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| MEETING: | PLANNING AND REGULATORY COMMITTEE |
| DATE: | 13 OCTOBER 2020 |
| TITLE OF REPORT: | 200156 - OUTLINE PLANNING APPLICATION FOR A RESIDENTIAL DEVELOPMENT WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS FOR UP TO 37 DWELLINGS AT LAND OFF MILL LANE, COLWALL, WORCESTERSHIRE For: Mr Cockayne per Mr Andrew Cockayne, Westhill House, Hagley Road, Stormbridge, West Midlands, DY8 1RD |
| WEBSITE LINK: | https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200156&search=200156 |
| Reason Application submitted to Committee – Re-direction | |

Date Received: 20 January 2020

Ward: Hope End

Grid Ref: 374946,242178

Expiry Date: 22 April 2020

Local Members: Cllr AW Johnson

1. Site Description and Proposal

- 1.1 The site is a broadly square parcel of agricultural land approximately 2.7 hectares in extent, located to the West of Colwall as shown below. An ordinary watercourse passes by the northern corner of the site. The topography of the site slopes from the south to the north, falling from a level of approximately 118.9mAOD in the south to approximately 112.4mAOD in the northern corner.



- 1.2 The site, as is the whole of Colwall and surrounding area, falls within the Malvern Hills Area of Outstanding Natural Beauty. The landscape character type is Principal timbered farmlands. The site is an almost square field located on the south west edge of Colwall. The south west boundary is a mixed native hedgerow to the edge of Mill Lane, with an existing field gate and two oak trees that are distinctive landscape features. Access is proposed from Mill Lane. The north east boundary is a well vegetated stream line, beyond which is a small parcel of residential open space and agricultural land. The north west boundary is formed by a newly planted hedgerow that splits the larger field in two, beyond which is open countryside typical of the landscape character type. The south east boundary is also a newly planted hedgerow adjacent to the new Primary School and village hall beyond that.
- 1.3 The proposal is an outline application for the erection of 37 dwellings with all matters reserved except access, which would be from Mill Lane. To address consultation comments and technical matters identified by Officers, amended plans and updated supporting details have been received relating to highways, landscape, drainage and affordable housing. These documents have been considered and assessed within the Report, below.
- 1.4 It is for emphasis and clarity reminded to Members the application is an outline application with all matters reserved except access, the definitions of the components of reserved matters are as follows –

Access: *Access means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made;*

Matters for future consideration would be :

Layout: *Means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development;*

Scale: *Except in the term ‘identified scale’, means the height, width and length of each building proposed within the development in relation to its surroundings;*

Appearance: *Means the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;*

Landscaping: *In relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes:*

- (a) screening by fences, walls or other means;*
- (b) the planting of trees, hedges, shrubs or grass;*
- (c) the formation of banks, terraces or other earthworks;*
- (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and*
- (e) the provision of other amenity features.*

2. Policies

2.1 Herefordshire Local Plan - Core Strategy

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|-----|---|--|
| 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 |
| RA2 | - | Housing Outside Hereford and the Market Towns |
| H1 | - | Affordable Housing – Thresholds and Targets |
| H3 | - | Ensuring an Appropriate Range and Mix of Housing |
| OS1 | - | Requirement for Open Space, Sport and Recreation |
| OS2 | - | Meeting Open Space, Sport and Recreation Needs |
| MT1 | - | Traffic Management, Highway Safety and Promoting Active Travel |
| LD1 | - | Landscape and Townscape |
| LD2 | - | Biodiversity and Geodiversity |
| LD3 | - | Green Infrastructure |
| LD4 | - | Historic Environment and Heritage Assets |
| SD1 | - | Sustainable Design and Energy Efficiency |
| SD3 | - | Sustainable Water Management and Water Resources |
| SD4 | - | Waste Water Treatment and River Water Quality |

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

https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

Neighbourhood Development Plan

- 2.2 The Colwall Neighbourhood Development Plan is at Examination stage. The NDP was sent for examination on 17 April 2020 and the Report is awaited.

Relevant emerging policies are –
Policy CSB1 Colwall Settlement Boundary
Policy CD1 Protecting Exceptional Key Views
Policy CD4 Site 2 Grovesend Farm
Policy CD5 General Design Principles for Development in the Wider Countryside
Policy CH1 Range and Mix of Housing

The NDP and its relevant documents such as Examiners' Report and progress timeline can be viewed using the following link:-

<https://www.herefordshire.gov.uk/directory-record/3046/colwall-neighbourhood-development-plan>

National Planning Policy Framework – NPPF

- 2.3 The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The National Planning Policy Framework has been considered in the assessment of this application. The following sections are considered particularly relevant and are explored in more details in the officers appraisal:

- Chapter 2. Achieving sustainable development
- Chapter 5. Delivering a sufficient supply of homes

- Chapter 6. Building a strong, competitive economy
- Chapter 8. Promoting healthy and safe communities
- Chapter 9. Promoting sustainable transport
- Chapter 11. Making effective use of land
- Chapter 12. Achieving well-designed places
- Chapter 14. Meeting the challenge of climate change, flooding and coastal change
- Chapter 15. Conserving and enhancing the natural environment
- Chapter 16. Conserving and enhancing the historic environment

Other Relevant Documents

2.4 Regard has also been had to the following documents –

- Malvern Hills AONB Management Plan, which has statutory weight and forms part of the Local Plan
- Herefordshire Council's Landscape Character Assessment

3. Planning History

- 3.1 **161407** – Proposed 1 form entry primary school with nursery and parking provision – Approved w/conditions
- 3.2 **162507** – Proposed non-material amendment to application 161407 (Proposed 1 form entry primary school with nursery and parking provision) – enlargement of field gate, field gate to be re-instated and 2no. post and wire fencing – Approved

4. Consultation Summary

Statutory Consultations

- 4.1 **Severn Trent Water** comments As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

External Consultation Responses

- 4.2 **Herefordshire Clinical Care Commissioning Group** comments The existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate an additional 89 residents and subsequently increase demand upon existing constrained services. The development would have an impact on primary healthcare provision in the area and its implications, if unmitigated, would be unsustainable. The proposed development must therefore, in order to be considered under the 'presumption in favour of sustainable development' advocated in the National Planning Policy Framework, provide appropriate levels of mitigation.

A developer contribution will be required to mitigate the impact of this proposal. Herefordshire CCG calculates the level of contribution required in this instance to be £14,000. Payment should be made available before the development commences. Herefordshire CCG therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation.

- 4.3 **Wye Valley NHS Trust** comments the Trust is currently operating at full capacity in the provision of acute and planned healthcare. It is further demonstrated that although the Trust has plans to cater for the known population growth, it cannot plan for unanticipated additional growth in the short to medium term. The contribution is being sought not to support a government body but rather to enable that body to provide services needed by the occupants of the new

development, and the funding for which cannot be sourced from elsewhere. The development directly affects the ability to provide the health service required to those who live in the development and the community at large. Without contributions to maintain the delivery of health care services at the required quality, constitutional and regulatory standards and to secure adequate health care for the locality, the proposed development will put too much strain on the said services, putting people at significant risk. Such an outcome is not sustainable.

The contribution in the amount £23,332.57 sought will go towards the gap in the funding created by each potential patient from this development. The detailed explanation and calculation have been provided within a separate document.

Without the requested contribution, the access to adequate health services is rendered more vulnerable thereby undermining the sustainability credentials of the proposed development due to conflict with NPPF and Local Development Plan policies. the Trust's request for a contribution is not only necessary to make the development acceptable in planning terms it is directly related to the development; and fairly and reasonably related in scale and kind to the development. The contribution will ensure that Health services are maintained for current and future generations and that way make the development sustainable.

Internal Council Consultations

4.4 The **Council's Transportation Manager** commented on 10 March 2020 *Having reviewed the information provided and undertaken a site visit the local highway authority (LHA) has no 'in principle' objection to the proposed development, however, the following information/amendments should be made before the LHA could fully support the application:*

- A plan demonstrating the swept path of a large refuse vehicle turning into and out of the access to/from Mill Lane should be provided.
- Mill Lane between the village hall and the proposed access should be made a consistent width of 4.1m with a kerbed 2m footway on the north-eastern side. The carriageway does not need to be kerbed on the south-western side.
- A section of the PROW to the rear of the site has been upgraded from Walwyn Road by the school and a further section is due to be upgraded as a result of the adjacent development. In order to enhance connectivity to the site it would be necessary to upgrade the remaining section to the proposed development so that the PROW is 3m in width and tarmacked.
- It would be beneficial if a link from the proposed development into the school could be explored with the school.
- A Travel Plan should be provided

4.5 Following receipt of amended plans and further details commented on 24 June 2020 *The vehicle tracking and amended access details are now considered to be acceptable, however, the following points still haven't been addressed:*

- The access plan shows a 2m footway along Mill Lane, however, the plan does not extend to the existing footway by the village hall as requested, the revised plan just mentions that the extent would be agreed at the S278 stage. For clarity the full extent should be demonstrated on a plan.
- The plans mention a hard surfaced connection to the existing PROW to the north of the site, however, they do not mention the upgrade of the PROW as requested in our first set of comments (please see section in italics below). This should be demonstrated on the plan.

A section of the PROW to the rear of the site has been upgraded from Walwyn Road by the school and a further section is due to be upgraded as a result of the adjacent development.

In order to enhance connectivity to the site it would be necessary to upgrade the remaining section to the proposed development so that the PROW is 3m in width and tarmacked.

The PROW upgrade is essential to provide good pedestrian and cycle connectivity to and from the site and the rest of the village.

- A Travel Plan should be submitted. A Travel Plan will form one of the conditions should planning consent be granted, however, it would be beneficial for an Outline Travel Plan to be agreed at this stage

4.6 Further to yet further amended and updated plans, the **Transportation Manager** was able to confirm on 28 July 2020 the development it *is acceptable now* in highway terms subject to requested conditions (CAB (2.4m x 59m), CAE, CAF (Mill Lane), CAP (PROW Upgrade and highway/footway improvements along Mill Lane), CAT and CB3) being attached on any grant of permission.

4.7 The **Council's Principal Natural Environment Officer (Landscape)** in response to amended plans and rebuttal of original comments by the applicant –

I have reviewed the latest layout (Kendrick Homes, 371-01-01 Rev C) and entrance layout (Kendrick Homes, 371-01-700, P4), together with the landscape response text from the Richards Partnership (April 2020).

I maintain my landscape objection. My previous comments stand (response dated 13/02/2020). In addition I offer the following:

- The new development of Colwall Gardens and Brookside cul-de-sacs are much smaller than the proposed site and offer a mix of building design types. They are also essentially accessed from the main Walwyn Road.
- I maintain that the approach to the village along Mill Lane would be significantly altered by the introduction of new houses and particularly the infrastructure of the new entrance as shown in drawing 371-01-700, P4.
- The three new dwellings opposite do not provide a new footpath or a turning radii for a refuse vehicle. Their design is completely different to the large number of houses with brick walls and slate / clay roofs proposed on this site (subject to further discussion).
- In summary the landscape harm will come from loss of open space farmland that will harm the setting of the settlement, a new development that does not follow the settlement pattern and altering the approach to the village along Mill Lane. These negative impacts do not conserve the AONB and it will not bring any enhancements to the landscape of the AONB.
- In accordance with the NPPF, para 172, "Great weight should be given to conserving and enhancing landscape and scenic beauty in ... Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues." The application proposals do not accord with this policy.
- The application proposals are contrary to Core Strategy Policy LD1. They do not conserve and enhance the natural, historic and scenic beauty of important landscape features, including Areas of Outstanding Natural Beauty. The proposal for up to 35 houses outside of the settlement pattern does not fit with the area's character or represent an appropriate use or design.
- It is accepted that the local community have mixed views in respect of residential development at this site and that the Colwall NDP is not yet adopted.

4.8 Original comments from the **Council's Principal Natural Environment Officer (Landscape)** were an objection, commenting *The development proposal is an outline application for residential building of up 37 dwellings*. A Landscape and Visual Appraisal (LVA, doc. No. 19-40-CR01) has been provided with the application, which is welcome and follows recommended

guidelines. The Proposed Site Layout and perspective view drawings are also very useful. Below I offer a summary of the landscape character and visual effects.

Landscape character

In terms of local landscape character areas (Figure 5 of the LVA) the site is open rural farmland. It is adjacent to 'Link junctions mixed features', which are characterised by lots of different building styles and ages. In particular existing development on Mill Lane is generally low density, low level sustainable buildings either individual residential buildings or community land use. This creates a suitable transition zone between the built up settlement and the open countryside. In particular the school was carefully designed to provide an enhanced interface between the rural landscape and the suburban village.

The development of a new mini-suburb of up to 37 houses is not considered to be in keeping with the local scale and pattern of development. Looking at the local character areas identified in the submitted LVA (fig 5) the proposed site is entirely separate from Colwall Stone residential area and the Brookside Cul de Sacs, both of which follow the linear pattern of development created along Walwyn Road.

The proposed development will also create a new entrance within the existing boundary hedgerow. There will be a widening of the lane at the new entrance together with infrastructure impacts of new footpaths that will further encroach and erode the rural feature of the edge of the village. This incremental and cumulative urbanisation will alter the experience as you arrive and leave the village. It is noted that the Site Access Arrangement (dwg no 37-01-700) shows a limited amount of hedgerow removal and retention of the feature trees. However it does not show a paved footway link that would likely be required to the school, construction of which appears as though it would be against the trunk of the highest quality oak tree.

Visual impact

The proposed site is located on an important visual corridor and gateway into the village. Views are currently of rural features, hedgerows, trees and glimpses of the field. Views 4, 5 and 6 within the LVA show the enclosed, rural nature of Mill Lane, the dense hedgerow and the distant background of the Malvern Hills forming the skyline. There are barely any glimpses of built development in this approach to the village, until you get very close to the new school. I suggest that the effect of development on the site has been downplayed in the LVA and that the introduction of residential development on the site would intrude into these views, introducing a suburban appearance of upper floors and roofs interrupting the existing rural setting.

There would be significant alteration in views for users of the nearest public footpaths (CW29C and CW30B) where the proposals would cause a substantial permanent loss and alteration to the view as it changes from an agricultural field to being blocked by residential development. It would significantly extend the urbanised village edge into the whole of the view.

In the other medium distance views there will be a permanent alteration to a proportion of the view, which may be seen as an extension of the built form – but will be of a completely different type in terms of many residential units rather than low density community use buildings.

In the view from Pinnacle Hill the proposed development will not be in keeping with the scale, pattern and existing village context as it will be visually separated from the other existing residential areas.

Conclusion

The principle of residential development on this site is contrary to Core Strategy Policy LD1 because it does not conserve and enhance the natural and scenic beauty of the Malvern Hills AONB. It does not protect or enhance the setting of the settlement as a residential development of this scale is not in-keeping with the important transition zone between the rural landscapes to

the west and the village to the east. The site selection does not demonstrate that the context and pattern of the settlement has been considered as it is not linked to any existing residential development.

The site is outside of the settlement boundary (Map 5 Policies Map) and is contrary to the ambitions of the local community as set out in the Colwall Draft Neighbourhood Development Plan 2011-2031 (dated Jan 2018). The aims of the NDP include to preserve and enhance the landscape setting and to minimise the visual impact of new development. Map 3 of the NDP defines the site (reference no. 9) as having a low capacity for development on the grounds that it would have an unacceptable impact on this highly sensitive landscape. See below for the relevant extracts of the landscape and visual documents that were produced to support the NDP.

Comments on illustrative site layout

If the site is deemed suitable for development in other considerations, then I offer the following comments in relation to the illustrative design and layout provided:

- The amount of green space and the landscape led approach is welcome.
- Plot 17 and 18 interrupt the green corridor along the northern boundary, particularly the links to the pond within the school grounds and the residential balancing ponds to the north east. Plot 18 is particularly close to the retained trees along the stream corridor and public footpath route.
- The plots along the school boundary appear particularly squashed in with narrow gardens and side entrances that will be overgrown with hedgerow.
- As previously mentioned construction of the new footpath link along Mill Lane to the school is particularly close to the feature oak tree and could put its survival at risk.

Relevant extracts from the published Colwall NDP supporting information

1) Colwall Neighbourhood Plan Settlement Boundary Landscape Sensitivity and Capacity Assessment (Jan 2018)

The purpose of the appraisal was to identify areas outside the current settlement boundary where future residential development could be sited without giving rise to unacceptable levels of adverse effects on landscape character and visual amenity. The findings would be used to inform and guide the preparation of Colwall's NDP, in particular decisions about where to draw the line of the future settlement boundary. The process began in early 2013, but was updated in 2018 ahead of the Regulation 14 consultation period.

The site is covered by Area 9. Overall Sensitivity is High. Overall capacity shown on the updated Landscape Capacity Plan (Figure 1 within the above document) is Low. The document describes the value as:

Landscape Value: High to Moderate.

Function / Context / Comment: An important village gateway on Mill Lane marking clear point where W side of village ends, site forms integral part of good quality rural, open countryside beyond. Strong tree-lined hedged boundary at W edge settlement (new primary school). Well-used local public footpaths and visual amenity. [Note that a public footpath is shown S of the village hall in old maps but presumably since diverted to E?] Development of this area would give rise to significant adverse effects on the character of the village and landscape, and on visual amenity especially in terms of views from the Malvern Hills. Capacity level decreased to Low (compared to the 2013 study) to link Low capacity Areas 11 and 8 and reinforce belt along W side of village.

2) *Colwall NDP Visual Study Important Views: Schedules January 2019*
Carly Tinkler BA CMLI FRSA MIALE 18

The study was to form part of the evidence-base required for Colwall's emerging Neighbourhood Development Plan (NDP), and the findings would guide and inform a new NDP 'views' policy. Aim 4 of the 'Vision for Colwall' set out in the January 2018 draft version of the NDP is '*to minimise the visual impact of new development when seen from the Malvern Hills, and to protect local views including from the village up towards the Malvern Hills and Oyster Hill*' – the intention of the new policy would therefore be to protect the most important views from unacceptable changes. The site is particularly covered by Approach 4, Gateway 4 and Viewpoint 12. The details for VP12 are as follows:

VP12: Important view into village

Location / Direction:

On western edge of central part of village. Along Mill Lane, north west of new primary school, looking north east to south east.

High Visual Value Factors and Attributes:

Fine panoramic view of Hills' profile across good quality open countryside. Both lowland and hill landscapes make highly important to village's context and setting, and are very good representations of area's NCAs and LCTs. Note that 2001 view has changed due to presence, in foreground of view, of Colwall's new primary school (opened January 2018) (see photos below). Previously, houses and gardens east of school formed village edge.

However, 2019 study concluded that new built form does not reduce high visual value of view due to a) high quality of school buildings and grounds, and b) fact that buildings are low and do not break skyline. Apart from short section west of village between Lugg's Mill Farm and Upper Mill, Mill Lane is important historic approach to village (Approach 4). Lane is characteristically rural, bound by native hedges and mature escaped trees. Some domestication along frontages nearer village but otherwise landscapes in good condition.

VP is just west of Gateway 4, which is marked by maturing 'village boundary' oak tree near entrance to school. Tree is highly important local feature (visible in second photo).

Conclusions / Comments: This is still an Important view.

- 4.9 The **Council's Principal Natural Environment Officer (Tree Officer)** has no objection suggesting a number of conditions if approval is granted, commenting –

Footway – The proposal to link the new footway to the existing one will require entering the root protection area RPA of the mature Oak trees, T1 & T2, as described in the accompanying tree report. Despite the proximity of the footway to the trees a detailed methodology should be able to overcome the issue. If the footway is ill conceived and results in root severance the tree could be impacted detrimentally.

SUDS – the final setting and shape of the attenuation ponds can be dealt with at the reserved matters. On the northern edge of the site there a number of mature trees, important the landscape. The indicative plans do not make it clear what the proximity is to trees and whilst I'm of the opinion the trees are not under immediate threat a closer examination of ensuring impacts to trees is reduced will be required at reserved matters.

Tree Planting – No trees have been identified for removal and the proposed new planting shall enhance the site and help to soften the impact of the development. The finer details of species locations and protective measures can be dealt with at reserved matters.

Proposed TPO – whilst I am in agreement that the two oak trees located near to the proposed access are fine specimens I'm of the opinion that serving a preservation order is necessary. Both trees are to be retained and any potential threats via the development will need to be addressed at reserved matters.

Conditions

CKC – Method Statement

Prior to the commencement of any works a method statement for no dig where the footway enters rooting areas of trees on the southern boundary, must be submitted and approved by the local planning authority and the development shall be carried out in accordance with the approved method statement.

Reason: To safeguard the character and amenity of the area and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

CKA – Retention of Trees

CKF – Specifications of Tree Planting

CKH (5yrs) – Maintenance Plans

- 4.10 The **Council's Public Rights of Way Manager** comments *Public footpath CW29C has been integrated into plans*. Providing the footpath remains open and unobstructed PROW will not object to the application. Any adjoining hedges or shrubs must be well maintained to ensure they do not encroach onto the path.
- 4.11 The **Council's Drainage Engineer** comments *This response is in regard to flood risk and drainage aspects. We previously responded to this planning Application in April 2020*. In this response we recommend that the following information was provided prior to the Council granting planning permission:
- Further review of proposed discharge rates to limit these to a rate more comparable with the pre-development greenfield discharge rates for the site, noting that only impermeable areas should be considered in the drainage calculations
 - Further consideration of the viability of connecting to the public foul sewerage network noting that this would be the preferred approach and, if deemed to be practicable:
 - submission of a revised drainage strategy
 - clarification of any third-party land access requirements and agreement in principle.

If discharge to the public foul sewer cannot be progressed, submission of a completed Foul Drainage Assessment Form, as well as an assessment of the suitability and sensitivity of the receiving watercourse.

The Applicant has submitted a revised Site Specific Flood Risk Assessment and Drainage Strategy (Rev 2, dated May 2020) to address these points.

Comments

Further review of proposed discharge rates

The Applicant has reduced their proposed surface water discharge rate to 1.5 l/s and has increased the volume of their proposed attenuation basins. The Applicant notes that they will explore discharge rates of up to 3 l/s as part of the detailed design (in line with our previous planning response). We agree with this approach in principle and stress that the use of vegetated SuDS is promoted to promote infiltration and evapotranspiration in upper soil layers to reduce runoff during smaller events.

We note that, to control blockage risks, the orifice size at the flow control should be no less than 75mm. The 1.5 l/s Hydrobrake proposed by the applicant has a 60mm orifice size but this is dependent on the design head as well as the design flow rate.

A detailed drainage design and supporting calculations (using FEH 2013 rainfall data) will be required to support the reserved matters application.

Further consideration of the viability of connecting to the public foul sewerage network

The Applicant has revised their foul drainage strategy to use pumping to discharge to an existing foul sewer, rather than on-site treatment with discharge to a watercourse. The Applicant proposes to explore the route of the proposed rising main during detailed design. We agree with this approach in principle and highlight that a detailed drainage design and agreement in principle for any third party land access will be required to support the reserved matters application. The pumping station must not be located on private land and must be accessible for maintenance.

Overall Comment

The applicant has submitted sufficient information to address our previous concerns and we agree with the proposed development in principle. Should the Council be minded to grant planning permission, we recommend that the following information is included within any reserved matters application:

- Demonstration that proposed drainage ponds are located a minimum of 500mm above the likely height of the 1 in 1000 year flood level
- Results of infiltration testing, undertaken in accordance with BRE Digest 365 methodology, and confirmation of groundwater levels
- Detailed drawings of the proposed surface water drainage strategy that demonstrate the inclusion of SuDS, where appropriate, and location and size of key drainage features, noting that opportunities to maximise infiltration (including in the upstream drainage catchment) should be promoted
- Detailed drawings of the proposed foul water drainage strategy, including the proposed connection and route to the public sewerage network
- Detailed drawings of proposed features such as attenuation features, pumping stations and outfall structures
- Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to and including the 1 in 2 annual probability storm event. FEH 2013 rainfall data is expected
- Calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to and including the 1 in 30 annual probability storm event. FEH 2013 rainfall data is expected
- Calculations that demonstrate that the proposed surface water drainage system will have sufficient capacity to cater for up to the 1 in 100 year event and allowing for the potential effects of climate change. FEH 2013 rainfall data is expected
- Consideration of the risk of water backing up the surface water drainage system from the proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere, noting that this also includes failure of flap valves
- Description and drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system
- If access or works to third party land is required, details of these works and agreement in principle with necessary landowners/consenting authorities to cross third party land and/or make a connection to the proposed sewer

- Confirmation of agreement in principle of proposed adoption and maintenance arrangements for the surface water and foul water drainage system
- Operational and maintenance manual for all proposed drainage features that are to be adopted and maintained by a third party management company
- Demonstration that appropriate access is available to maintain drainage features, including pumping stations.

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

4.12 The **Council's Environmental Health Manager – Contaminated Land** comments According to our records, there is a stream channel which has at some stage filled in and is recorded as an area of 'unknown filled ground'. Because of this and with consideration of the development I would recommend conditions be appended to any approval.

4.13 The **Council's Strategic Housing Manager** comments I refer to the email received from the applicant dated 15th April 2020 in relation to my comments dated 25th February 2020. In this email the applicant confirms that the affordable housing element will be 40% with a tenure split of 55% for social rent and 45% as intermediate tenure. In light of these comments I can now confirm that I fully support this application and would look for the following

- 40% affordable housing
- Tenure split 55% social rent and 45% intermediate
- Exact mix and positioning to be agreed prior to submission of RM application for both affordable and open market
- Bungalows as well as houses would be required
- Some affordable units would need to be built to wheelchair accessible and adaptable standard to meet an identified need
- Local connection to Herefordshire.
- S106 required to secure affordable housing element

4.14 The **Council's Education directorate** comments The educational facilities provided for this development site are Colwall C of E Primary School and John Masefield High School

Colwall C of E Primary School has a planned admission number of 28. As at the schools Autumn census 2019:-

- 2 year groups are at or over capacity- Y4=31, Y6=32

John Masefield Secondary School has a planned admission number of 150. As at the schools Autumn census 2019:-

- year groups are at or over capacity- Y7=158, Y9=155, Y10=170, Y11=175

Approximately 1% of the population are affected by special educational needs and as such the Children and Families Directorate will allocate a proportion of the monies for Primary, Secondary and Post 16 education to schools within the special educational needs sector.

Please note that the Planned Admission Number of the above year groups is based on permanent and temporary accommodation, whereas section 3.5.6 of the SPD states that the capacity should be based on the permanent accommodation, therefore, additional children may also prevent us from being able to remove temporary classrooms at John Masefield High School that we would otherwise be able to do.

In accordance with the SPD the Children and Families Directorate would therefore be looking for a contribution to be made that would go towards the inclusion of all additional children generated by this development. The Children and Families contribution for this development would be as follows:

| Contribution by No of Bedrooms | Pre-School | Primary | Secondary | Post 16 | Youth | SEN | Total |
|--------------------------------|------------|---------|-----------|---------|--------|------|--------|
| 2+bedroom apartment | £117 | £1,084 | £1,036 | £87 | £432 | £89 | £2,845 |
| 2/3 bedroom house or bungalow | £244 | £1,899 | £1,949 | £87 | £583 | £138 | £4,900 |
| 4+ bedroom house or bungalow | £360 | £3,111 | £4,002 | £87 | £1,148 | £247 | £8,955 |

Please note this is the contribution that would be requested at this point in time based on the current information available that is pupil census data and the criteria in the SPD. It is therefore likely that this level of contribution will change (increase or decrease) for all subsequent applications made.

4.15 The Council's Planning Officer – Open Spaces comments as follows –

Open Space Requirements.

Relevant Policies:

National Planning Policy Framework (NPPF):

- Paragraph 96: Open Space and Recreation: provision of what open space, sports and recreational opportunities required in a local area should be based on robust assessments of need

Core Strategy(CS)

- OS1: Requirements for Open Space, Sports and Recreation Facilities
- OS2: Meeting Open Space and Recreation Needs

Colwall Neighbourhood Development Plans (NDP) Reg 16

- 6.7 Protecting local facilities and services and supporting sports and recreation development: existing community facilities in the village include football and cricket pitches and children's play areas and are highly valued by local people. The Parish Plan identified there was a demand for a range of facilities including a skate board park, youth sport and more space for ball games. Provision of new facilities is therefore supported in the Neighbourhood Plan.

Evidence Base and standards (on and off site)

- Local Evidence: Herefordshire Open Space Study 2006 (data for amenity public open space has not changed significantly and it is still considered to be accurate).
 - This recommends POS should be at a rate of 0.4ha per 1000 population.
- Local Evidence: Herefordshire Play Facilities Study and Investment Plan 2014 and National Evidence: Fields in Trust Guidance:
 - These recommend children's play at a rate of 0.8ha per 1000 population.
 - Of this 0.25ha per 1000 population should be formal equipped play.

- Local: Playing Pitch Assessment 2012 and update 2014, Outdoor Sports Investment Plan 2019 and National Evidence: Fields in Trust Guidance.
 - These recommends outdoors sports provision of between 1.4 and 1.6ha per 1000 population and where future investment in outdoor sport should be directed to maximise the benefits to the local community.

On/Off site POS Standard Requirements:

The proposed site layout includes approximately 40% POS to include green avenues, SUDS, ecological enhancements, community orchards and a village green. The quantum of usable POS excluding SUDs has not been provided and the applicant will need to demonstrate that the minimum quantum of provision as described below has been met.

Given the size and location the development will require both on and off-site provision in accordance with evidence bases as described above

On- site: For 37 houses at an occupancy of 2.3 (total population 85.1) the following is required:

- The developer provides a *minimum* of 0.102 ha (1020sq m) of on-site green infrastructure comprising;
 - 0.034ha (340sqm) of Public Open Space (@ 0.4ha per 1000 population)
 - 0.068ha (680sq m) of Children's Play (@ 0.8ha per 1000 population)
 - Of which 0.02 ha (200sq m) should be formal children's play. (@ 0.25ha per 1000 population).
- Off-site: Alternatively, should the Parish Council prefer an off-site contribution could be sought towards formal children's play. The site is in the vicinity of a number of play areas notably Humphry Library Walwyn Road, Brookmill Close and Colwall Green all of which have been identified as in need of improvement in the Play Facilities Investment Plan and the Parish Council has a rolling programme of works to all its play areas. This approach is also supported in the Colwall NDP with particular reference to teenage provision.
- A contribution would be sought in consultation with the Parish Council towards facilities in the village. An off-site contribution would be sought in accordance with the SPD on Planning Obligations and from market housing only as follows:
 - 2 bed: £965
 - 3 bed: £1640
 - 4+ bed: £2219

An off-site contribution towards Outdoor Sports will also be sought based on the equivalent on-site provision of:

- 0.11ha (1100sq m) of Outdoor sports @ 1.4ha per 1000 population:

Detail set out below.

Indicative On-site POS: Planning for healthier spaces is good practice and any on site provision should be well designed and of a usable size to offer a range of recreation opportunities and experiences appropriate to the site and location. Safe and accessible networks of green spaces should incorporate both walking and cycling opportunities where possible. The proposed site layout looks be able to achieve this.

SUDs: The SuDs attenuation basins can be included as additional open space to that required by policy if designed accordingly to take account of health and safety and standing water issues. It is acknowledged that these areas can provide good opportunities for informal recreation and natural play along with being areas suitable for biodiversity and wildlife. The landscape aspects of SUDs and appropriate gradients for SUDs on areas of POS should be designed in accordance with the Councils SuDS Handbook which provides advice and guidance on the inclusion of SuDs on new development. Plans submitted as part of the landscape scheme should demonstrate that appropriate gradients can be achieved where appropriate.

If it is not possible for health and safety reasons for the area to be incorporated it should be fenced off.

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

Off-Site Outdoor Sports Contribution: An off-site contribution will be sort in accordance with the following evidence bases:

- Ledbury Area Playing Pitch Assessment 2012
- Outdoor Sports Investment Plan 2019 (updated annually)

The Outdoor Sports Investment Plan is annually reviewed and provides up to date information on clubs and facilities in accordance with Sport England's requirements to review the Playing Pitch Assessment. It provides a list of priority projects for outdoor sports facilities including football, cricket, hockey, rugby, tennis, cycling and athletics which will address shortfalls in provision (quantity and quality) as identified in the Playing Pitch Assessment and subsequent reviews. It is supported by an Outdoor Sports Partnership including Sport England, National Governing Bodies (NGB) including the Football, Cricket, Hockey and Rugby and the County Sports Partnership.

Projects are considered to be sustainable in helping to meet the needs of both the existing and future populations (future proofed to 2031) and have the support of the relevant NGB in both their regional and local facilities development plans.

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

- A square meter rate of £27.28 is used in rural areas. This is based on the figure used to inform both the SPD planning obligations and the Infrastructure Delivery Plan for the Core Strategy.
- A 35% reduction is made as off- site contributions are based on market housing only:
- For this application in accordance with the policy requirements, provision should be equivalent to 0.11ha (1100sq m) based on 1.4ha per 1000 population.
- Using the rate of £27.28 and based on market housing (at 65%) only this equates to **£19,502**
- Subject to variation of affordable housing rate

Summary of projects in Colwall:

Colwall Football Club: Facility improvements: new changing provision and improved drainage/new maintenance equipment.

Colwall Cricket Club: Facility Improvements: including rebuild/new build pavilion. Drainage improvements to grounds and new maintenance equipment. Some recent s.106 investment to improve facilities.

- 4.16 The **Planning Obligations Manager** has confirmed the section 106 requirements to be secured should planning permission be granted. These are set out within section 6 of the Report, below.

5. Representations

5.1 Colwall Parish Council *strongly objects* to this application for the following reasons –

Colwalls' Neighbourhood Development Plan has been submitted to Herefordshire Council for Regulation 15/Regulation 16, this application contravenes the Neighbourhood Development Plan as it is outside the proposed settlement boundary and the area is considered to be unsuitable for development.

Please refer to the following link in which the documents referred to below are included as part of the Regulation 15/16 submission –

<http://www.colwallneighbourhoodplan.org.uk/Reg15Submission.html>

The planning application is sited at Area 9 of the Landscape Sensitivity and Capacity Assessment (LSCA), within the emerging Colwall Neighbourhood Development Plan (NDP). In September 2013, Area 9 was assessed as having 'Low to Medium' capacity i.e. the 6th of 8 categories. Only two categories have less capacity.

Subsequent development in the village required reassessments of the LSCA (2017 -2019). Both capacity levels and the settlement boundary were adjusted accordingly.

In terms of the application site, the studies concluded that levels of value and susceptibility to change had risen since 2013 due to factors such as an increase in the importance of the land's function in landscape, visual and other terms. The recommendation was therefore for the existing 'strong' boundary to other parts of the western edge of the settlement to be reinforced by joining up the 'Low' capacity areas north and south of Area 9. This was agreed with Colwall PC, and Area 9 was revised to 'Low' capacity i.e. the category with the least capacity for development, and so is the last place development should take place.

This latest assessment has been adopted into:

- LSCA – 2019
- Visual Study Report – 2019
- NDP Registration 15 submission – As per public presentation, January 2020
 - Capacity – Area 9 defined as 'Low'
 - Policies - Area 9 defined as 'Open Space', and outside the Settlement Boundary

Further, the National Planning Policy Framework (NPPF) says 'great weight' should be given to 'conserving and enhancing' the AONB and therefore using this "lowest category" this application cannot possibly be seen as conserving and enhancing the Malvern Hills AONB.

5.2 26 letters of **objection** have been received, comments are summarised as:

- Proposal is contrary to the Colwall Neighbourhood Development Plan
- Proposal is contrary to the Landscape Capacity Assessment
- Proposal would neither conserve or enhance the AONB
- Contrary to the NPPF regarding development in an AONB
- Approval would 'make a mockery' of the NDP process and Localism Act 2011
- Proposal would create an adverse landscape impact
- Concern regarding increased traffic
- Consistency of decision making should mean it is refused
- Outside the settlement boundary
- Does not integrate with the scale and mass of the village
- Impact on views of Colwall and British Camp
- Impact on PRoW CW29

- Noise
- Development would be out of character with the area
- Concern regarding drainage
- Lack of infrastructure hereabouts
- Precedent if development is approved
- Statements within the application submission challenged
- The indicative layout is not binding
- Loss of agricultural land and open space
- Impact on habitats
- Effect on listed buildings and the conservation area
- Agree with the Council's Landscape Officers' objection and comments
- Proposal is Major Development within an AONB and should be refused

5.3 **76** letters of **support** have been received, comments are summarised as:

- There is a national and local housing shortage
- Proposal will help meet county and Colwall's housing targets
- Proposal is adjacent to key facilities – Primary School, Village Hall and Scout hut
- Good access
- Provides needed affordable housing
- Site is not within a conservation area
- Council previously identified the site as 'highly suitable' for housing
- Response to NDP consultation process shows the site is supported
- Will encourage walking to School and other facilities
- Sustainable location
- Would not impact views to or from the Malvern Hills
- Better site than the NDP allocation at Grovesend Farm
- Natural point to development of the village
- The Landscape Capacity Assessment should be ignored
- The NDP approach and consultation process is challenged
- The new School shows development here can be acceptable
- The proposal is sympathetic
- Accessibility to train station
- Encourages walking and cycling to use and access facilities
- Less drainage issues around this part of Colwall
- Infrastructure such as sewerage already in place
- Housing mix will help local people stay or return to Colwall

5.4 The **Malvern Hills AONB Office** objects and comments *This application lies within the boundaries of the Malvern Hills Area of Outstanding Natural Beauty (AONB)*. The AONB is an area designated for its national landscape importance. The Malvern Hills AONB Unit seeks to encourage high quality developments and to protect and enhance the local landscape.

The AONB Unit objects to this development on the basis that it conflicts with national and Local Plan policy and with the Malvern Hills AONB Management Plan (2019-2024).

The policy context

1. National Planning Policy Framework

Paragraph 172 of the NPPF requires "great weight" to be given to conserving and enhancing the landscape and scenic beauty of the AONB.

2. Herefordshire Local Plan

Policy SS6 "Environmental quality and local distinctiveness" of the local plan states that:

'Development proposals should conserve and enhance those environmental aspects that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.... Development proposals should be shaped through an integrated approach to planning the following environmental components from the outset, and based on sufficient information to determine the effect upon each where they are relevant:

- landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty;...

'The management plans and conservation objectives of the county's international and nationally important features and areas will be material to the determination of future development proposals. Furthermore assessments of local features, areas and sites, defining local distinctiveness in other development plan documents, neighbourhood development plans and supplementary planning documents should inform decisions upon proposals."

Para 3.99 of the Local Plan also states that "Management Plans have been prepared for both the Wye Valley and Malvern Hills Areas of Outstanding Beauty. These documents will be relevant to the assessment of the effects of development upon these important assets. The most rigorous approaches to assessing the effect of development should be taken for those areas with international and national designations, including proposals outside but having an effect upon them, in accordance with the protection afforded to such areas in the National Planning Policy Framework.

Policy LD1 – Landscape and Townscape states that development proposals should:

- demonstrate that the character of 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 trees lost through development and new planting to support green infrastructure."

Policy H1 - Affordable housing

All new open market housing proposals on sites of more than 10 dwellings which have a maximum combined gross floor space of more than 1000m² will be expected to contribute towards meeting affordable housing needs.

The amount and mix of affordable housing including those on strategic housing sites will vary depending on evidence of housing need as identified through the latest housing market assessment, and, an assessment of the viability of the development.

Any affordable housing provided under the terms of this policy will be expected to be available in perpetuity for those in local housing need.

3. Malvern Hills AONB Management Plan (2019-24)

The AONB Management Plan (2019-24), a material consideration in relation to planning, contains a number of relevant policies including:

BDP1 – Allocations of land for development in the AONB and its setting should be informed by Landscape Sensitivity and Capacity Assessments and/or Landscape and Visual (Impact) Assessments, as appropriate.

BDP2 - Development in the AONB and its setting should be in accordance with good practice guidance including that produced by the AONB Partnership.

BDP3 – Development in the AONB should be based on convincing evidence of local need. Priority should be given to the provision of affordable housing and enhancing local services.

BDP4 - Development proposals that may affect land in the AONB, including those in its setting, should protect and/or enhance key views and landscape character. AONB guidance relating to views and development in views should be used where relevant.

BDP13 The cumulative impact of small-scale change and development will be monitored. Data gathered will be used to inform decisions and to revise and/or develop policy.

LP1 Manage the landscape of the AONB in accordance with key documents such as the AONB Landscape Strategy, Landscape Character Assessments, Historic Landscape Characterizations and other guidance documents.

LP3 Promote positive landscape change to landowners, managers, developers, government and all those with an influence over land.

LWP4 Support the provision of a variety of housing that is appropriate to the character of the area and meets local community needs.

Principle of development

The site lies outside of the village and proposed settlement boundary and has not been recognised as a site suitable for development under Policy CSB1 of the draft Colwall Neighbourhood Plan 2011-2031 Regulation 15. In fact, the Landscape Sensitivity and Capacity Assessment (LSCA) that informs and underpins the Neighbourhood Plan records this site as having high sensitivity and low capacity for development. 1

The low capacity of the site to accept the form of development proposed stems both from its landscape character and visual sensitivity, as documented in the LSCA itself. For example, the site lies at an important village gateway on Mill Lane, marking a break in character between the western edge of the village and good quality rural, open countryside beyond. This gateway location is also significant visually since it helps to 'advertise' what the village has to offer and reflects how it sees itself especially in terms of local character and distinctiveness. The application site is clearly visible from local viewpoints, including those categorised as Exceptional (at British Camp) in work commissioned by the Malvern Hills AONB Partnership and those which figure in the Visual Study (January 2019) prepared as the evidence base to support the Colwall Neighbourhood Plan.

The Unit understands that the current levels of sensitivity and capacity given in the Reg 15 NDP are accurate and reflect recent changes in the local baseline, including the construction of the primary school.

The AONB Unit considers that the proposed development would be highly likely to give rise to adverse and irreversible effects on the Malvern Hills AONB which could not be satisfactorily mitigated. In so doing it would appear to contrary to national and local policy, for example, para 172 of the NPPF and policy BDP1 of the Malvern Hills AONB Management Plan.

Housing supply and need

The AONB Unit notes that Herefordshire does not currently have a 5 Year Housing Land Supply. It also recognises that the Colwall NDP has not yet been made. However, a Regulation 16 Plan does now exist which makes provision for sufficient housing development elsewhere in the parish and the Unit hopes that this can be afforded some weight. In any case, the Unit does not consider it acceptable to use sensitive sites in nationally designated landscapes to help

meet a county wide shortfall in housing supply. This would appear to be contrary, inter alia, to para 11, footnote 6 of the NPPF.

Housing mix

The AONB Unit recognises that a shortage of affordable housing can be an issue in National Landscapes and Policy BDP3 of the AONB Management Plan states that priority should be given to affordable housing. The proposal to provide just 35% affordable housing on site does not even appear to be in line with indicative targets set out in Policy H1 of the Local Plan – let alone with the focus on affordable housing contained within the AONB Management Plan. In any case, the Unit contends that other sites would be more appropriate to meet identified local need for such provision, in line with the LSCA and Neighbourhood Plan.

Settlement pattern and density

The AONB Unit considers that the proposed layout and density would urbanise this location and would fail to respect the patterns and forms of development which exist around the edges of the village and in this particular locality. As such, the development appears to be contrary to policy BDP2 of the Malvern Hills AONB Management Plan.

- 5.5 The **Ramblers' Association** comments *Public footpath CW29C runs adjacent to the site and has been shown on the plans with bordering hedges and shrubs*. The footpath is a well-used path and is not very wide in places so providing the path is not encroached upon then no objection.
- 5.6 **Ledbury Area Cycle Forum** objects to the proposals on grounds of highway safety and impact on vulnerable road users, impact from road users from the development on the tranquillity of the AONB and associated impact on eco tourism. The proposal is also in conflict with Herefordshire Council's climate emergency policy.
- 5.7 The consultation responses can be viewed on the Council's website by using the following link:-
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200156&search=200156

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

Legislation

- 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."* The development plan is the Herefordshire Core Strategy.
- 6.2 With regards to heritage, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*
- 6.3 The legal framework for AONBs in England and Wales is provided by the Countryside and Rights of Way Act (CROW) 2000 which reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty, and sets out responsibilities for their management. In particular relevance to the proposal is following section –

- 6.4 Section 82 reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty; Section 84 confirms the powers of local authorities to take appropriate action to conserve and enhance the natural beauty of AONB and Section 85 places a duty on all public bodies and statutory undertakers to 'have regard' to the 'purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

Herefordshire Local Plan – Core Strategy

- 6.5 Core Strategy Policy SS1 echoes the NPPF's presumption in favour of sustainable development. Setting out the strategy for delivery of new homes, CS Policy SS2 provides that the majority of housing is directed to Hereford city or one of the five market towns and in the rural areas, housing will be acceptable within identified settlements listed under CS Policy RA2.
- 6.6 One hundred and nineteen settlements have been identified under policy RA2 across the county to be the main focus of proportionate housing development in the rural areas. Residential development is to be located within or adjacent to the main built up area(s) of the named settlements. This is to ensure that unnecessary isolated, non-characteristic and discordant dwellings do not arise which would adversely affect the character and setting of a settlement and its local environment. Outside of Hereford city, the market towns and such settlements listed under RA2 (and their settlement boundaries defined within Neighbourhood Development Plans), sites are considered to be within a countryside location and residential development strictly controlled and limited to exceptions listed under CS Policy RA3.
- 6.7 Outside of the main built form of Ledbury and the main built form of any of the 119 settlements listed under Core Strategy policy RA2 sites are considered to be in an open countryside location. Core Strategy policies RA3 restricts residential development within the open countryside to exception criteria as follows –
- meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or
 - accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with Policy RA4; or
 - involves the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage, of the existing dwelling; or
 - would result in the sustainable re-use of a redundant or disused building(s) where it complies with Policy RA5 and leads to an enhancement of its immediate setting; or
 - is rural exception housing in accordance with Policy H2; or
 - is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 of the National Planning Policy Framework and achieves sustainable standards of design and construction; or
 - is a site providing for the needs of gypsies or other travellers in accordance with Policy H4.
- 6.8 Core Strategy policy SS6 describes 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.* Policy SS6 then states in its list of criteria states *Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.*
- 6.9 Core Strategy policy SS7 – *Addressing climate change* describes how development will be required to mitigate their impact on climate change, and strategically, this includes:

- focussing development to the most sustainable locations
 - delivering development that reduces the need to travel by private car and encourages sustainable travel options including walking, cycling and public transport
- 6.10 Core Strategy policy RA1 – Rural housing distribution sets out the strategic way housing is to be provided within rural Herefordshire and to deliver a minimum 5,600 dwellings. Herefordshire is divided into seven Housing Market Areas (HMAs) in order to respond to the differing housing needs, requirements and spatial matters across the county.
- 6.11 Core Strategy policy RA2 – *Housing outside Hereford and the market towns* identifies the settlements in each HMA area where both the main focus of proportionate housing development will be directed, along with other settlements where proportionate housing growth is appropriate. Colwall is one of these settlements and is within the Ledbury HMA. Policy RA2 sets Housing proposals will be permitted in the identified settlements where the following criteria are met:
1. Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area;
 2. Their locations make best and full use of suitable brownfield sites wherever possible;
 3. They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and
 4. They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.
- 6.12 Core Strategy policy LD1 criteria requires new development must achieve the following:
- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including 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, through the protection of the area's character and by enabling appropriate uses, design and management
- 6.13 Core Strategy Policy LD2 – Biodiversity and geodiversity states Development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire, through the:
1. retention and protection of nature conservation sites and habitats, and important species in accordance with their status as follows:
 - a) Development that is likely to harm sites and species of European Importance will not be permitted
 - b) Development that would be liable to harm Sites of Special Scientific Interest 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
 - c) Development that would be liable to harm the nature conservation value of a site or species of local nature conservation interest will only be permitted if the importance of the development outweighs the local value of the site, habitat or physical feature that supports important species
 - d) Development that will potentially reduce the coherence and effectiveness of the ecological network of sites will only be permitted where adequate compensatory measures are brought forward.

2. restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological networks; and
3. creation of new biodiversity features and wildlife habitats.

6.14 Core Strategy policy LD4 – Historic environment and heritage assets sets out as relevant to this appeal that Development proposals affecting heritage assets and the wider historic environment should:

1. *Protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible*
2. *the conservation and enhancement of heritage assets and their settings through appropriate management, uses and sympathetic design. Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas.*

6.15 Core Strategy Policy SD3 – *Sustainable water management and water resources* states 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. This will be achieved by ensuring that:

1. *Development proposals are located in accordance with the Sequential Test and Exception Tests (where appropriate) and have regard to the SFRA 2009 for Herefordshire;*
2. *Development is designed to be safe, taking into account the lifetime of the development and the need to adapt to climate change by setting appropriate floor levels, providing safe pedestrian and vehicular access, where appropriate, implementing a flood evacuation management plan and avoiding areas identified as being subject to rapid inundation from a breach of a Flood Defence;*
3. *Where flooding is identified to be 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;*
4. *Development will not result in the loss of open watercourses and culverts should be opened up where possible to improve drainage and flood flows. Proposals involving the creation of new culverts (unless essential to the provision of access) will not be permitted;*
5. *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 run-off and should aim to achieve a reducing in the existing run-off rate and volumes where possible;*
6. *Water conservation and efficiency measures are included in all new developments, specifically:*
 - *Residential development should achieve Housing – Optional Technical Standards – Water efficiency measures. At the time of adoption the published water efficiency standards were 110 litres/person/day; or*
 - *Non-residential developments in excess of 1,000 m² gross floorspace to achieve the equivalent of BREEAM 3 credits for water consumption as a minimum;*
7. *The separation of foul and surface water on new developments is maximised;*

8. Development proposals do not lead to deterioration of EU Water Framework Directive water body status;

9. Development should not cause an unacceptable risk to the availability or quality of water resources; and

10. In particular, 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.

- 6.16 Development proposals should help to conserve and enhance watercourses and riverside habitats, where necessary through management and mitigation measures for the improvement and/or enhancement of water quality and habitat of the aquatic environment. Proposals which are specifically aimed at the sustainable management of the water environment will in particular be encouraged, including where they are required to support business needs such as for agriculture. Innovative measures such as water harvesting, winter water storage and active land use management will also be supported. In all instances it should be demonstrated that there will be no significant adverse landscape, biodiversity or visual impact.”
- 6.17 Core Strategy Policy SD4 – *Wastewater treatment and river water quality* states Development should not undermine the achievement of water quality targets for rivers within the county, in particular through the treatment of wastewater.
- 6.18 In the first instance developments should seek to connect to the existing mains wastewater infrastructure network. Where this option would result in nutrient levels exceeding conservation objectives targets, in particular additional phosphate loading within a SAC designated river, then proposals will need to fully mitigate the adverse effects of wastewater discharges into rivers caused by the development. This may involve:
- incorporating measures to achieve water efficiency and/or a reduction in surface water discharge to the mains sewer network, minimising the capacity required to accommodate the proposal, in accordance with policy SD3;
 - phasing or delaying development until further capacity is available;
 - the use of developer contributions/community infrastructure levy funds to contribute to improvements to waste water treatment works or other appropriate measures to release capacity to accommodate new development;
 - 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.

Draft Colwall Neighbourhood Development Plan

- 6.19 NPPF paragraph 48 sets out the weight which can be attributed to NDPs and indicates The Local Planning Authority may give weight to relevant policies in emerging plans according to:
- a) The stage the preparation of the emerging plan
 - b) The extent to which there are unresolved objections
 - c) The degree of consistence of relevant policies in the merging plan to this framework

The Neighbourhood Development Plan is at the Examination stage and is being reviewed and assessed by the appointed Examiner, whose Report is awaited. Colwall Parish Council

submitted their draft Neighbourhood Development Plan to Herefordshire Council on 31 January 2018. The consultation ran from 1 February to 15 March 2018.

- 6.20 66 local resident representations and a joint representation from 28 residents have been received. The vast majority of these were objecting to the site allocation at Grovesend Farm. Many consider that the site is unsuitable due to access and heritage issues and are suggesting Mill Lane as a preferable allocation site. The level of objection to the site and the grounds for objection raises concerns that if the Grovesend Farm site is not deliverable then the plan would not meet its proportional growth requirements and ultimately not be in conformity with the Core Strategy. As at April 2019 the proportional growth for the parish was indicating that 53 dwellings would be required.
- 6.21 Two planning consultants have made representations on behalf of landowners – one for an additional site to be included within the settlement boundary and the other regarding Grovesend Farm. It was considered that these issues would not prevent the plan being recommended for examination and the outstanding issues and concerns regarding the Grovesend site should be subject to the examination process.
- 6.22 The Strategic Planning team as part of the Progression to Examination Decision Document have confirmed that the plan is in general conformity with the adopted Herefordshire Core Strategy.
- 6.23 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, which itself is a significant material consideration. Policies and proposals with no or minor objections however can be given more weight.
- 6.24 The NPPF also advises that the refusal of planning permission on the grounds of prematurity are unlikely to be justified other than in limited circumstances as follows –
- a) The development proposal is so substantial, or its cumulative effect would be so significant, that to grant planning permission would undermine the plan making process by predetermining decisions about the scale, location or phasing of new development that are central to the emerging plan.
 - b) The emerging plan is at an advance stage but is not yet formally part of the development plan.
- 6.25 Notwithstanding the weight that can be applied to the emerging NDP policies, it is as a document underpinned by a comprehensive Landscape Sensitivity and Capacity Assessment (LSCA) and a Visual Study, both produced by a suitably qualified and experienced practitioner. These documents as a technical pieces of work are of value as standalone pieces of evidence and can be accessed here <http://www.colwallneighbourhoodplan.org.uk/current.html>

Malvern Hills AONB Management Plan

- 6.26 The Malvern Hills AONB Management Plan is a material consideration in the assessment of planning applications within its area. The following policies are of particular relevance –
- *BDP1 – Allocations of land for development in the AONB and its setting should be informed by Landscape Sensitivity and Capacity Assessments and/or Landscape and Visual (Impact) Assessments, as appropriate.*
 - *BDP2 – Development in the AONB and its setting should be in accordance with good practice guidance including that produced by the AONB Partnership.*

- *BDP3 – Development in the AONB should be based on convincing evidence of local need. Priority should be given to the provision of affordable housing and enhancing local services.*
- *BDP4 – Development proposals that may affect land in the AONB, including those in its setting, should protect and/or enhance key views and landscape character. AONB guidance relating to views and development in views should be used where relevant.*
- *BDP13 – The cumulative impact of small-scale change and development will be monitored. Data gathered will be used to inform decisions and to revise and/or develop policy.*
- *LP1 – Manage the landscape of the AONB in accordance with key documents such as the AONB Landscape Strategy, Landscape Character Assessments, Historic Landscape Characterizations and other guidance documents.*
- *LP3 – Promote positive landscape change to landowners, managers, developers, government and all those with an influence over land.*
- *LWP4 – Support the provision of a variety of housing that is appropriate to the character of the area and meets local community needs.*

National Planning Policy Framework

- 6.27 The NPPF has ‘sustainable development’ central to planning’s remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people’s quality of life.
- 6.28 Paragraph 7 sets out and defines sustainable development and of the three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, the social objective requires planning to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being.
- 6.29 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless (having regard to footnote 6) the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.30 Footnote 7 to Paragraph 11 states this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73). The local authority is currently failing to provide a 5 year Housing Land Supply, plus a buffer and as such Paragraph 11 is triggered due to conflict with the relevant requirements of NPPF chapter 5 *Delivering a sufficient supply of homes*.
- 6.31 Where the existence of a five year land supply cannot be demonstrated, there is presumption in favour of granting planning permission for new housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing. In reaching a decision upon new housing the housing land supply position will need to be

balanced against other factors in the development plan and/or NPPF which could result in the refusal of planning permission. This site is therefore assessed and considered on its suitability as being sustainable in regards its location and material constraints and considerations.

- 6.32 This position was crystalised at the Appeal Court prior to the NPPF 2018 coming into effect and the implications of this position following the *Suffolk Coastal DC v Hopkins Homes & SSCLG* and *Richborough Estates v Cheshire East BC & SSCLG*[2016] EWCA Civ 168 were described by the Court thus *We must emphasize here that the policies of the NPPF do not make "out-of-date" policies for the supply of housing irrelevant in the determination of a planning application or appeal. Weight is, as ever, a matter for the decision-maker (as described the speech of Lord Hoffmann in Tesco Stores Ltd. v Secretary of State for the Environment [1995] 1 W.L.R. 759, at p.780F-H).*
- 6.33 Accordingly, the Council's housing land supply position vis-à-vis the NPPF does not result in the proposal being acceptable when there are both material considerations demonstrating the development should be refused or where for instance locally, housing supply targets can be demonstrated.
- 6.34 With particular reference to the matter of access, the NPPF sets out how transportation, highways impact and non-vehicular movement should be considered, assessed and supported in paragraphs 108 – 111, stating –

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

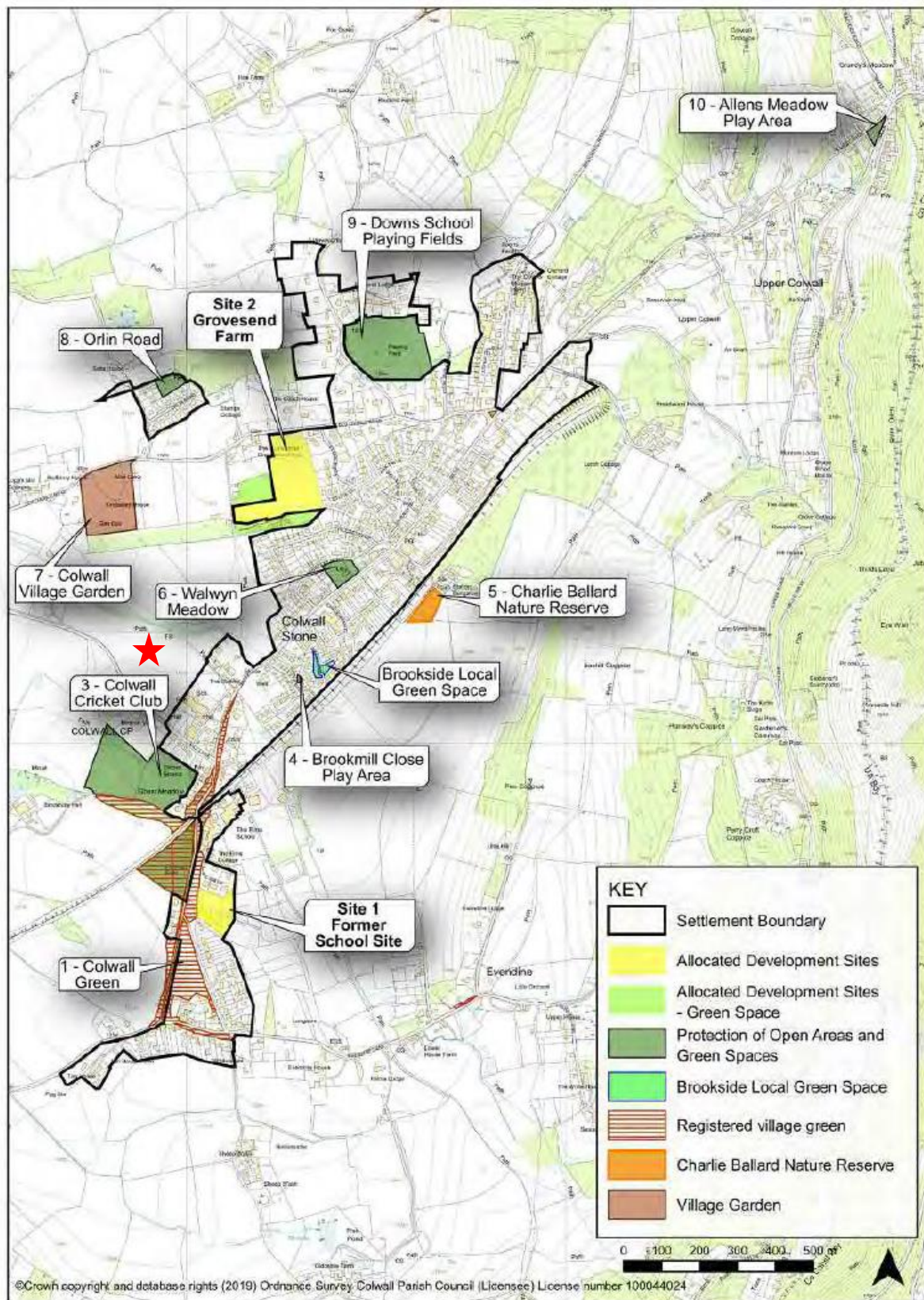
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.35 Paragraph 109 explicitly states *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.*
- 6.36 NPPF Paragraph 124 states *The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.* Paragraph 127 outlines Planning decisions should ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 6.37 Policies specific to protected landscapes (including AONBs) are detailed at paragraph 172 and states *Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty. The scale and extent of development within these designated areas should be limited.*
- 6.38 NPPF section 16 sets out the position regarding conserving and enhancing the historic environment. Specific principles and policies relating to the historic environment and heritage assets and development are found in paragraphs 184 – 202.
- 6.39 Paragraph 193 advises that *When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*
- 6.40 Paragraph 197 states *The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*

Assessment

- 6.41 The site adjoins the main built form of Colwall as required by CS policy RA2 and as defined in the emerging NDP, adjacent to the proposed settlement boundary.
- 6.42 Further to the proposed settlement boundary for Colwall, emerging Policy CSB1 *Colwall Settlement Boundary* states The provision of at least 70 new houses over the Plan period will be supported on sites within the identified Colwall settlement boundary (shown above). Residential development will be permitted on both identified areas and windfall sites within the settlement boundary where proposals are in accordance with other policies this Plan. Where possible, built form should respect and continue the existing building line and not build up to the edge of the identified settlement boundary.
- 6.43 As directed by NPPF paragraph 48, the NDP has moderate weight. The site location is donated with a red star on the referenced emerging NDP proposals map, below –



6.44 Core Strategy policies SS2 and H3, along with in this instance CS policy RA2, are considered to be in clear conformity with the NPPF and its social objective, which as one of the three pillars of the NPPF, underpins sustainable development, along with paragraphs 60 and 61 where the needs of all groups within the community should be assessed and inform local policies. Notwithstanding the Council's housing land position and CS policies H3 and RA2 do not restrict

development in this instance and as such are not considered out of date and as such are afforded significant weight in the determination of this application.

- 6.45 The Core Strategy, in line with national guidance, emphasises the importance of not promoting unsustainable patterns of development and advises within the preamble to the policy (para 4.8.23) that where appropriate, settlement boundaries will be defined by the NDP's and that where these are in place new housing will be restricted to avoid unsustainable patterns of development.
- 6.46 Core Strategy policy RA2, details that the mechanism to meet minimum growth targets in each Housing Market area is through the allocation of land for new housing with Neighbourhood Plans. Until such time that an NDP forms part of the development plan (after referendum) they remain a material consideration in the decision making process. As clarified, the Colwall NDP can be attributed moderate weight at this time.
- 6.47 For decision making therefore, we must return to the development Plan in the first instance and in particular to policy RA2 that states that with regards to new development:
1. Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area;
 2. Their locations make best and full use of suitable brownfield sites wherever possible;
 3. They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and
 4. They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.
- 6.48 Officers conclude, when assessed against criteria 1 above the site clearly lies adjacent the main built form of the settlement. The site adjoins the new primary School and village hall and is within walking distance to numerous other services and facilities. Taking this and all of the above into account, it is officers' opinion that the site is appropriate for residential development in locational terms.
- 6.49 Criteria 3 of CS policy RA2 is also critical here as this requires that proposals are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting.
- 6.50 This application site lies on the edge of the settlement and both are located wholly within an Area of Outstanding Natural Beauty. The NPPF directs, at paragraph 172 that great weight should be given to conserving and enhancing landscaping and scenic beauty in Areas of Outstanding Natural Beauty.
- 6.51 This is also key when applying the requirements of paragraph 11 of the NPPF that relates to decision taking as this states:

Where there are no relevant development plan policies, or the policies which are most important for determining the applications are out of date granting planning permission unless:

- i. the application of policies in this framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole.

- 6.52 Footnote 6 is key here as this clarifies that Areas of Outstanding Natural Beauty are to be considered as a protected area.
- 6.53 As such officers recognise the need to carefully consider the proposal in respect of material considerations which include landscape impact, given its AONB location, balanced with the site's close relationship to the settlement, and the NPPF guidance in respect of the weight that NDPs. These matters are explored and assessed further, as below:

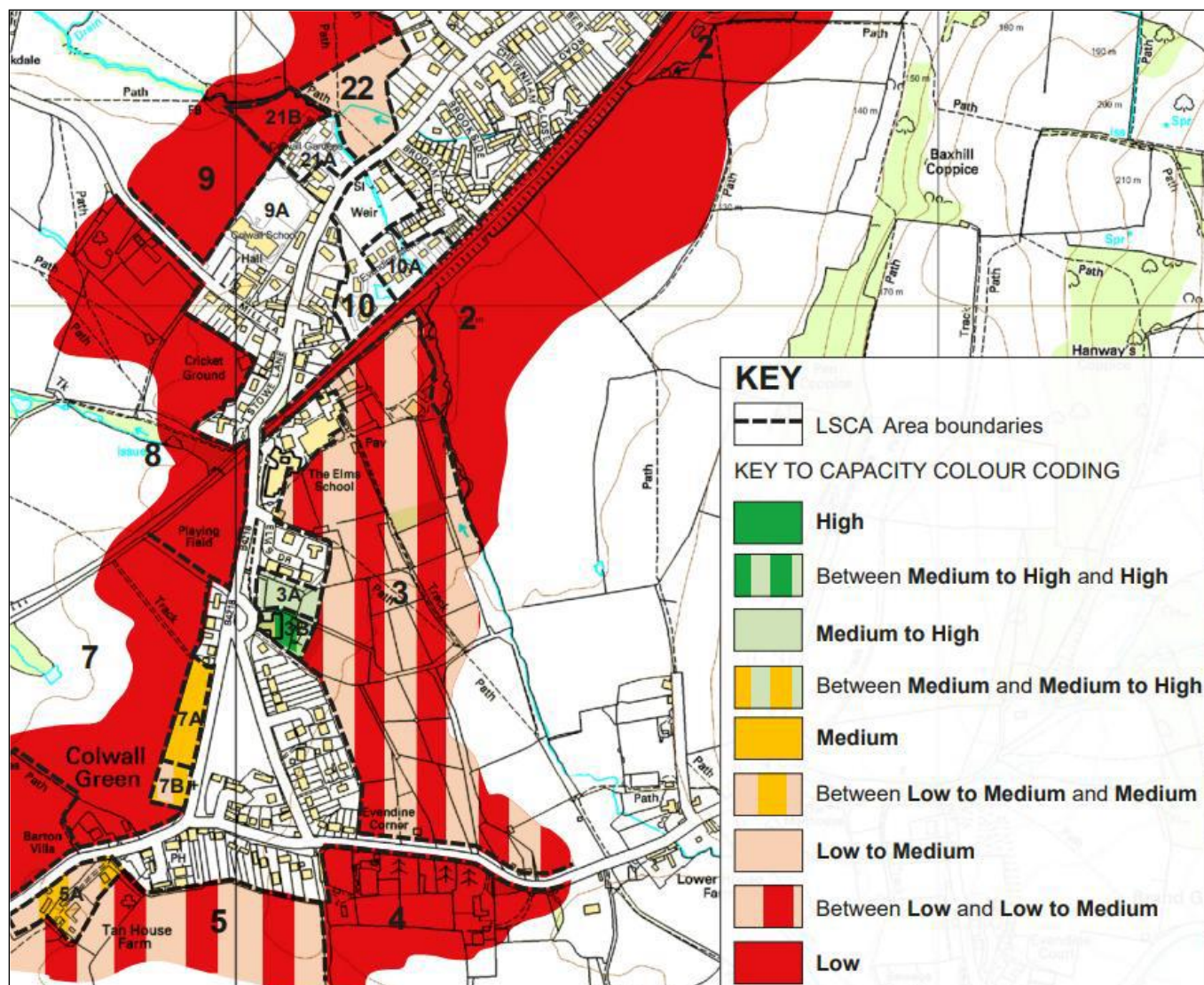
Landscape

- 6.54 Both policies RA2 and the NDP housing supply policies are underpinned by Policy LD1 of the Core Strategy – Landscape and townscape. Development proposals need to demonstrate that features such as scale and site selection have been positively influenced by the character of the landscape and townscape, and that regard has also been had to the protection and enhancement of the setting of settlements. Development proposals should also conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including locally designated parks and gardens; and should incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings.
- 6.55 The site is within the Malvern Hills AONB. Colwall benefits from numerous viewpoints into its built environment from the surrounding countryside, public rights of way and of course, elevated points on the Hills themselves. Recognition of these views is reflected within the emerging NDP where Policy CD1 - *Protecting Exceptional Key Views* requires development proposal lies within sight of an identified Exceptional Key View, and/or could affect it, a Landscape and Visual Impact Assessment or similar study should be carried out to demonstrate that levels of effects are acceptable, and that the scheme has been sited and designed sensitively and appropriately, reflecting, respecting, and where possible, enhancing the landscape context within which it is situated. Development proposals which have a high degree of adverse effect on one or more of the Exceptional Key Views will be refused.
- 6.56 From wider viewpoints in the landscape Colwall is appreciated as an attractive village set in a protected designated landscape.
- 6.57 Core Strategy policy SD1 (Sustainable Design and Energy Efficiency) also seeks to secure high quality design and well planned development, that contributes positively to the character of the area and that development successfully integrates into the existing built, natural and historic environment. Regard is also had to both the AONB and built environment location.

The technical assessments underpinning the emerging NDP includes a detailed Landscape Sensitivity and Capacity Assessment. This assessment has surveyed, assessed and considered the landscape sensitivity of land around the village and its landscape capacity with regards accommodating new development. The LSCA, with regards to the site returns the following overall detailed assessment –

Landscape Sensitivity – *High to moderate*
Visual Sensitivity – *High*
Overall Sensitivity – *High*
Landscape Value – *High to moderate*
Overall Capacity – *Low*

- 6.58 The assessment findings have been visualised on a colour coded plan as shown below which illustrates Capacity. The application site is *Area 9* on the plan below which has defined the site's capacity to accommodate development as 'Low'.



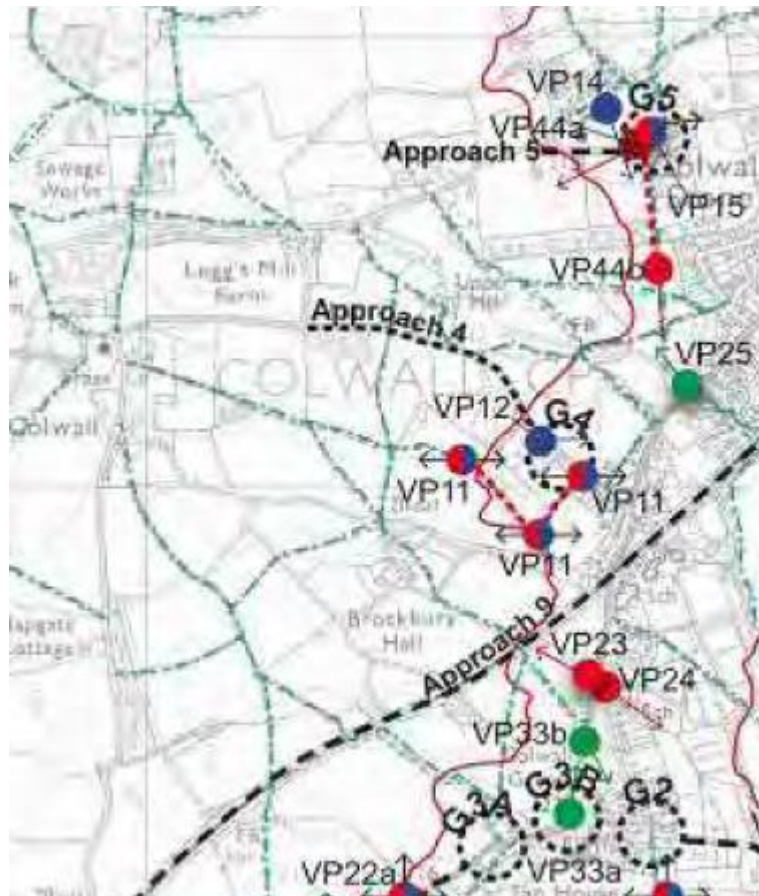
- 6.59 The site is as referenced outside the proposed settlement boundary of Colwall as illustrated within the emerging NDP as shown above.
- 6.60 The proposed site is located on an important visual corridor and gateway into the village. Views are currently of rural features, hedgerows, trees and glimpses of the field. Views of the area show the enclosed, rural nature of Mill Lane, the dense hedgerow and the distant background of the Malvern Hills forming the skyline. There are barely any glimpses of built development in this approach to the village, until you get very close to the new school. It is considered the effect of development on the site has been downplayed in the submitted LVA and that the introduction of residential development on the site would intrude into these views, introducing a suburban appearance of upper floors and roofs interrupting the existing rural setting.
- 6.61 There would be significant alteration in views for users of the nearest public footpaths (CW29C and CW30B) where the proposals would cause a substantial permanent loss and alteration to the view as it changes from an agricultural field to being blocked by residential development. It would significantly extend the urbanised village edge into the whole of the view.
- 6.62 In the other medium distance views there will be a permanent alteration to a proportion of the view, which may be seen as an extension of the built form – but will be of a completely different type in terms of many residential units rather than low density community use buildings.
- 6.63 The site is readily visible from the Malvern Hills AONB. The picture below from Pinnacle Hill shows how the site sits outside the built form of Colwall and how development hereabouts

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follows Walwyn Road in a linear settlement pattern. Encroachment along Mill Lane will clearly and markedly alter the setting of Colwall and the character and appearance of the AONB. The view from Pinnacle Hill demonstrates the proposed development will not be in keeping with the scale, pattern and existing village context as it will be visually separated from the other existing residential areas.



- 6.64 The site is particularly covered within the emerging NDP Policy CD1 *Protecting Exceptional Key Views* by *Approach 4*, *Gateway 4* and *Viewpoint 12* as shown on the extract from NDP Map 7 below –



- 6.65 VP12 is an identified important view into village of Gateway 4 which is located on the western edge of central part of the village, Along Mill Lane north west of new primary school, looking north east to south east.
- 6.66 VP12 and approach 4 heading South East offer fine panoramic view of Hills' profile across good quality open countryside. Both lowland and hill landscapes make highly important to village's context and setting, and are very good representations of area's NCAs and LCTs. Note that 2001 view has changed due to presence, in foreground of view, of Colwall's new primary school, which opened January 2018. Previously, houses and gardens east of school formed village edge.
- 6.67 The 2019 study concluded that new built form does not reduce high visual value of view due to a) high quality of school buildings and grounds, and b) fact that buildings are low and do not break skyline.
- 6.68 Apart from short section west of village between Lugg's Mill Farm and Upper Mill, Mill Lane is important historic approach to village (Approach 4). Lane is characteristically rural, bound by native hedges and mature escaped trees. Some domestication along frontages nearer village but otherwise landscapes in good condition.
- 6.69 It is concluded that the development of this site would represent a form of development that would neither improve nor maintain the local landscape character and the character and setting of the settlement, and as such are contrary to the requirements of policies LD1, SD1 and RA2 of the Herefordshire Local Plan – Core Strategy, emerging policies of the Colwall NDP. Conflict is also found not only with NPPF aims and objectives regarding landscape however also Paragraph 11 as well and the requirements of the CRoW Act.

Design and Amenity

- 6.70 CS policy SD1 and RA2 criteria 3 requires that new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. While making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design and safeguard residential amenity for existing and proposed residents. Development should be appropriate to its context and make a positive contribution to its landscape setting.
- 6.71 The indicative layout is shown on the plan, below –



- 6.72 The amount of green space and the landscape led approach is welcome and notwithstanding this is an outline application with all matters reserved except access, the indicative layout as shown has been amended to reflect comments received from Officers. It is accepted the site could accommodate the quantum of development proposed and ensure no unacceptable impact results on existing important green infrastructure and important trees and hedgerows from siting of dwellings or delivery of internal access and pedestrian routes out of and along the site boundaries.
- 6.73 As such in design terms an appropriate and informed response to context which safeguards existing and new residential amenity to meet the relevant criteria of CS policies SS6, RA2 and LD1 and the design aims and objectives of the NPPF could be delivered on the site.

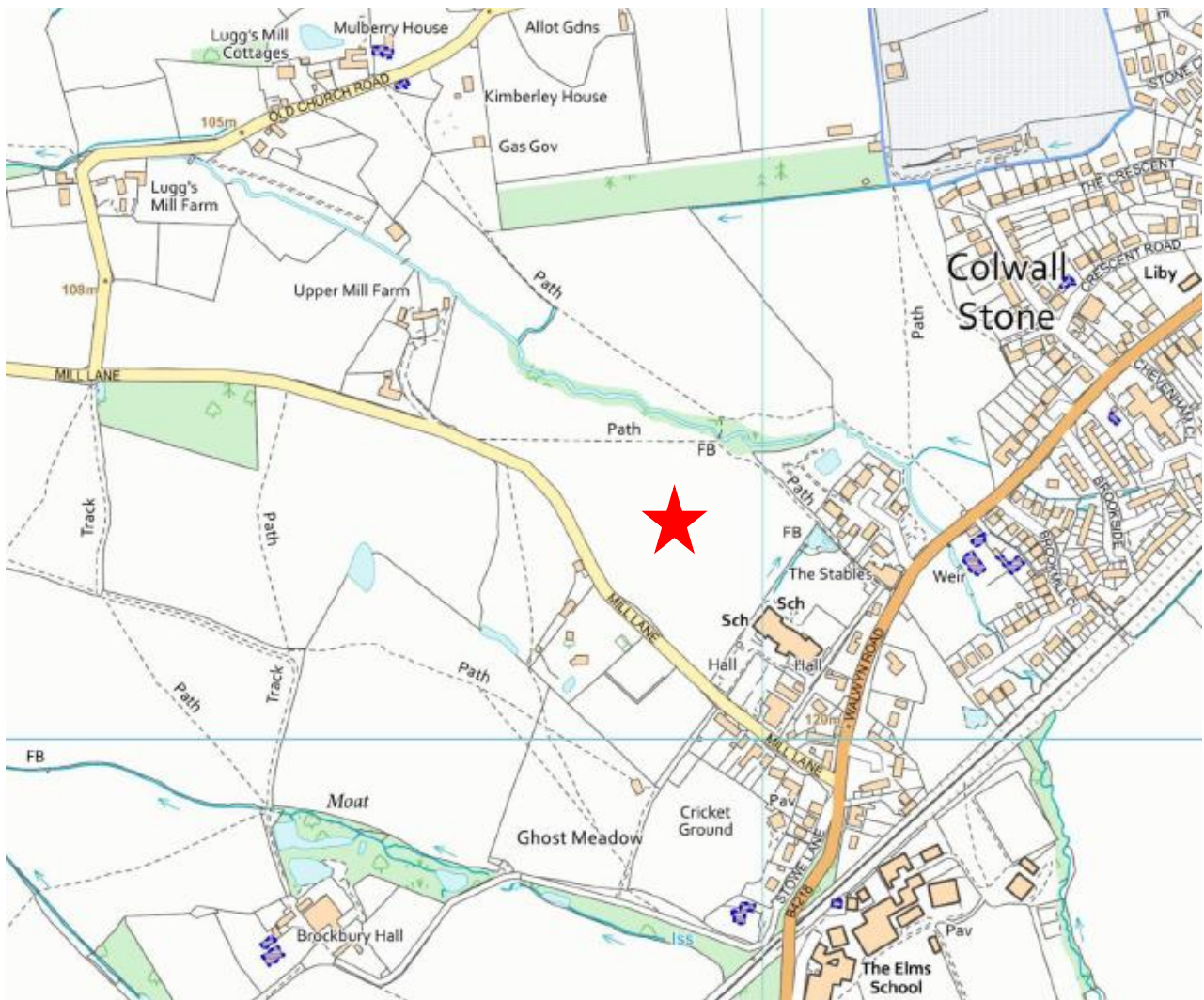
Heritage

- 6.74 When considering the impact of a development proposal upon the setting of a Heritage Asset, there are several stages. Firstly identifying those assets which may be affected and their significance. Then those aspects of their setting which contribute to the significance are

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identified and lastly the impact of the development upon this significance. It should be noted that a view to or from a Heritage Asset does not necessarily mean that a site is within that assets setting, this depends upon whether that view contributes to the significance of the asset. Also a site can be within the setting of a heritage asset without their being a direct view under certain circumstances. The fundamental principle is whether or not a development affects the significance of a heritage asset, including those aspects of its setting which contribute to its significance.

- 6.75 The site is not within a conservation area nor does it contain or adjoin any designated heritage assets. The nearest heritage assets are the Grade II Brockbury Hall over 500 metres to the South West, the Grade II Joyces and Hope Pole Cottage around 240 metres to the South and Grade II* Brook House 190 metres East on the other side of existing built development. Grade II Peattys Cottage and Mapleton are over 450 metres away to the North.
- 6.76 These assets are hatched blue and their relationship with the application site, denoted with the red star, are shown on the map below, with the extent of the nearest part of Colwall conservation area edged and washed light blue –

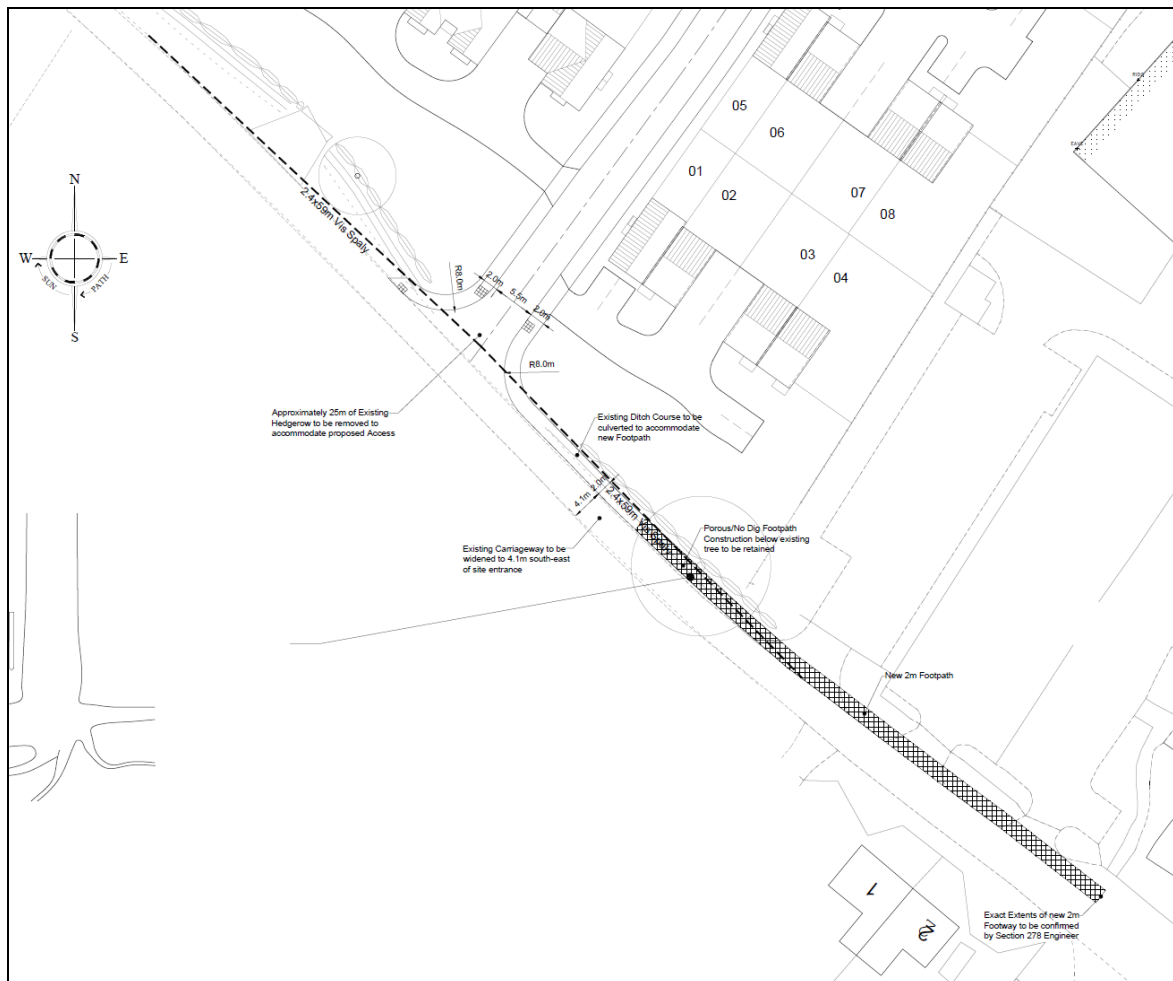


- 6.77 As noted above and from assessment on the ground, the application site is some distance from the Conservation Area and the nearest listed buildings. It is concluded therefore, the proposals will not harm or adversely affect the character, appearance or setting of the conservation area or the nearest listed buildings hereabouts due to intervening distances, topography and existing

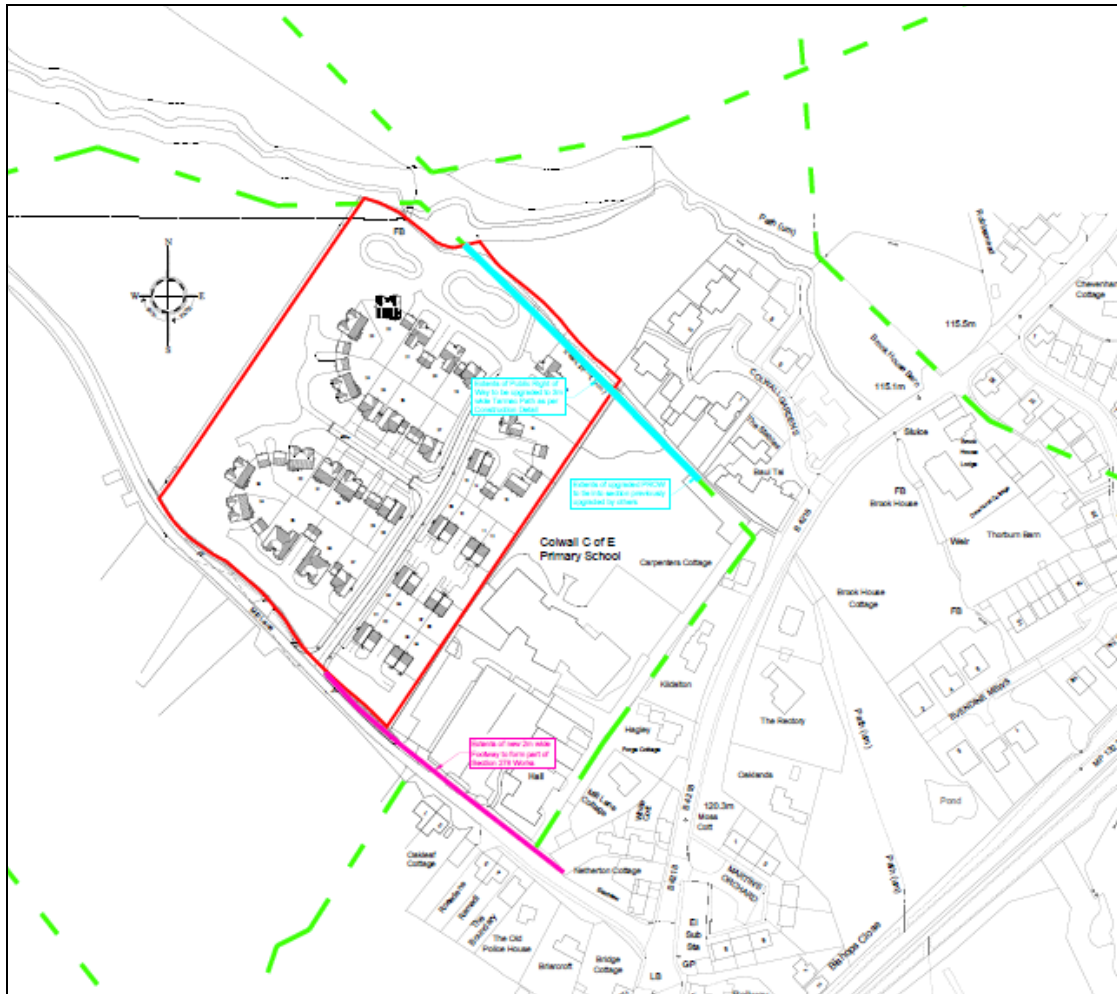
built form and infrastructure. As such the proposals are found to accord with policies SS6 and LD4 of the Herefordshire Core Strategy and the heritage aims and objectives of the NPPF.

Highways

- 6.78 Access arrangements serving the proposal have been demonstrated achieve relevant technical standards and required visibility splays to the satisfaction of the Transportation Manager. Within these works the existing carriageway is to be widened to 4.1m south-east of site entrance and existing ditch course to be culverted to accommodate a new 2 metre wide footpath from the entrance to the site to link with existing extents of the footpath towards the junction of Mill Lane and Walwyn Road. The access arrangements are shown below –



- 6.79 The plan below shows the application site edged red and access and connectivity proposals relating to it. The green line shows existing PRoWs around the site with the turquoise showing an area of the PRoW which adjoins the site would be upgraded to be 3 metres in width and surfaced in tarmac. This in turn would link to the existing upgraded PRoW to the South East.
- 6.80 As shown in purple, below, a new 2 metres wide footpath would be provided from the site's vehicular access to extend past the School and Village Hall and link up with the existing footpath around Netherton Cottage on Mill Lane. Both of these new and upgraded pedestrian linkages provide good accessibility and desirable routes from the site to Colwall's many services and facilities or open countryside beyond.



- 6.81 On this basis and with regards to the Transportation Managers' comments, the proposal addresses highway safety, has connectivity to local services and facilities so to offer sustainable transport options and no severe impact justifying refusal as set out within NPPF paragraph 109 is assessed to be created with regards additional vehicular movements associated with the proposals.
- 6.82 The proposal complies with CS policies SS4 and MT1, Herefordshire Council's Highways Design Guide and the relevant aims and objectives of the NPPF.

Drainage

- 6.83 Review of the Environment Agency's Flood Map for Planning and the submitted Flood Risk Assessment indicates that the site is located in Flood Zone 1. Given the steep nature of the topography in the area and the constrained extent of the flooding indicated by the mapping, it is not expected that the potential effects of climate change would put the site at further risk of fluvial flooding. The EA's long term flood risk mapping indicates that the site is at very low risk of flooding from surface water. There are no main rivers in close proximity to the site. An ordinary watercourse passes by the northern corner of the site, running along the site boundary for a short distance.
- 6.84 The comments of the Council's Drainage Engineer are noted, along with correspondence between the applicant and Severn Trent Water and the latter's final position of no objection subject to requested conditions being imposed being recorded. As such CS policies SD3 and SD4 are satisfied.

Section 106 Agreement / Planning Obligations

- 6.85 The Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1 April 2008, and Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended). Planning contributions as shown below will be secured from the development. These figures will be indexed linked when due –

| Infrastructure to be delivered from contributions | Contribution amount |
|--|---|
| Transport infrastructure to provide sustainable active travel measures from the development site to facilities within the village and wider area to include footpath, cycle and bus infrastructure improvements | <ul style="list-style-type: none"> • 2 bed dwelling £1,966.00 • 3 bed dwelling £2,949.00 • 4 + bed dwelling £4,915.00 (all to be index linked) |
| Education – Pre-school provision, Colwall Primary School, John Masefield High School, Post 16 provision, Youth provision and Special Education Needs | <ul style="list-style-type: none"> • 2+ bed apartment £2,845.00 • 2 bed dwelling £4,900.00 • 3 bed dwelling £4,900.00 • 4 bed dwelling £5,844.00 (all to be index linked) |
| Waste and recycling – provision of 1 x black waste bin and 1 x green recycling bin | <ul style="list-style-type: none"> • £80.00 per dwelling |
| Library provision | <ul style="list-style-type: none"> • 1 bed flat £120.00 • 2 bed flat/dwelling £146.00 • 3 bed dwelling £198.00 • 4+ bed dwellings £241.00 (to be index linked) |
| A minimum of 0.102ha (1020sqm) of on-site green infrastructure comprising; 0.034ha (340sqm) of Public Open Space 0.68 ha (680sqm) of children's play of which 0.02ha (200sqm) should be formal children's play ALTERNATIVELY The formal children's formal play could be delivered off-site at Humphry Library Walwyn Road, Broomill Close, Colwall Green with financial contributions to be spent in consultation with the parish council | 2 bed dwelling £965.00 3 bed dwelling £1,640.00 4 bed dwelling £2,219.00 (all to be index linked) |
| Outdoor sports provision at Colwall Football and Cricket Club | £19,502.00 (to be index linked) |
| Medical provision at Colwall surgery | £14,000.00 (to be index linked) |
| Medical Services at Hereford Hospital | £23,332.57 (to be index linked) |
| Affordable Housing | 40% to be delivered on site |

- 6.86 The Affordable Housing Units will be allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has a local connection to Herefordshire.
- 6.87 For reference, 'local connection' means having a connection to Herefordshire as specified above, means because that person is or in the past was normally resident there, is employed there; or has a family association there; or a proven need to give support to or receive support from family members; or because of special circumstances.
- 6.88 On the basis of the above and as confirmed by the Planning Obligations Manager, a policy compliant draft Heads of Terms can be agreed on the above basis however it is noted the proposal has not been accompanied with a Draft Heads of Terms and as such the proposal is contrary to policy ID1 of the Herefordshire Core Strategy. It is acknowledged this can be easily

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rectified should Planning Committee approve the application subject to the agreement of a Heads of Terms on the above basis, or if the application is refused in line with the recommendation, as part of appeal submissions if the applicant challenges the decision.

Housing Mix

- 6.89 Policy H1 – *Affordable housing – thresholds and targets* requires all new open market housing proposals on sites of more than 10 dwellings which have a maximum combined gross floor space of more than 1000sqm to contribute towards meeting affordable housing needs.
- 6.90 Affordable housing provided under the terms of policy H1 is expected to be available in perpetuity for those in local housing need, secured through a legal agreement.
- 6.91 Policy RA2 (4) seeks to ensure that schemes generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand. Policy H3 builds on this, requiring residential developments to provide a range and mix of housing.
- 6.92 The Herefordshire Local Housing Market Assessment produced by GL Hearn consultants, which forms part of the evidence base for the Core Strategy, provides a further insight into local housing needs in terms of tenure and size for the period 2011-31.
- 6.93 The past delivery of affordable housing in Herefordshire has left the Council open to significant criticism at Planning Appeals, despite all the corporate policies seeking to delivery more and attempts to reduce levels of homelessness. A description of affordable housing delivery was described as '*pitiful*' at the recent Land to the North of the Viaduct, Ledbury Public Inquiry.
- 6.94 Considering, past delivery of only 1,063 dwellings between 2011/12 and 2018/19 there has been an accumulated shortfall of 4,604 affordable dwellings. This is an affordable housing shortfall of 81% since 2011/12 against a target of 5,667 during the same period; or, put another way, just 19% of need has been provided. The scale of this shortfall is enormous and equates to almost 600 affordable homes per annum that are not being provided.
- 6.95 The comments of the Planning Obligations Manager and Strategic Housing are noted. The proposal would with a suitable housing mix condition related to the open market housing, deliver an adequate suitable mix and numbers of housing compliant with Herefordshire Core Strategy policies SS2, SS3, H1, H3 and RA2 and as such represents development that meets with regards to housing, affordable housing and the social objectives of the NPPF which secure balanced mixed inclusive communities.

Other Matters

- 6.96 The application is not a mechanism to challenge or scrutinise the emerging NDP or the processes that led to the Plans' current position. These matters will be assessed by the NDP Examiner. There is a suggestion the proposal is being supported as a mechanism, if it were to be approved, the allocated site at Grovesend Farm would not come forward either itself or through the NDP.
- 6.97 The correct forum for the debate on NDP allocations is and was the Neighbourhood Plan preparation and consultation process. The application assessed here has no material bearing on the status of the proposed allocated site. The Mill Lane application is assessed here on its own merits against the Development Plan and other material considerations.
- 6.98 Approval or refusal of this application has no bearing on what happens at the Grovesend Farm site.

Summary and planning balance

- 6.99 In accordance with s.38 (6) of the 2004 Act, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Core Strategy constitutes a spatial strategy and policies designed to achieve sustainable development under the three objectives; social, economic and environmental. The NPPF, a material consideration, also seeks sustainable development through the economic, social and environmental objectives for planning. To enable a conclusion to be reached on whether the application proposals are in accordance with the development plan and to take account of material considerations, I now consider the conflicts with the development plan alongside the benefits and impacts of the proposals against each of the three roles or dimensions of sustainable development in turn.
- 6.100 The proposal is for 37 dwellings on a greenfield site which is adjacent to the main built form of a settlement identified under CS policy RA2, where the Local Plan directs development proposals which are outside Hereford city and the market towns. The site is however outside the defined settlement boundary proposed in an emerging Neighbourhood Development Plan which is at Examination stage and furthermore is wholly within an Area of Outstanding Natural Beauty.
- 6.101 The NPPF at paragraph 172 is explicit that Great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
- 6.102 The NPPF sets out 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. Consideration of such applications should include an assessment of:
- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
 - b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
 - c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated
- 6.103 For the purposes of the above paragraphs, the NPPF (footnote 55) is clear whether a proposal is 'major development' is a matter for the decision maker, taking into account its 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.
- 6.104 Given the quantum of and nature of development and further to the visual landscape impact and harm identified above, such a proposal would result through the associated noise and activities from a residential estate in a loss of tranquillity to the area, which is an identified special character intrinsic to the qualities of the AONB. As identified it is concluded there would be harm to the setting of the AONB and overall a significant adverse impact on the area and its characteristics which led to this area being defined with the AONB along with the AONBs overall designation.
- 6.105 As such Officers conclude that this proposal represents major development within a designated area that does not meet one of the three exception tests and accordingly is directed by the NPPF to refuse the application. Further to and either reinforcing the above position or on its own basis, the conflict identified with NPPF paragraph 11 d) also directs refusal of the application.
- 6.106 Notwithstanding the clear in principle and landscape harm identified which require the proposal to be refused, Officers accept the application site lies in a location that is sustainably located, accessible and facilitates a genuine choice of modes of travel, the proposal meets the

requirements of policies SS4 and MT1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the NPPF. Furthermore, the application and safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development as compliant with policy MT1 of the Herefordshire Local Plan and guidance contained within the NPPF.

- 6.107 In terms of heritage assets, the sites location is one that given its relationship with heritage assets through intervening distance, existing built form and topography it is concluded there would be no harm to the setting of adjoining listed buildings is not considered to be substantial and can be considered to the setting and amenity of designated heritage assets including Colwall Conservation Area. As such the proposal complies with the requirements of policy LD4 of the CS and with the heritage guidance contained within the NPPF (2019)
- 6.108 The proposal would also help deliver a range of housing types and sizes including much needed affordable housing which help meet local needs and assist in wider housing delivery including the LPA meeting its housing targets.
- 6.109 Whilst officers would advise that paragraph 11d (i) is the relevant decision making route, to aid decision making, officers advise and summarise the development having regards to the three objectives of sustainable development, and consider the weight that could be attributed to the proposal in the planning balance below.

Economic Objective

- 6.110 A key aspect of the economic role played by the planning system is to ensure that sufficient land of the right type is available in the right places and at the right time to support growth. The provision of land for housing is part of this overall role.
- 6.111 In this context, the proposals score, in economic terms at least, positively. The proposal could help to support economic growth arising from:
- employment and supply of associated materials, goods and services in the construction phase
 - support to local services and facilities arising from the new resident population
 - economic benefits to the Council through the payment of New Homes Bonus.

- 6.112 However, positive economic benefits arising from the scheme are not unique to this application proposal, but will arise to varying degrees of magnitude on every housing development and I attach only moderate weight to these benefits.

Social Objective

- 6.113 Planning's social role incorporates providing a supply of housing to meet present and future needs and the creation of a high quality built environment. The proposed development will add to the supply of housing, including social housing, which widen opportunities for home ownership and contribute to meeting housing requirements across the district as a whole.
- 6.114 The planning policy requirements are set out in Core Strategy policies RA1 for overall rural housing requirements and H1 for affordable provision. There is an acknowledged need to provide market and affordable housing in the Ledbury Rural HMA, which includes Colwall. The proposals will assist in reaching the indicative housing growth target set by policy RA1 for the Ledbury Rural HMA (565 dwellings 2011 to 2031) and so will contribute to meeting identified general housing needs.
- 6.115 The proposal would provide a suitable range or mix of housing as required by CS policies H1 and RA1. I attach significant weight to this issue given the scale of development and clear policy

requirements and housing need shortfall, including affordable housing delivery, the proposal will help address. The weight I attach is further increased due to the Council's lack of an up to date 5 year housing land supply and affordable housing delivery performance.

- 6.116 I do however note the proposal would represent conflict with the emerging Neighbourhood Development Plan which is at an advanced stage at Examination. NDPs are the result of significant time and energy put in by local communities and to go against a Plan so advanced could undermine public confidence and future engagement in the planning process. That said I do take into account the level of objections to the NDP which focus on the exclusion of this site and inclusion of another allocated site and as such only attribute modest weight to this matter.

Environmental objective

- 6.117 The environment objective requires consideration of how the development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy).
- 6.118 Whilst located in walking and cycling proximity to local services and facilities and having public transport options for longer journeys available by train, as detailed above, there are a number of ways the environmental policies of the core strategy and NPPF are not satisfied. The proposed development provides harm to the environmental role, specifically regarding adverse landscape impact and harm upon a protected landscape. As identified the proposal represents 'major development' in a designated area and on the basis of the significant adverse impact on the landscape character, appearance and historic setting of Colwall, substantial harm is caused to the designated protected landscape asset. As such the environmental aims and objectives of CS policies RA2, LD1 and LD4 and the emerging NDP are not satisfied and there is conflict with NPPF paragraph 11 and 172 as a result and the CRow Act. I attach significant weight to this harm and these disbenefits.

Conclusions and planning balance.

- 6.119 In accordance with s.38 (6) of the 2004 Act, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise
- 6.120 Policy SS1 of the CS reflects the presumption in favour of sustainable development in national policy and provides that planning applications that accord with the policies in the Core Strategy will be approved unless material considerations indicate otherwise.
- 6.121 The NPPF paragraph 11 provides the mechanism for the determination of the application stating:

For decision Making

c) Approving development proposals that accord with an up-to-date development plan without delay; or

d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 6.122 As detailed above there is conflict with the policies of the development plan. These policies are consistent with the guidance contained within the National Planning Policy Framework and there is conflict with Paragraph 11 d) and 172 which as directs refusal of the application.
- 6.123 The potential benefits that are delivered by the scheme have also been considered above and these are considered not to be of such that they would outweigh the identified conflict with the Local Development Plan policies and NPPF paragraph 172 and overall harm to a designated landscape protected by legislation, to which officers consider significant weight can be attributed. As such refusal is recommended.

RECOMMENDATION

That planning permission be refused for the following reasons:

1. The proposed development by its nature, scale and setting is major development within a designated area identified within the National Planning Policy Framework that does not meet any of the exception tests of NPPF Paragraph 172. Notwithstanding that, the proposal would have a significant and adverse impact and harm to both the character, appearance, setting and enjoyment of the Malvern Hills Area of Outstanding Beauty and on the purposes for which the area has been designated or defined, and an adverse impact on the character, appearance and setting of Colwall. As such the proposal is contrary to policies SS1, SS6, RA2 and LD1 of the Herefordshire Core Strategy, Malvern Hills AONB Management Plan and policies within the emerging Colwall Neighbourhood Development Plan, the landscape aims and objectives of the National Planning Policy Framework and paragraph 11, 170 and 172 and the provisions of the CRow Act.
2. The application is also not accompanied by a completed Section 106 agreement which is necessary to secure the required provisions and make the development acceptable. It is therefore contrary to Policies H1, IDI, OS1 and OS2 of the Herefordshire Local Plan Core Strategy and the Council's Supplementary Planning Document on Planning Obligations

Informative

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

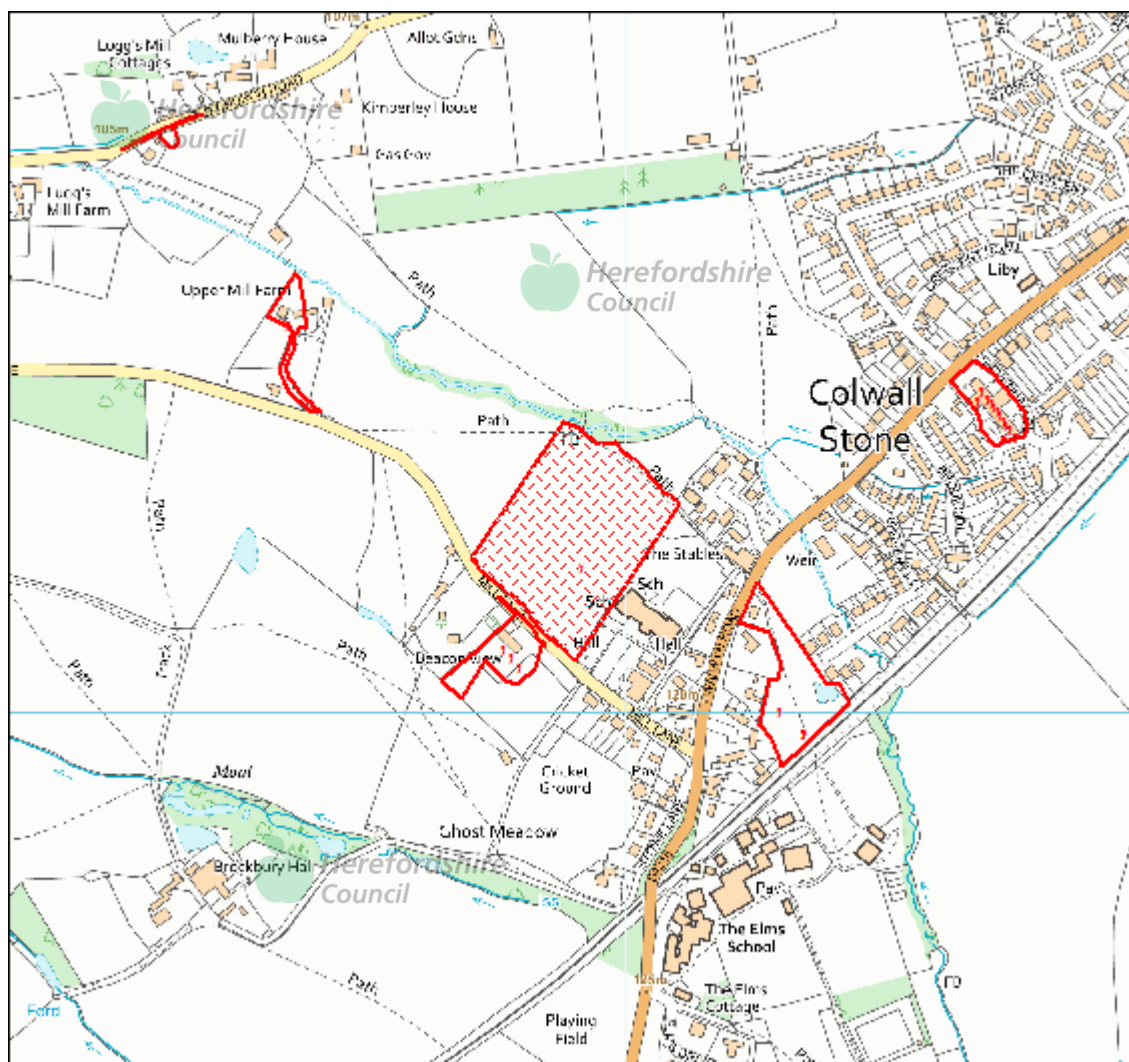
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 200156

SITE ADDRESS : LAND OFF MILL LANE, COLWALL, WORCESTERSHIRE

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