Council is unable to demonstrate a five year housing land supply, with the published figure being a 4.05 year supply. At the local level, the FNDP allocates four sites: (Mill Field (approximately 12 dwellings), Potato Barn/Mill Farm (approximately 10 dwellings), adjacent to Lowerhouse Gardens (approximately 10 dwellings) and adjacent to Medical Centre (approximately 7 dwellings) to provide approximately 39 of the minimum 70 new homes identified in policy FW9, with remainder brought forward from windfall sites both inside and outside of the settlement boundary. Of these allocated sites planning permission has only been granted on two (Potato Barn/Mill Farm – reference: 181112/O – 10 dwellings & Mill Farm – reference 163707/F – 5 dwellings), with only Mill Farm being a full application. There is a current, undetermined application for up to 10 dwellings at land adjacent to the Medical Centre (171637/O) and no applications have been submitted for land adjacent to Lowerhouse Gardens. April 2020 housing figures for Fownhope show there is a minimum residual housing requirement for 26 dwellings. This application to provide the surface water drainage strategy for housing granted on a FNDP allocated site would enable the planned housing growth to be delivered, positively contributing to both the supply and type of housing. The granted housing scheme includes five affordable units and is the only allocated housing site to achieve this, given the threshold of more than 10 units to qualify for affordable housing provision. The housing scheme would provide positive economic and social benefits, during both the construction phase and following occupation. The intrinsically linked nature of this application to provide the surface water drainage strategy for that granted housing scheme is therefore a significant material consideration.
- 6.32 The proposal is considered to accord with the Development Plan and there are no material considerations that indicate an alternative decision being made. On this basis it is recommended that permission is granted in accordance with the statutory duty and CS policy SS1 and paragraph 11c of the NPPF.

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. C01 - Time limit for commencement (full permission)**
- 2. C06 - Development in accordance with the approved plans**

The development shall be carried out strictly in accordance with the approved plans (drawing nos.1536.12, Dry Basin Cross Section, Dry Basin Site Plan, S649/02 Rev C (Proposed Surface Water Drainage Strategy)), 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 Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, policies FW1, FW2 and FW16 of the Fownhope Neighbourhood Development Plan and the National Planning Policy Framework.

Pre-commencement conditions

3. Before any work, including any site clearance begins, equipment or materials moved on to site, a fully detailed Construction Environmental Management Plan (CEMP), with detailed ecological working methods, a fully detailed Tree and Hedgerow protection plan (based on BS5837:2012 – minimum 2 metre Root Protection Area for hedgerows), and clearly named ‘responsible person(s)’ shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), Wildlife & Countryside Act (1981), the National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy (2015) policies SS6, LD2 and LD3 and Fownhope Neighbourhood Development Plan policies FW2 and FW5.

4. No development shall commence until a final version of the surface water drainage strategy, including details of additional gullies (above the 100 year + 40% climate change pond flood level) to intercept the water before it discharges onto the highway and confirmation of either Welsh Water’s adoption agreement or details of the future management arrangements for the approved surface water drainage scheme has been submitted to and approved in writing by the local planning authority, in liaison with Dwr Cymru Welsh Water's Network Development Consultant. The work shall be carried out in accordance with the approved scheme and shall be completed and ready for use prior to the first occupation of any of the approved dwellings (planning permission reference 163707/F).

Reason: In order to ensure that satisfactory drainage arrangements are provided for the proposed development, without an adverse impact to the environment, so as to comply with Policies SS6, LD2, SD3 and SD4 of the Herefordshire Local Plan – Core Strategy, policy FW3 of the Fownhope Neighbourhood Development Plan and the National Planning Policy Framework.

Pre-occupancy or other stage conditions

5. CK5 - Maintenance Plan

Before the development is first occupied or brought into use a schedule of landscape maintenance for a period of 3 years shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with this approved schedule.

Reason: To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy, policies FW2 and FW16 of the Fownhope Neighbourhood Development Plan and the National Planning Policy Framework.

Conditions relating to post occupancy monitoring and management

6. CAD - Access gates

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 conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, policy FW27 of the Fownhope Neighbourhood Development Plan and the National Planning Policy Framework.

INFORMATIVES:

1. IP2 - Application Approved Following Revisions

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. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2. I06 - Public rights of way affected

A public right of way crosses the site of this permission. The permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under Section 257 of the Town and Country Planning Act 1990 provided that the Order is made before the development is carried out. If the right of way is obstructed before the Order is made, the Order cannot proceed until the obstruction is removed.

3. I11 - Mud on highway

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.

4. I12 - Adjoining property rights

This permission does not imply any rights of entry to any adjoining property.

5. The applicant/developer's attention is drawn to the siting of Dwr Cymru Welsh Water's assets (public watermains – operational and non-operational) within the site (consultation response dated 6.7.2020 – plan included). These should be accurately located and a 3 metre easement either side of the centre line of each watermain shall be maintained. No land, highway or surface water shall communicate to the public sewer network.

6. Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised.

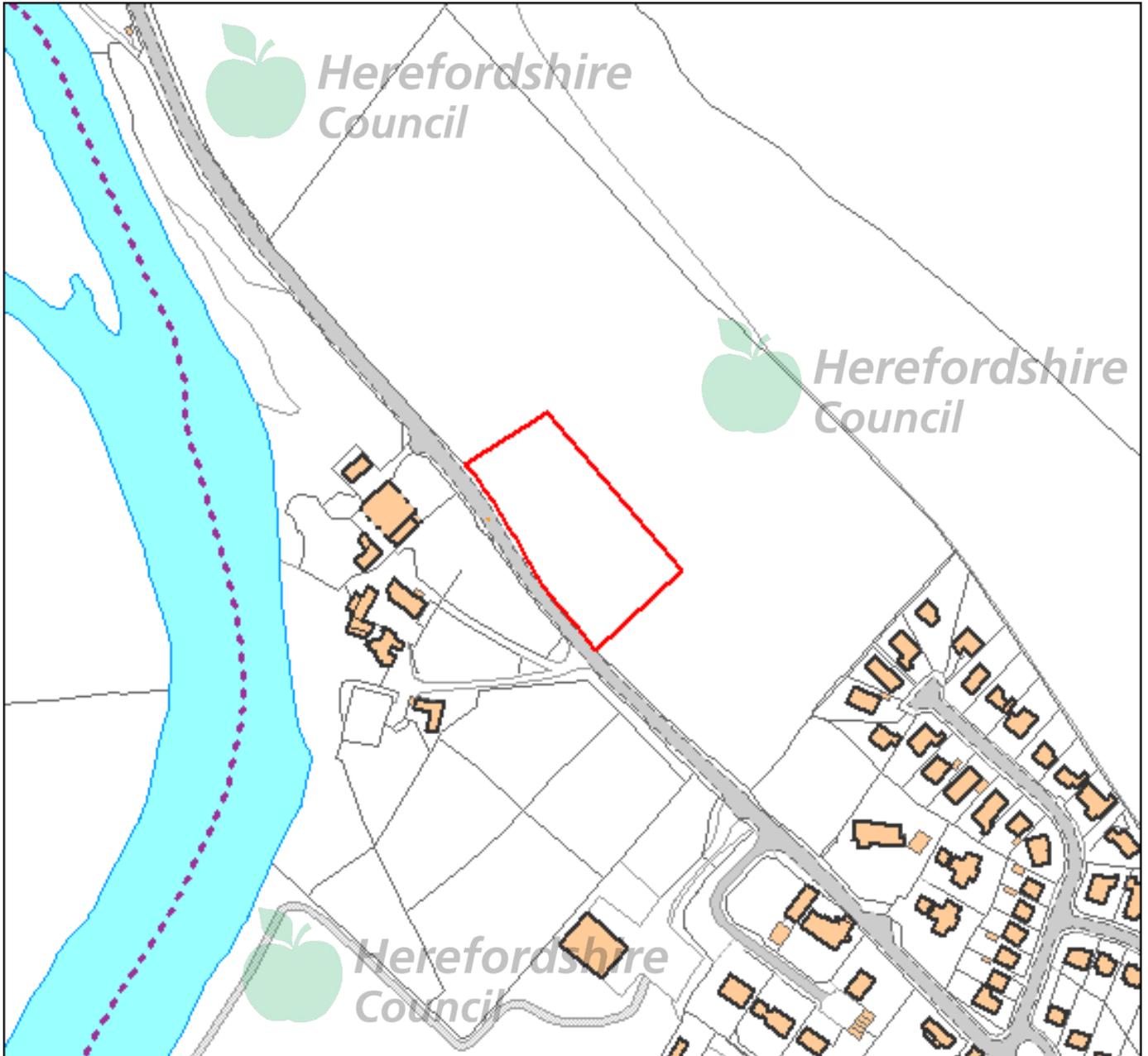
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 200755

SITE ADDRESS : LAND OPPOSITE MILL HOUSE FARM, FOWNHOPE, HEREFORDSHIRE

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