

AGENDA

Planning Committee

Date: **Wednesday 24 November 2010**

Time: **10.00 am**

Place: **The Council Chamber, Brockington, 35 Hafod Road,
Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail rclarke@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Planning Committee

Membership

Chairman	Councillor TW Hunt
Vice-Chairman	Councillor RV Stockton
	Councillor ACR Chappell
	Councillor PGH Cutter
	Councillor H Davies
	Councillor GFM Dawe
	Councillor DW Greenow
	Councillor KS Guthrie
	Councillor JW Hope MBE
	Councillor B Hunt
	Councillor RC Hunt
	Councillor G Lucas
	Councillor RI Matthews
	Councillor JE Pemberton
	Councillor AP Taylor
	Councillor DC Taylor
	Councillor WJ Walling
	Councillor PJ Watts
	Councillor JD Woodward

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The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

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AGENDA

		Pages
1.	APOLOGIES FOR ABSENCE To receive apologies for absence.	
2.	NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3.	DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	MINUTES To approve and sign the Minutes of the meeting held on 3 November 2010.	1 - 10
5.	CHAIRMAN'S ANNOUNCEMENTS To receive any announcements from the Chairman.	
6.	APPEALS To be noted.	11 - 12
7.	PROPOSED REVISED PLANNING ENFORCEMENT POLICY To update the Council's Planning Enforcement Policy.	13 - 22
8.	DMN/101505/F - COVENT GARDEN, BROCKHILL ROAD, COLWALL, HEREFORDSHIRE, WR13 6EY Proposed construction of 20 new dwellings and new access road and associated works.	23 - 42
9.	DMS/102345/F - UPPER HOUSE FARM, MORETON ON LUGG, HEREFORDSHIRE, HR4 8AH. Proposed poultry units extension:- 3 no replacement units, 3 no additional units.	43 - 54
10.	DMS/101741/O -MOREBOROUGH, LEDBURY ROAD, ROSS ON WYE, HEREFORDSHIRE, HR9 7BE. Erection of 2 dwellings, construction of new vehicular access and associated works.	55 - 62
11.	DATE OF NEXT MEETING Date of next site inspection - 14 December 2010 Date of next meeting - 15 December 2010	

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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 3 November 2010 at 10.00 am

Present: Councillor TW Hunt (Chairman)
Councillor RV Stockton (Vice Chairman)

Councillors: ACR Chappell, PGH Cutter, H Davies, AE Gray, DW Greenow, JW Hope MBE, RC Hunt, G Lucas, JE Pemberton, RH Smith, WJ Walling, PJ Watts, JB Williams and JD Woodward

In attendance: Councillors BA Durkin and J Stone

54. APOLOGIES FOR ABSENCE

Apologies were received from Councillors GFM Dawe, KS Guthrie, B Hunt, RI Matthews and RV Stockton.

55. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors AE Gray, RH Smith and JB Williams were substitute members for Councillors B Hunt, KS Guthrie and AP Taylor.

56. DECLARATIONS OF INTEREST

There were no declarations of interest made.

57. MINUTES

RESOLVED: That the Minutes of the meeting held on 13 October 2010 be approved as a correct record and signed by the Chairman.

58. CHAIRMAN'S ANNOUNCEMENTS

The Chairman introduced all of the Officers present at the meeting.

The Chairman advised members that agenda item 7 had been withdrawn as the report was incomplete.

At the request of Councillor BA Durkin, the consideration of agenda item 11 was brought forward to be considered immediately after agenda item 9.

59. APPEALS

The Committee noted the report.

60. PROPOSED REVISED PLANNING ENFORCEMENT POLICY

The report was withdrawn.

61. DMNC/091832/F - LEDWYCHE FARM, BLEATHWOOD, LITTLE HEREFORD, HEREFORDSHIRE, SY8 4LF.

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mrs. Willis spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's constitution, Councillor JS Stone, the local ward member, commented on a number of issues, including:

- Attention was drawn to the planning history of the site, including a number of enforcement issues that had arisen.
- It was understood that other letters had been submitted but these were not indicated in the report.
- A comment was made about the length of time taken to reach this stage; the application had been received in July 2009.
- The application needed to be considered on its planning merits, the principal policies relevant to the application being H8 (Agricultural and forestry dwelling and dwellings associated with rural businesses) and PPS7 (Sustainable development in rural areas).
- It was noted that the County Land Agent accepted that there was a functional need for on site accommodation and the Planning Inspector (on an earlier enforcement appeal) had commented that it would be desirable for someone to be close to livestock at all times if the development of an egg production unit occurred.
- It was also noted that the visual impact of the development was limited and not sufficient to warrant refusal of the application.
- Councillor Stone commented that, if the committee was minded to approve temporary permission, the applicant needed to abide by the conditions.

In response to questions from members about the functional requirement for this proposal, the Principal Planning Officer commented on animal welfare issues and, given the relatively isolated position of the site, on site accommodation would enable any related emergencies to be dealt with immediately. In response to another question, the Principal Planning Officer advised that right of access was a civil matter and not a material planning consideration.

A number of members did not consider that the functional requirement for on site accommodation had been demonstrated given the scale of the enterprise and felt unable to support the application. However, other members considered that the policy criteria had been met on balance.

The Head of Development Management advised that a temporary permission was recommended to enable the authority to assess the continued need for the development. The Principal Planning Officer clarified issues in relation to the planning history of the site.

Some members commented on the need to support sustainable local businesses. It was emphasised that, given the retrospective nature of the application and issues with earlier developments, the applicant had to comply with all the conditions required.

In accordance with the Council's constitution, the local ward member was given the opportunity to close the debate. Councillor Stone commented on the need to balance the various points raised for and against the development, welcomed the use of

renewable energy sources, and noted that temporary permission provided an opportunity to review the impact of the development.

RESOLVED

That planning permission be granted subject to the following conditions:

- 1 F22 Temporary permission & reinstatement of land (mobile home/ caravan) – 3 years.**
- 2 F27 Agricultural occupancy.**
- 3 The permission hereby granted is specifically for the siting of two co-joined units as defined by Section 13(1) of the Caravan Site Act 1968.**

Reason: In order to define the terms of this permission and to comply with Policies H8 and H11 of the Herefordshire Unitary Development Plan.

62. DMS/191822/FH - STONE LEA, RECTORY ROAD, HAMPTON BISHOP, HEREFORDSHIRE, HR1 4JU.

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided; the schedule of committee updates is appended to these minutes.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JE Pemberton, the local ward member, commented on a number of issues, including:

- It was unfortunate that the application could not be determined at the last meeting of the Planning Committee.
- A full flood risk assessment had been submitted with the application.
- No comments had been received from Hampton Bishop Parish Council.
- The original dwelling would remain the dominant feature.

Members supported the application and noted that it had only come before the Committee as it had been submitted by an Officer holding a politically restricted post within Herefordshire Council.

Councillor Pemberton was given the opportunity to close the debate in accordance with the Council's Constitution. She chose to make no further statement.

RESOLVED

Provided that no representations are received that raise material planning considerations that planning permission be granted subject to the following conditions:

- 1 A01 Time limit for commencement (full permission)**
- 2 B02 Development in accordance with approved plans and materials**
- 3 H13 Access, turning area and parking**
- 4 G02 Retention of trees and hedgerows**

INFORMATIVES:

1 N15 Reason(s) for the Grant of PP/LBC/CAC

63. DMS/102055/G - FALCON BROOK, HOW CAPLE, HEREFORDSHIRE, HR1 4TF.

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided; the schedule of committee updates is appended to these minutes.

In accordance with the criteria for public speaking, Mr Jones, the applicant, spoke in support of his application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor BA Durkin, the local ward member, commented on a number of issues, including:

- The business served 40 farmers and 43 local businesses.
- The application was essential for the continuation of the business.
- The applicant's parents were due to retire from the family business.
- The applicant had approached a number of lenders but could not get a mortgage due to the section 52 condition.
- The dwelling had been build in the early 1990's and was not a new dwelling in open countryside.
- There were 59 letters of support for the application.
- The Council's Economic Development team did not object to the application.
- The business was established and successful.
- The section 52 agreement should be removed in order to help the business develop.

Members discussed the application and noted that although they supported the Planning Officers and Policies there were times when it was necessary to make exceptions and deviate from the planning guidance. They noted that the application was not a new build and had been in situ for 20 years. They also felt that there was a need to encourage businesses to thrive, especially in the current difficult economic climate.

Members noted that supporting the application and discharging the Section 52 agreement would not set a precedent as each application had to be determined on its merits.

The Head of Development Management noted that Members had referred to a similar application at Garway Hill however that site benefitted from an occupancy condition. He added that the removal of the Section 52 agreement would result in a dwelling in open countryside which was permitted as an exception to policy and which would now not benefit from planning control.

Members noted the support for the application from local residents as well as the Council's Economic Development team.

In response to a question from the Committee, the Team Leader (South) confirmed that if the business activities on the site ceased and the applicants remained in the property they would be in breach of the existing section 52 agreement and be subject to enforcement action.

Councillor Durkin was given the opportunity to close the debate in accordance with the Council's Constitution.

RESOLVED

That planning permission be approved contrary to the Officer's recommendation.

64. DMS/102061/F & DMS/10262/C - PENRICE, WALFORD ROAD, ROSS ON WYE, HEREFORDSHIRE, HR9 5PQ.

The Team Leader (South) gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided; the schedule of committee updates is appended to these minutes.

In accordance with the criteria for public speaking, Mr Bowring, a neighbouring resident, spoke in objection to the application and Mr Tarzey, the applicant's agent, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor PGH Cutter and AE Gray, the local ward members, commented on a number of issues, including:

- There had been consultation between the local ward members and the applicants but no agreement had been reached in respect of the application.
- Why did the existing house need to be demolished?
- A single dwelling on the site would be preferred by local residents.
- Approving the application would have a detrimental effect on the street scene.
- The application was similar to the one refused by the Planning Committee earlier this year.
- The petition was signed by genuine people from the area.
- No affordable housing as part of the development.
- The application would result in over development of the site and the footprint of the development was too large.
- There was not enough parking on the site, there would therefore be a negative impact on the highway.
- Could the application be deferred pending the results from the appeal?
- Concerns regarding DR1, HBA6 and H13 had not been addressed.
- The residents of Eastfield Road would still be able to see the propose development.

In response to the local ward members comments regarding a possible deferral of the application the Head of Development Management advised members that the application should not be deferred pending the outcome of any pending appeal decision. He confirmed that the current appeal on the site was due to be determined in December 2010 but that this could not be guaranteed. He also confirmed that the authority could be subject to an appeal on the grounds of non determination if the application was not determined.

Some members voiced their concerns in respect of the proposed height, mass, footprint and appearance of the development. They were also concerned that the proposed car parking provisions would not meet the demands of the residents.

Other members of the Committee noted that there was a need for development on the site and that the proposed application was an improvement on the previous application on the site, which was still subject of an appeal. It was also noted that approving the application would not result in a precedent being set as any application in the area would have to be determined on its merits.

In response to a question from the Committee, the Locum Lawyer confirmed that if the appeal was successful then the inspector would determine suitable conditions. He also advised that PPS3 had been amended to remove the reference to 30 dwellings per hectare and that the amendments did not restrict development of gardens.

One member was concerned that the Section 106 draft heads of terms did not pay particular regard to Ross-on-Wye. Members felt that any funds secured by means of a Section 106 agreement should be used in the application area.

Members discussed the application and felt that the application should be refused as the design, scale, and massing would represent an over-development of the site. The site would also be out of keeping with the established character of the area and have an adverse impact on the amenity of the adjoining residents. Therefore it was deemed that the application should be refused as it was contrary to policies DR1, HBA6, H13 and PPS3.

Councillors Cutter and Gray were given the opportunity to close the debate in accordance with the Council's Constitution. They reiterated their concerns in respect of the application and thanked the Committee for their comments.

RESOLVED

That the proposal would be an inappropriate form of development and by virtue of its detailed design, scale and massing would represent an over-development of the site that would be harmful to the character and appearance of the Ross-on-Wye Conservation Area and the established residential character of the area. The proposal is therefore contrary to Policies DR1, HBA6 and H13 of the Herefordshire Unitary Development Plan.

65. DMN/101477/FH - 3 AND 4 STATION BUNGALOWS, ALBERT ROAD, COLWALL, HEREFORDSHIRE, WR13 6QH.

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided; the schedule of committee updates is appended to these minutes.

Members supported the application and noted that it had only come before the Committee as the land was owned by an elected member of Herefordshire Council.

RESOLVED

That planning permission be granted subject to the following conditions:

- 1 A01 Time limit for commencement (full permission)**
- 2 B01 Development in accordance with the approved plans**
- 3 C01 Samples of external materials**

4 I16 Restriction of hours during construction

INFORMATIVES:

- 1 The details required by condition no. 3 also refers to the external materials/finishes intended for the new outbuildings, the new porch and chimney.**

66. DATE OF NEXT MEETING

Members noted that the next meeting of the Planning Committee was scheduled for 10:00 am on 24 November 2010.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

The meeting ended at 12.30 pm

CHAIRMAN

PLANNING COMMITTEE

3 November 2010

Schedule of Committee Updates/Additional Representations

Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.

10 DMS/102061/F & DMS/102062/C - Demolition of existing residential property, construction of 8 no. apartments, 3 no. town houses with associated car parking, landscaping and access at Penrice, Walford Road, Ross On Wye, Herefordshire, HR9 5PQ

For: M F Freeman, Ruardean Works Varnister Road, Drybrook, Gloucestershire, GL17 9BH

ADDITIONAL REPRESENTATIONS

A further 7 letters of objection have been received together with a supplemental to the residents petition with a further 12 signatories. No additional matters are raised within these further responses. Members should refer to section 5 of the report where the grounds of objection are summarised.

Members will also have received by email on 2 November a further letter sent by Mr D Warwick on behalf of local residents restating the grounds of objection

NO CHANGE TO RECOMMENDATION

11 DMS/102055/G- Discharge of Section 52 agreement attached to Planning Permission SH891980PO - To remove occupancy condition at Falcon Brook, How Caple, Herefordshire, HR1 4TF

FOR: MR & MRS JONES PER MR & MRS B D JONES, FALCON BROOK, HOW CAPLE, HEREFORDSHIRE, HR1 4TF

ADDITIONAL REPRESENTATIONS

A further email has been received from the applicant conforming that he has been in contact with the Federation of Small Businesses suggested lender – ASC Partnership PLC who have confirmed that they are unwilling to lend to him.

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING COMMITTEE
DATE:	24 NOVEMBER 2010
TITLE OF REPORT:	APPEALS

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the progress in respect of the following appeals.

Key Decision

This is not a key decision

Recommendation

That the report be noted

APPEALS RECEIVED

Application No. DMNC/093078/F

- The appeal was received on 26 October 2010
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Miss V Key
- The site is located at Boat Cottage, Boat Lane, Whitbourne, Herefordshire, WR6 5RS
- The development proposed is to demolish remains of current dwelling and rebuild new dwelling creating parking spaces within the site
- The appeal is to be heard by Written Representations

Case Officer: Nigel Banning on 01432 383093

Application No. DMN /101425/F

- The appeal was received on 3 November 2010
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr Kurt
- The site is located at Car Park at Homebase, New Mills Industrial Estate, Leadon Way, Ledbury
- The development proposed is proposed use of part of car park for the siting of catering unit.
- The appeal is to be heard by Written Representations

Case officer: Roland Close on 01432 261803

Further information on the subject of this report is available from the relevant case officer

Application No. DMNE/092262/F

- The appeal was received on 4 November 2010
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr M Freeman
- The site is located at Freeman's Paddock, Bromtrees Hall, Bishop's Frome, Herefordshire, WR6
- The development proposed is change of use of land from agricultural to family travellers site, plus retrospective application for construction of barn and new access.
- The appeal is to be heard by Hearing

Case Officer: Carl Brace on 01432 261795

Application No. DMS/101286/FH

- The appeal was received on 10 November 2010
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by William Smith
- The site is located at Cider Barn, Step House Farm, Pencraig, Ross on Wye, Hfds, HR9 6HR
- The development proposed is replacement of existing covered yard with extension comprising new kitchen and sun room
- The appeal is to be heard by the Householder procedure

Case Officer: Andrew Prior on 01432 261932

APPEALS DETERMINED

Application No. DMSE/093116/O

- The appeal was received on 1 July 2010
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Michael Ward
- The site is located at Riverhill, Newmills Hill, Goodrich, Ross on Wye, Herefordshire, HR9 6J
- The application dated 7 December 2009 was refused on 20 January 2010
- The development proposed was Site for two bedroom house with new access.
- The main issues are:
 - i) Whether the proposal is in accordance with the policies of the Herefordshire Unitary Development Plan (UDP) which control the location of new housing
 - ii) The effect on the natural beauty of the landscape and countryside of the Wye Valley Area of Outstanding Natural Beauty (AONB)

Decision: The application was refused under delegated powers on 20 January 2010. The appeal was Dismissed on 27 October 2010.

Case Officer: Mr D Thomas on 01432 261974

If members wish to see the full text of decision letters copies can be provided.

MEETING:	PLANNING COMMITTEE
DATE:	24 NOVEMBER 2010
TITLE OF REPORT:	PROPOSED REVISED PLANNING ENFORCEMENT POLICY
REPORT BY:	ASSISTANT DIRECTOR – ENVIRONMENT, PLANNING & WASTE

Purpose

To update the Council's Planning Enforcement Policy.

Recommendation

THAT:

Members make comments on the revised policy which will be forwarded to the Cabinet Member, Environment and Strategic Housing for approval as a Policy of the Council to come into effect immediately thereafter.

Introduction and Background

- 1 The current Planning Enforcement Policy was approved by a Key Decision in 2007 and is published on the Council's website. In June 2010 the Development Management Team was reorganised to reflect changes to the Planning Committee structure. This resulted in a reduction from 3 development management areas to 2, but with an enforcement team reporting to its own Team Leader, to enable a more consistent approach to this activity across the County. This has afforded an opportunity to review and renew the enforcement policy and to acknowledge Members' keen interest in this subject. It is therefore appropriate to seek approval for an updated Policy at this time.

Proposed Changes

- 2 Having reviewed the Policy the fundamental strategy, principles and powers have not changed since 2007. There is a change however in the requirement to provide feedback on cases to complainants, which are to be acknowledged within 5 working days, and to keep Members informed at the outset of cases and as they reach significant stages.

The introduction of the Civica system allows a more refined monitoring of the performance of the Enforcement Team and of the cases investigated.

Appendices

PLANNING ENFORCEMENT POLICY

Further information on the subject of this report is available from
Mr M Tansley on (01432) 261815

PLANNING ENFORCEMENT POLICY

This Planning Enforcement Policy was approved by the Cabinet Member (Environment and Strategic Housing) on XXXXX 2010. Prior to this approval the draft policy was reported to the Planning Committee on XXXXXXX 2010. This final version incorporates the comments made at that Committee.

Contents

- 1. Aims of Policy**
- 2. Enforcement Powers**
- 3. Enforcement Practice in Herefordshire**
- 4. Enforcement Strategy**
- 5. Principles**
- 6. Assessing the Need for Enforcement Action**
- 7. Service Standards**
- 8. Priorities for Action.**
- 9. Monitoring of Planning Conditions and Legal Agreements**
- 10 Case Management**
- 11. Information and Publicity**
- 12. Performance Monitoring.**

1. AIMS OF POLICY

- 1.1 To control unauthorised development, works and operations and ensure effective compliance with planning permissions, listed building and other related consents and regulations through an approach to enforcement that is proportionate, targeted, consistent and clear.

2. ENFORCEMENT POWERS

- 2.1 There are several tools available to the Council to deal with breaches of planning control under the Town and Country Planning Acts.
 - Requisition for Information - often served to gather information on ownership of land or buildings prior to serving one of the notices listed below.
 - Planning Contravention Notice - can be served where it appears that there may have been a breach of planning control and the Council requires information about activities on the land or nature of the occupier's interest in the land.
 - Breach of Condition Notice - can be served where there is a failure to comply with any condition or limitation imposed on the grant of planning permission.

- Enforcement Notice - can be served to remedy an actual breach of planning control by requiring an unauthorised use to stop or building works to be removed. A notice can also be served to restrict or condition a particular operation, which is otherwise unacceptable. There is a right of appeal against the notice.
- Stop Notices - can be served in conjunction with an Enforcement Notice to require unauthorised activities to cease before the Enforcement Notice comes into effect. In practice the threat of claims for compensation are a real deterrent to serving this type of notice.
- Temporary Stop Notices - can be served to require unauthorised activities to cease for 28 days, they are not required to be served with an enforcement notice.
- Injunctions - can be sought in the County Court or High Court to restrain any actual, or expected, breach of planning control.

2.2 The Council may initiate a prosecution in all cases where the requirements of a notice or injunction are not met in the stated timescale.

2.3 In addition to the powers outlined above, Planning Services is also responsible for investigating and controlling the following:

- Unauthorised works to Listed Buildings - It is an offence to carry out unauthorised works to a Listed Building or demolish it without consent. Prosecution can be pursued under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Alternatively the Act also includes the power to serve a Listed Building Enforcement Notice to which there is a right of appeal.
- Unauthorised works to protected trees - It is an offence to carry out unauthorised work to trees protected by a Tree Preservation Order. Works to trees in a Conservation Area should be notified to the Local Planning Authority in advance. In both instances the Council has power to prosecute offenders and require the planting of replacement trees.
- Unauthorised removal of hedgerows - Under the Hedgerow Regulations 1997, the Council is responsible for protecting 'important' hedgerows. It is an offence to remove a rural hedgerow if the owner has not served a Hedgerow Removal Notice on the Council or where the Council has served a 'Hedgerow Retention Notice'. Enforcement of the Regulations may involve prosecution, requiring the planting of a replacement hedgerow or the service of an injunction to restrain any actual or apprehended offence.
- Unauthorised advertisements - The Council may prosecute any person who displays an advertisement in contravention of the Advertisement Regulations.
- Land adversely affecting amenity - Section 215 of the Town and Country Planning Act 1990 enables a Local Planning Authority to serve a notice requiring steps to be taken to remedy the condition of land where it is not being suitably maintained and is an eyesore as a result. There is a right of appeal to the magistrates' court.
- Contraventions of Hazardous Substances Control - It is a criminal offence under the Planning (Hazardous Substances) Act 1990 to exceed controlled quantities of hazardous substances or fail to comply with a condition on Hazardous Substances Consent.

Prosecution is through the Magistrates Court. The Council can also serve a contravention notice and apply for an Injunction.

- Within Hereford Area of Archaeological Importance it is an offence to undertake any operations which disturb the ground, flood or tip without giving 6 weeks notice to the Council who are the administering authority.
- The Council also has powers to carry out works to protect listed buildings under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. ENFORCEMENT PRACTICE IN HEREFORDSHIRE

- 3.1 A wide variety of enforcement enquiries are received by the Council each year. Many of these are dealt with quickly as investigation reveals there is either no breach of control, or a minor technical breach is discovered which can be easily resolved. More serious cases may require formal enforcement action.
- 3.2 The types of enforcement cases encountered in Herefordshire vary widely. They include breaches of planning conditions, unauthorised development and changes of use such as the siting of mobile homes on agricultural land.
- 3.3 The Council is also responsible for taking action against unauthorised works to listed buildings, works to or the removal of protected trees without consent, the removal of hedgerows in contravention of the Hedgerow Regulations, and contravention of procedures that operate within Hereford Area of Archaeological Importance.
- 3.4 The Enforcement Team is based in the Development Management team.. It investigates cases from initial complaint through to the service of formal notices, appeals and court action. Historic Buildings Officers are closely involved in cases involving unauthorised works to Listed Buildings.
- 3.5 Other officers in the Service take the lead where the unauthorised removal of trees and hedgerows are involved.
- 3.6 The Enforcement team and other officers also work closely with the Building Control team who inform them when work has started on site and make an initial check on whether development is proceeding in accordance with the approved plans.
- 3.7 The Legal Practice Manager and senior officers in the Service have powers delegated by the Planning Committee to make decisions on whether to take enforcement action. In addition, the decision to prosecute rests with the Legal Practice Manager. The Council's Legal Services team provides legal advice on cases as required and handle the serving of Enforcement Notices and prosecutions.

4. ENFORCEMENT STRATEGY

- 4.1 Public confidence in the development management process is quickly undermined if unauthorised development is allowed to proceed without any apparent attempt by the local planning authority to intervene before serious harm to amenity results from it.
- 4.2 The Council has discretion to take enforcement action when it regards it as expedient. In taking action the Council will be guided by the following considerations that are set out in Planning Policy Guidance Note 18.

- The Council has the primary responsibility for taking whatever enforcement action is necessary in the public interest.
- The Local Government Ombudsman may find 'maladministration' if the Council fails to take effective enforcement action which is plainly necessary within a reasonable timescale.
- In considering any enforcement action under the Planning Acts the decisive issue should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest.
- Enforcement Action should always be commensurate with the breach of planning control to which it relates. For example, It is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to amenity in the locality of the site.
- The local planning authority will normally make an initial attempt to seek a negotiated solution by persuading the owner or occupier of the site to make an application and/or cease work. However, negotiations will not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds, or to compel it to stop.

4.3 Early identification of breaches of planning control is important to ensure that in the longer term as little potentially abortive work as possible is undertaken. This means that potential remedies are less costly to the contravener and use less officer time and hence make best use of available resource. To this end upon commencement of development, as notified by the Building Control team, planning file will be checked for compliance with conditions. Any found to be outstanding will result in an initial letter seeking resolution of those breaches. Failure to take action within the prescribed period could result in the service of breach of condition notices and against which there is no appeal.

4.4 Enforcement action under the Hedgerow Regulations and within Hereford Area of Archaeological Importance will be pursued in accordance with Government guidance and accepted best practice. All officers will continue to work together to ensure a unified approach to planning enforcement matters.

5. PRINCIPLES

5.1 The Council signed up to the Enforcement Concordat in November 2000. This document was drawn up by the Access to Business Group and sets out the principles under which all local authority enforcement functions should be administered.

- Performance will be measured against agreed **standards**.
- There will be **openness** in dealing with business and others.
- Enforcers will be **helpful, courteous** and **efficient**.
- Complaints procedures will be **publicised**.
- Enforcement decisions will be taken in a **proportionate** manner.
- Enforcement Officers will strive for high standards of **consistency**.

6. ASSESSING THE NEED FOR ENFORCEMENT ACTION OR PROSECUTION

In deciding whether enforcement action or prosecution is expedient the Council will take the following steps:

- 1 Establish the facts - to find out what is happening on a site or in a building, to establish the identity of the owner/occupier and the relevant planning history of the site.

In doing this the Enforcement Officer may do any or all of the following:

- Visit the site. This will usually be unannounced and photographs may be taken. Where circumstances require it the site visit may be done under warrant.
- Interview the owner and/or occupier. Such interviews are used to obtain information about the alleged breach of planning control and to give information about the enforcement process and options available.
- Occasionally, in serious cases where an offence may have been committed, it may be necessary to conduct an interview under caution as required by the Police and Criminal Evidence Act 1984.
- Issue of Planning Contravention Notice or other statutory request for information.
- Check the Council's files for planning permission, planning conditions or other correspondence, which may be relevant to the alleged breach of planning control.
- Make enquiries with other statutory bodies and enforcement agencies to co-ordinate action.

2. Analyse the information gathered - Enforcement officers will discuss their findings with planning officers, Historic Buildings Officers and other professionals as appropriate.

The Enforcement Officers will consult relevant legislation and the development plan for Herefordshire to establish the degree of harm to interests the Council has a duty to protect.

In addition, before any formal enforcement action is taken the provisions of the Human Rights Act 1998 will be taken into account. Essentially this will involve consideration of whether taking action, or not taking action, will interfere with one of the convention rights. The rights of both the complainant and the offender have to be taken into account.

3. Decide which of the following categories the breach of control falls into:-
 - a) Development that does not constitute a breach of planning control.

- b) Development that is permitted development and therefore does not require a planning application
 - c) Development that is exempt from enforcement action due to the passage of time and is considered lawful.
 - d) Development or works judged to be of a type or degree that it would not be expedient to take enforcement action.
 - e) Development or work that requires permission or consent and there is a reasonable chance that permission or consent will be granted
 - f) Development or unauthorised works that require enforcement action or prosecution (in appropriate cases) to be commenced immediately.
 - g) Development or works that appear to fall within the remit of another enforcing agency will be referred to the agency concerned.
4. Prepare a report - Where it is decided to take action a report will be written for consideration by a named senior officer who has delegated powers to authorise enforcement action or prosecution. A report is also prepared where a breach has occurred but it is not considered expedient to take formal action.

7. Service Standards

7.1 The following service standards and priorities are set for dealing with complaints.

- a) In general, complaints will be accepted by telephone, via the Council's website or directly by email, via the Info shops, or in writing and recorded on a Complaints Form. There are occasions when the complainant will be requested to submit their complaint in writing particularly where it is anticipated that a serious breach has occurred. Anonymous calls and letters will be dealt with at the discretion of the Enforcement Officer in consultation with the Team Leader and/or Development Manager.
- b) The Enforcement Officers will endeavour to acknowledge written complaints within 5 working days, where appropriate in a manner consistent with the Council's published customer standards, which apply across all services.
- c) Complainants will normally be informed of progress in writing, by email or by telephone within 10 working days of the alleged breach being reported. They will be updated as appropriate and informed of proposed action, if any, within 10 working days of a decision on the case being made. In protracted cases the case officer/enforcement officer will keep the complainant advised of progress at appropriate intervals, and which in any event should not be greater than 3 calendar months.

- d) Local Members will be notified by e-mail of investigations being undertaken within their Ward and advised of progress at appropriate intervals.
- e) The Council will not divulge the details of the complainant to any person against whom the complaint is lodged. There may however be cases where the complainant's evidence will be crucial to successful enforcement action and an approach will be made to request that they act as a witness.

7.2 Where a breach of planning control has taken place it will be dealt with in accordance with the priorities set out in Section 8 of this Policy.

8. Priorities for Action

Level 1 – High priority where there is a serious and urgent risk that the breach will result in irreversible damage to material planning interests. A site visit and investigations will be commenced within 1 working day for:

- Breaches of Listed Building control where demolition or alterations are taking place which are known to detract severely from the special architectural and historic interest of the listed building.
- Breaches of planning control in Conservation Areas or AONBs where there is clear evidence that immediate, irreparable and significant damage would be caused to the character or appearance of the Conservation Area, or the special landscape character of an AONB.
- Removal of hedgerows, works to trees protected by a Tree Preservation Order and works to trees in Conservation Areas, where these hedges or trees make a major contribution to the County's natural heritage and are under immediate threat.
- Breaches of control or conditions causing significant irreversible damage to the environment.
- Breaches of planning control which are resulting in serious damage to the biodiversity of a site in an area subject to special protection such as an SSSI, SAC or SWS.
- Breaches of Planning Control which are resulting in permanent and serious damage to the archaeological interest of a site, especially where it is a Scheduled Ancient Monument.

Level 2 - Medium priority for breaches involving building operations. A site visit and investigations will usually be commenced within 5 working days for:

- Breaches of planning control involving building work which would be significantly contrary to landscape and conservation policies set out in the development plan.

- Breaches of planning control or conditions which results in serious harm or loss of amenity or nuisance to a neighbourhood.

Level 3 – Low priority where investigations and, if necessary, a site visit will be commenced within 10 working days for:

- Breaches of Advertisement control
- Development involving small domestic structures such as sheds or fences.
- Breaches of control where the use is likely to be temporary and capable of being resolved without formal action.
- Breaches not included in levels 1 and 2 above.

Following the initial investigation it is possible that individual cases will be re-classified to a different priority level and the programme of action adjusted accordingly.

9. Monitoring of Planning Conditions and Legal Agreements

- 9.1 Monitoring planning conditions is an integral part of a pro-active enforcement policy. Enforcement Officers will monitor conditions on planning permissions and other consents and approvals to ensure they are complied with in consultation with Building Control Surveyors and officers from the Conservation section.
- 9.2 The increasing use of legal agreements under section 106 of the Town and Country Planning Act and section 278 of the Highways Act is generating significant work in monitoring their implementation. Agreements may require work to be carried out within a specific timescale, control occupancy, make financial contributions or involve the provision of facilities such as open space.
- 9.3 Monitoring is an important function in the Council's role in development management. Within the resources of the team the investigation of reported breaches of planning control will be dealt with in line with the priorities set out above. In some cases the 'development team' approach, involving officers from outside the Planning Service and project management techniques will be used to ensure the proposed scheme is implemented in accordance with the approved plans and agreements.

10. Case Management

- 10.1 All complaints will be recorded on the Council's Civica computer system. Action will follow the steps set out in this Policy. The Enforcement Officer will investigate, consider and make a recommendation on each case. The decision whether or not to take action will be made by the Enforcement Officer in consultation with the appropriate senior officer and recorded on the Civica system. All current cases will be reviewed with the Enforcement Team Leader on a regular basis.
- 10.2 In cases where action is proposed a review of the case will be set out in a report and signed by an officer named in the Council's Scheme of Delegation in order that the action is properly authorised. Where an Enforcement Notice or prosecution is involved the case is sent to Legal

Services for the appropriate notice or summons to be issued.

- 10.3 Enforcement appeals will be dealt with jointly by enforcement officers and the case officer for any related planning application or such other planning officer as allocated by the Enforcement Team Leader.
- 10.4 The enforcement officers will also work in partnership with officers from Environmental Health and Community Protection where direct action is required to deal with fly posting and other unauthorised advertisements.

11. Information and Publicity

- 11.1 Complainants will be informed of any action, or otherwise, the Council is proposing to take in accordance with this policy.
- 11.2 Where appropriate, publicity will be given to cases where enforcement appeals have been successful or have resulted in a successful prosecution.

12. Performance Monitoring

- 12.1 A report setting out enforcement statistics will be submitted to the Planning Committee every six months. Reports will include:
- Numbers of complaints received
 - Number and types of notices issued
 - Details of outcomes of cases
 - Results of enforcement appeals

Andrew Ashcroft

Assistant Director – Environment, Planning and Waste

July 2010



MEETING:	PLANNING COMMITTEE
DATE:	24 NOVEMBER 2010
TITLE OF REPORT:	<p>DMN/101505/F- PROPOSED CONSTRUCTION OF 20 NEW DWELLINGS AND NEW ACCESS ROAD AND ASSOCIATED WORKS AT COVENT GARDEN, BROCKHILL ROAD, COLWALL, HEREFORDSHIRE, WR13 6EY.</p> <p>For: Mr Paul Mccann, Banner Homes Midlands Ltd. 5 Brooklands, Moons Moat Drive, Redditch, Worcestershire, B98 9DW.</p>

Date Received: 17 June 2010

Ward: Hope End

Grid Ref: 375789,243005

Expiry Date: 16 September 2010

Local Members: Councillor R.V. Stockton and Councillor A.W. Johnson

1. Site Description and Proposal

- 1.1 The application site lies on the western side of Brockhill Road, a road with a width of approximately 5.5 metres, and currently forms part of The Downs School, Malvern College Preparatory School. It is an existing playing field the School considers surplus to requirements. It has an area of approximately 0.832 of a hectare (2.056 acre).
- 1.2 Brockhill Road is a tree lined road accessed off Old Church Road. On the western side of Brockhill Road in the highway directly in front of the site are eight protected trees comprising six lime trees and two horse chestnut trees. The existing gateway into the site is towards the northern end of its eastern boundary between an existing horse chestnut tree and a lime tree.
- 1.3 At the southern end of Brockhill Road it meets Old Church Road at a recently improved junction. This junction of Brockhill Road, Old Church Road and Walwyn Road formed around "the green" had the following problems associated with it:-
- there were a proliferation of routes of multiple conflict areas;
 - the visibility from the southern arm exiting Old Church Road southbound onto Walwyn Road was sub-standard;
 - there was poor speed restraint;
 - There were no dropped kerbs to assist disabled pedestrians, parents with pushchairs, or wheelchairs crossing any arm of the junction, or to the post box; and
 - There was potential confusion for vulnerable road users because of multiple possible vehicle routes.
- 1.4 The junction was recently the subject of a significant improvement by introducing a one-way system around the existing junction and included a series of minor works. This scheme aimed to achieve the following:-

Further information on the subject of this report is available from Mr R Close on 01432 261803

- A reduction in conflict areas by reducing the number of possible routes;
 - All traffic travelling along Old Church Road enters Walwyn Road along the northern arm of the junction which has much better visibility than the southern arm;
 - The revised junction design should contribute to a reduction in the speed of traffic turning into Brockhill Road; and
 - The provision of dropped kerbs and the simplification of vehicle routes, thus enhancing the safety and attractiveness of the junction for vulnerable road users.
- 1.5 These works were designed without impacting upon the triangular green area thought at that time to have been a constraint.
- 1.6 Brockhill Road currently serves some ten dwellings before the School itself.
- 1.7 The playing field the subject of this application is set at a level approximately one metre below the level of Brockhill Road and is relatively flat itself. To the north the site is bounded by the recently erected indoor sports hall of the School and a bungalow that is in the ownership of the School. Within the western boundary of the site is a woodland belt and at the boundary is an existing drainage ditch. To the south-east of the site is pair of semi-detached houses known as 1 and 2 Downsland Cottages whilst to the south is the rear boundaries of two further dwellings, one fronting Brockhill Road and one fronting Old Church Road.
- 1.8 The trees along Brockhill Road are the subject of a Tree Preservation Order. The site lies within both the defined settlement boundary of Colwall and the Colwall Conservation Area. The special character and appearance of the Conservation Area hereabouts derives primarily from its spacious character and mature gardens rather than the buildings themselves. Within Brockhill Road itself, it is only the Edwardian School building to the north of the site that is considered to be attractive in its own right. The site also lies within the Malvern Hills Area of Outstanding Natural Beauty.
- 1.9 The proposal is to erect twenty two storey houses upon the site comprising a variety of detached, semi-detached and terraced houses. The mix of houses proposed comprises four two-bedroomed houses, three three-bedroomed houses, ten four-bedroomed houses, two five-bedroomed houses and one six-bedroomed house. Of these four would be affordable houses comprising two two-bedroomed houses on a social rent tenure, one six bedroomed house on a social rent tenure to meet a specific special need and one three-bedroomed house on a shared ownership tenure. Fifty-nine parking/garaging spaces would be provided.
- 1.10 All of the houses have been designed to reflect the local vernacular taking the Edwardian School building to the north as a reference. The provision of bay windows, projecting gables, the use of coloured render at first floor level, timber framing to the projecting gables and strong chimneys are all features throughout the scheme. A single vehicular access is proposed off Brockhill road utilising, albeit in a modified form, the existing access between an existing horse chestnut tree and a lime tree.
- 1.11 The basic form of the proposed layout is that the access road swings to the rear of the frontage houses providing their garaging / parking to the rear and with a second row of houses to the west of the site access off that same access road to their front.
- 1.12 The foul water would be disposed of via the mains drainage and the surface water would be disposed of on-site and via the drainage ditch to the west of the site that eventually drains into a watercourse.
- 1.13 The applicant proposes to enter into a Section 106 legal agreement that would provide for the summarised provisions set out in Annex 1 being the Draft Heads of Terms:-

- 1.14 For clarification the proposed further works to the Brockhill Road, Old Church Road and Walwyn Road junction referred to in the Draft Heads of Terms are designed to create enhanced vehicle swept paths for ten metre long coaches (i.e .midi-coaches) that on occasions use this junction. This involves changes to the kerb lines and revised road markings and signage. This involves minor alterations to the triangular green island at that junction.
- 1.15 It is proposed to crown lift the frontage trees to achieve clearance over the site of five metres and clearance along the remaining open space of three metres.

2. Policies

2.1 Central Government advice

Planning Policy Statement 1	–	‘Delivering Sustainable Development’
Planning Policy Statement 3	–	‘Housing’
Planning Policy Statement 5	–	‘Planning for the Historic Environment’
Planning Policy Statement 7	–	‘Sustainable Development in Rural Areas’
Planning Policy Statement 9	–	‘Biodiversity and Geological Conservation’
Planning Policy Guidance Note 13	–	‘Transport’
Planning Policy Guidance Note 17	–	‘Sport and Recreation’
Planning Policy Statement 25	–	‘Flood Risk’

2.2 Herefordshire Unitary Development Plan 2007

S1	–	Sustainable Development
S2	–	Development Requirements
DR1	–	Design
DR2	–	Land Use and Activity
DR3	–	Movement
DR4	–	Environment
DR5	–	Planning Obligations
DR6	–	Water Resources
S3	–	Housing
H5	–	Main Villages: housing land allocations
H9	–	Affordable Housing
H13	–	Sustainable Residential Design
H15	–	Density
H16	–	Car Parking
H19	–	Open Space Requirements
S6	–	Transport
T6	–	Walking
T7	–	Cycling
T11	–	Parking Provision
S7	–	Natural and Historic Heritage
LA1	–	Area of Outstanding Natural Beauty
LA5	–	Protection of Trees, Woodlands and Hedgerows
LA6	–	Landscaping Schemes
NC1	–	Biodiversity and Development
NC6	–	Biodiversity Action Plan, Priority Habitats and Species
NC8	–	Habitat Creation, Restoration and Enhancement
NC9	–	Management of Features of the Landscape Important for Fauna and Flora
HBA6	–	New Development within Conservation Areas
S8	–	Sport and Recreation
RST3	–	Standards for Outdoor Playing and Public Open Space
RST4	–	Safeguarding Existing Recreational Open Space

2.3 Supplementary Planning Document "Planning Obligations" (April 2008).

3. Planning History

3.1 DMNE/092822/F – Proposed construction of 20 new dwellings and new access road and associated works – Withdrawn 15 June 2010

3.2 Other recent history in the immediate vicinity

DCNE2006/1272/F – Single storey classroom to replace timber classrooms – Permitted – 9 June 2006

DCNE2007/3033/F - Junior Classrooms and library and highway works - Permitted – 3 December 2007

DCNE2007/3364/C – Demolition of three temporary classroom huts to provide site for new sports facility – Permitted 18 December 2007

DCNE2007/3842/F – Provision of new sports hall facility incorporating classrooms, parking, landscaping and highway improvements to the junction of Brockhill Road and Old Church Road – Permitted 12 March 2008

4. Consultation Summary

4.1 External Consultees

4.2 Sport England does not object to the proposed development. With regard the latest playing field assessment accompanying the application, they state:-

"The assessment which has been submitted as evidence to support the planning application has followed the methodology as set out in our document: Towards a Level Playing Field as referred to in PPG17's Companion Guide Assessing Needs and Opportunities. This methodology is the industry standard for carrying out playing pitches assessments. It has 8 stages which include identifying teams, where they play, the quality of the pitches, the latent demand and identifying solutions and options.

I am writing to confirm that the assessment meets our planning policy exception E1.

Therefore Sport England withdraws its statutory objection to the granting of planning permission for the proposed construction of 20 new dwellings and new access road and associated works at Covent Garden, Brockhill Road, Colwall W13 6EY."

4.3 Severn Trent Water do not raise objection to the proposed development. Severn Trent Water has undertaken an assessment for the applicant in relation to the proposed development. They specifically state, in relation to the issue as to the pipework between manholes 6801 and 6802 that Severn Trent Water cannot request or allow the developer to fund improvements to the public sewerage system. They specifically state that any problems on the existing public system are for Severn Trent Water to determine, fund and resolve. They state that some customers have reported problems at periods of heavy rainfall and that these issues have been dealt with by Severn Trent Water's operational team.

They go on to state that:-

"With regard to the proposed development itself, the hydraulic modelling exercise undertaken which modelled the existing foul sewerage system plus the additional foul flow from 20 new

dwellings (approx only 1 litre per second peak flow rate) concluded that the foul flows from the development would not have an adverse flow on the receiving sewerage system. Given this information, along with the fact that all surface water from the site will discharge to a local watercourse (not a STW asset) we have no objection.”

4.4 English Heritage has not raised any objection.

4.5 Internal Consultees

4.6 The Parks and Countryside Section do not raise any objection to the loss of the playing field.

4.7 The Transportation Section has no objection to the proposal.

4.8 The Planning Ecologist raises no objection to the proposed development.

4.9 The Land Drainage Engineer is satisfied that the calculations of run-off from the site into the watercourse show that it will be no greater than the existing run-off.

5. **Representations**

5.1 Colwall Parish Council has not formally objected to the application. They have, however, been consulted throughout the processing of the application. They remain concerned as to the adequacy of the foul drainage arrangements. They have also expressed concern as to the process to deal with the crown lifting of the frontage trees and state that TPO applications would be required. They have also previously expressed concerns with regard car parking provision at the School and the timing of the further improvements works to the Brockhill Road, Old Church Road and Walwyn Road junction.

5.2 The CPRE express concern about the level of affordable housing proposed and reiterates their comments contained in letter dated 3rd January 2010 in relation to DMN/092822/F in which they objected to the proposed development on the basis of an inappropriate development on of the few remaining “green lungs” in Colwall, the loss of the playing field, traffic congestion and flooding.

5.3 Malvern Hills AONB Unit make comment upon an apparent lack of affordable housing provision, the high number of parking spaces proposed, the sustainability of the design, the need to safeguard existing trees and hedgerows and the need for the housing.

5.4 The residents of sixty-one properties object on the following summarised grounds:-

- The existing junction between Walwyn Road/Old Church Road and Brockhill Road is overloaded and dangerous, increased traffic will exacerbate this.
- No details have been provided as to how the junction will cater for farm traffic.
- The increase in traffic generated by at least 40 cars, visitors and service vehicles will increase the existing traffic congestion along the roads especially at school pick up and drop off times and when events are staged and illegal parking. All will increase dangers for traffic, pedestrians, cyclists and reduce access for emergency vehicles.
- The existing traffic calming measures for the school do not work nor does the turning area, lack of parking spaces and lack of footways.
- The proposed travel plan and analysis of the data will not in reality ameliorate these impacts and are incorrect in their data.
- The necessary building works and deliveries will clash with the start of the school day and result in dangerous traffic for pupils.
- The proposed access point is dangerously located.
- The resulting unsafe environment will conflict with the schools duty of care for its pupils and the associated legislation.

Further information on the subject of this report is available from Mr R Close on 01432 261803

- The school has significantly expanded since the site was allocated for housing and will do further in the future therefore the development is no longer appropriate.
- The loss of the playing field will be harmful for the functioning of the school and the wider community. The extra information does not address the issue of lack of realistic alternative facilities in the area.
- The site is not redundant but has been used for school sports and overflow parking and should remain as such.
- The sewers in the area are already inadequate and therefore the development will add to existing health and safety problems. The additional information supplied does not adequately address this issue.
- The additional surface water created by the development will increase runoff into adjacent water courses on private land so increasing risk to property from flooding and potential pollution. The additional information does not adequately address this issue and does not detail the long term maintenance of the proposed solutions. The water table is very high.
- The loss of this green space in an AONB and village with a conservation area will be visible from the Malvern Hills and detract from the rural character of the area.
- The proposed form of development is not in keeping with the existing bungalows and their surroundings, it is over dense and the design is repetitive.
- The development will impact on existing protected trees and hedgerows, their long term maintenance is not detailed and there will be future pressure for their removal.
- The existing use of the site should be maintained for its historical links and natural flora and fauna. No details have been provided of who will provide and maintain the wildlife mitigation measures proposed.
- There may be a restrictive covenant on the land.
- The development will affect the value of properties and the goodwill of neighbours.
- It will adversely affect their outlook and overshadow their property.
- Financial incentives via the legal agreement should not result in a permission.
- There are inaccuracies on the application form.
- Private drains cross the site and will need to be diverted.
- The Coca-Cola site should be re-developed as a brownfield site instead.

5.5 The full text of these letters can be inspected at Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Committee meeting.

6. Officer's Appraisal

Principle of the Development

- 6.1 The application site lies within the settlement boundary of the main village of Colwall as defined in the Herefordshire Unitary Development Plan 2007. Furthermore the site is specifically allocated for housing development as set out in policy H5 of the Herefordshire Unitary Development Plan 2007. The policy envisaged the allocated site accommodating some 20 dwellings, although the allocated site has been reduced by the recent development of the indoor sports hall to the school which reduced the site area by approximately 0.077 hectare. It also recognised that the loss of the playing field should not result in a deficiency of recreational provision in the locality.
- 6.2 This allocation of the land for housing development was the subject of formal objections at the time that the Herefordshire Unitary Development Plan was evolving (i.e. at the Deposit Draft stage). An Inquiry into the objections was held and the Inspector reporting into those objections considered the site was a suitable site for housing development. He considered Colwall to be a suitable site for further housing development and to be in a highly sustainable location. He did not consider that there were any insurmountable infrastructure matters (e.g. transportation matters, foul sewerage capacity) that represented overriding constraints.

Indeed he considered that traffic matters could be dealt with by way of “relatively modest local improvements”.

- 6.3 He acknowledged that the site was within the Malvern Areas Outstanding Natural Beauty and the Conservation Area and specifically recognised the value of the peripheral vegetation but he regarded the site itself as being “rather flat, featureless and uninteresting”. He therefore considered that the site was a suitable site for residential development and stated that “I can conceive of a scheme at the density envisaged that would contribute positively to the character and appearance of the area and to the natural beauty of the landscape and countryside”.
- 6.4 As a consequence there is no objection to the principle of the proposed development.
- 6.5 With regard to the playing field issue the Inspector was of the view that if it was demonstrated that Colwall had an excess of provision the loss of the playing field would not be problematic but if an excess of provision could not be demonstrated, alternative provision of at least equivalent community benefit would have to be provided in a convenient and accessible location.

Loss of Playing Field

- 6.6 The application is accompanied by ‘An Open Space & Sports Assessment’. That assessment concludes that Colwall Parish is very well provided for in terms of open space and playing field provision even with the potential loss of this playing field. Furthermore it demonstrates that the quantitative requirements of policy RST3 of the Herefordshire Unitary Development Plan 2007 for the entirety of Colwall Parish are achieved even with the loss of this playing field.
- 6.7 This assessment has been the subject of extensive scrutiny from Sport England and the Principal Leisure and Countryside Recreation Officer of the Council, who do not object.

Density, Layout & Design

- 6.8 The density of the proposed development equates to 24 dwellings to the hectare. This is considered to be a low density development appropriate to this site and its surroundings. The site is well located with easy pedestrian and cycle access to the centre of the village and the railway station.
- 6.9 The site layout has in many ways evolved from an understanding of the primary constraint of the site being the trees on the western side of Brockhill Road. An assessment of these trees by a suitably qualified arboricultural consultant concluded that the optimum position to create the vehicular means of access into the site was at the position of the current gateway. An alternative location of the vehicular means of access or multiple vehicular means of accesses would likely to have created root damage to trees that are worthy and capable of retention, prejudicing their long-term health and future retention.
- 6.10 The siting of the proposed houses fronting Brockhill Road has been dictated by the root protection areas required by the aforementioned street trees and the prevailing building line. This meant curving the single access road into the site to the rear of these frontage properties. It is considered that this has led to a proposal that when viewed from Brockhill Road would comprise of a series of well designed buildings with gaps between them and significantly not dominated by the private motor vehicle – the garaging/parking being located to the rear of these properties.
- 6.11 The remainder of the layout is considered to be spacious and logically designed.
- 6.12 The design of the two storey houses themselves is considered to be of a high quality. As described earlier they reflect architectural elements of an Edwardian School building to the

north. They do reflect the local vernacular and whilst some may describe the designs as a pastiche, it is considered that there is no objection to such an approach provided that it is executed well. In this particular case the designs of the houses are considered to be of a high architectural standard with an interesting mix of hipped roofs and gables and architectural detailing.

- 6.13 The recommendation includes a condition with regard materials. In this case I would expect the use of high quality materials given the location of the site within both a Conservation Area and an Area of Outstanding Natural Beauty.

Impact Upon Residential Amenity

- 6.14 The distance from the proposed houses to neighbouring residential properties is such that it is considered that there would be no undue loss of privacy. In addition, the combination of the separation distances between buildings, the orientation and the height of the buildings are such that it is considered that there would not be an undue loss of sunlight and/or daylight to neighbouring properties.

Transportation

- 6.15 It is considered that the local highway network has sufficient capacity to cater for the additional traffic flows that the development would generate. Brockhill Road has sufficient width for two cars to pass. As explained earlier, the junction of Brockhill Road, Old Church Road and Walwyn Road has been improved significantly in the recent past from a highway safety point of view. Whilst it is currently considered to be adequate, the Transportation Section agree with the Parish Council that it could be improved further and in this respect the applicant has agreed to fund an agreed scheme of further works. The monies for these further works would be secured prior to commencement of the development and the works would be carried out by the Council as the Highway Authority.
- 6.16 It is accepted that recent developments at the School have led to an increase in vehicular movements that tend to be concentrated in two short time periods during the day. Indeed congestion has occurred. However, congestion is not itself a highway safety issue. It tends to be an inconvenience. There is no recorded accident data relating to the immediate vicinity.
- 6.17 The recent developments at the School site have included the provision of traffic calming measures in Brockhill Road, assisting with safe crossing for pupils and the provision of an additional car turning area before the main school crossing point. It is understood that the School also have a Travel Plan to encourage travel by modes other than single pupil occupancy private car. For example school buses are provided.
- 6.18 The level of car parking provision proposed is such that motor vehicles associated with the development will be able to park within the confines of the site ensuring that no overspill occurs onto Brockhill Road.
- 6.19 The Transport Statement accompanying the application demonstrates that during the morning peak (8am – 9am) the proposed development would generate some 3 trips into the site and 10 out of the site. Similarly during the evening peak (5pm – 6pm) the proposed development would generate some 11 trips into the site and 4 out of the site. The School starts its normal day at 8.30am and so a proportion (perhaps half or 6 movements in total) of these vehicle movements would occur at the time when parents are dropping off pupils in Brockhill Road. It is considered that this is an extremely low number of movements. This combined with the fact that they would not create additional parking demand on Brockhill Road means that there would not be a material impact upon the highway network. During the evening peak hour (5pm – 6pm) the combined expected vehicle movements (i.e. in and out) are fifteen. It is understood that the school finishing time is staggered throughout the afternoon from 3.30pm to

5.10pm for different age groups and hence the vast majority of all parents' vehicle movements associated with the school are completed prior to the evening peak hour trips associated with residential dwellings. As such, again it is considered that there would not be any material impact upon the highway network as a result of the proposed development.

- 6.20 With regard other transportation matters, the site is very well located to the centre of the village and is within easy and convenient walking distance of both bus stops and the railway station. The development itself proposes a pedestrian link into the site from Brockhill Road south of the proposed vehicular access. This would encourage walking and provides permeability through the site.

Disposal of Foul Sewerage

- 6.21 It is proposed to dispose of the foul sewerage arising via the mains sewerage system. Severn Trent Water has assessed this in detail and their consultation response is reported above. They are satisfied that the foul sewerage system has sufficient capacity.
- 6.22 With regard any existing or future problems that local residents may experience with regard the foul sewerage system in the area, Severn Trent Water accept that it is their responsibility to resolve any such issues, as opposed to the applicant. Therefore if any future problems occur with regard the foul sewerage system in the area local residents and the Parish Council are advised to raise the matter with Severn Trent Water directly.

Disposal of Surface Water

- 6.23 At present the site is a green field. As in so many rural areas to the west of the site is an existing ditch that historically and currently fulfils a land drainage function. Water that drains into this ditch eventually discharges into a water course. It is for the persons whose land on which that ditch lies to keep that ditch clear and free of obstruction (i.e. to maintain it).
- 6.24 Clearly the proposed development does not in itself create a greater volume of surface water. It is the flow of water that is the critical issue. It is understood that at present the peak run-off from the undeveloped (green field) site during a 100 year storm is 9.2 litres per second. What is proposed in this case is a scheme of surface water management whereby the surface water upon the site is captured, stored and then released into this ditch in a controlled fashion. Normally one would design a balancing storage system to discharge at or marginally below this "greenfield rate" of 9.2 litres per second. However, in this case due to the sensitivity of water courses south and west of Colwall to flooding during extreme weather conditions the applicant proposes to increase the available storage volume and to reduce the peak surface water discharge from 9.2 litres per second to 5 litres per second. In this way it is proposed to reduce the peak water run-off from the proposed development by 4.2 litres per second during the critical storm. This would represent betterment of some 45%.
- 6.25 For clarity purposes, the storage would be provided in the form of oversized pipes within the adopted areas controlled by a hydrobrake within a control chamber. The remaining volume would be provided in the form of a tanked porous paving system in conjunction with cellular storage. The surface water from these areas would be controlled via a sump unit with an orifice control. These would in turn outfall to the oversized storage pipes within the adopted areas.
- 6.26 Therefore it is considered that the proposed surface water drainage arrangements are satisfactory. Indeed they would represent an enhancement over the existing scenario.
- 6.27 For clarification, the landowner(s) of any drainage ditch have the riparian responsibilities for maintenance of ditches on their land. If such ditches are not maintained, action can be taken under the provisions of the Land Drainage Act. This is not a planning matter.

- 6.28 Similarly, if water is discharged onto another persons land, that is not a drainage ditch that is a civil matter between the two landowners. It is understood that in this area one local resident claims that the School is discharging surface water onto a neighbouring field in her ownership without consent. This is not a planning matter.

Affordable Housing

- 6.29 The level of affordable housing provision is considered to be acceptable in this case. A six bedroomed dwelling has been specifically designed to accommodate a local family in local need that also includes children with special needs due to physical disabilities. It is also welcomed that three of the four affordable houses would be on a social rent tenure.
- 6.30 The level of affordable housing provision has been considered acceptable given the exceptional circumstances in meeting the specific needs of a local family requiring a larger property, with adaptations to meet the physical disabilities of younger members of the household. Also taken into account was the viability of providing additional units on site and the proposed development elsewhere in Colwall which would potentially deliver the additional units to meet the overall identified need for affordable housing.

Ecology & Landscaping

- 6.31 An ecological assessment has been carried out of the site that has been audited by the Planning Ecologist. An appropriate condition is recommended.
- 6.32 A fully detailed landscaping scheme has been submitted. The detail contained within that scheme is considered to be entirely appropriate.
- 6.33 The Parish Council have raised the issue as to whether a separate Tree Preservation Order application is required to crown lift the street trees as outlined above. That crown lifting is designed to prevent damage from high vehicles and is considered both appropriate and acceptable in amenity terms. However, the position is that a separate consent from the Local Planning Authority is not required to carry out tree works included in a planning application, if planning permission is granted.

Conclusion

- 6.34 Therefore in conclusion the principle of the development is acceptable primarily because the site is allocated for residential development by virtue of policy H5 of the Herefordshire Unitary Development Plan 2007. The loss of the playing field would not lead to a deficiency of such recreational facilities within the Colwall Parish and in fact the proposed "dual-use" agreement in relation to the retained outdoor sporting facilities at the School is welcomed.
- 6.35 The proposed housing layout and design is of a low density and of a quality that would respect both the Conservation Area and the Area of Outstanding Natural Beauty. The sylvan character of the area would be safeguarded. It is considered that neighbouring residents would not suffer any undue loss of privacy, sunlight and/or daylight.
- 6.36 The site is in a highly sustainable location. Minor local highway improvements are proposed as envisaged by the Inspector in relation to objections to the Unitary Development Plan and it is not considered that any highway safety issues arise.
- 6.37 The proposed arrangements for foul and surface water drainage are considered to be acceptable.
- 6.38 As a consequence it is recommended that full conditional planning permission be granted.

RECOMMENDATION

1. The Head of Legal and Democratic Services be authorised to complete the planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms (attached as an annex).
2. Upon completion of the abovementioned planning obligation Officers named in the Scheme of Delegation be authorised to issue planning permission subject to the following conditions:-

1. A01 Time limit for commencement (full permission)
2. Notwithstanding the detail upon the submitted planning application form, prior to the commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-

- Written details and samples of all external materials in respect of the buildings;
- Written details and samples of all surfacing materials in relation to the vehicular means of access, turning/manoeuvring areas, driveways car parking areas and pedestrian pathways;
- Details of the solar panels
- Details of the rooflights

The development hereby permitted shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in strict accordance with the approved detail and thereafter maintained as such.

Reason: To ensure a satisfactory appearance to the development within the Conservation Area and the Area of Outstanding Natural Beauty in accordance with policies DR1, LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.

3. Prior to commencement of the development hereby permitted full written details of all proposed boundary treatments (i.e. fences, gates, walls or other means of enclosure) shall be submitted to the Local Planning Authority for their written approval. The approved boundary treatments for each plot shall be fully implemented prior to the first occupation of the house upon that plot and thereafter maintained as such. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and any order revoking and re-erecting that Order, no other boundary treatments shall be erected without the express consent of the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development within the Conservation Area and the Area of Outstanding Natural Beauty and to safeguard the privacy of the occupiers of the houses hereby permitted in accordance with policies LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.

4. All planting, seeding and turfing in the approved details of landscaping (i.e. drawing number BAN17092-10 Rev E. received 13 October 2010) shall be carried out in the first planting and seeding seasons following the first occupation of any of the dwellings hereby permitted or the completion of the development (whichever is the sooner). Any trees or plants which within a period of five years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority

gives written consent to any variation.

Reason: To ensure that the development is satisfactorily integrated into the locality in accordance with policy LA6 of the Herefordshire Unitary Development Plan 2007.

5. Prior to the first occupation of the dwellings hereby permitted the vehicular means of access, car parking/garaging, turning and manoeuvring areas for vehicles shall be implemented. Thereafter these areas and facilities shall be kept available for the manoeuvring and garaging/parking of motor vehicles.

Reason: To ensure adequate on-site car parking provision thus preventing additional parking on Brockhill Road in accordance with policies T11 and H16 of the Herefordshire Unitary Development Plan 2007.

6. Prior to commencement of the development hereby permitted full details of all external lighting (if any) shall be submitted to the Local Planning Authority for their written approval. The development shall be carried out in strict accordance with the approved details and thereafter no other external lighting shall be installed without the prior written consent of the Local Planning Authority.

Reason: To safeguard the rural character of the area, the Conservation Area and the Area of Outstanding Natural Beauty in accordance with policies LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.

7. Prior to the commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-

- Full details of the surface water drainage design (including the requisite calculations of the balancing storage volume) such that peak surface water discharge from the development site during a 1 in 100 year storm (plus 30% for climate change) does not exceed 5.0 litres per second. These details must include a monitoring and maintenance plan in relation to these surface water drainage arrangements.

The development hereby permitted shall not commence until the Local Planning Authority has given such written approval. The approved surface water drainage arrangements shall be fully implemented prior to the first occupancy of any of the houses hereby permitted and thereafter maintained in accordance with the approved maintenance plan.

Reason: To ensure that the land drainage arrangements are satisfactory and do not exacerbate the risk of flooding in accordance with policy DR7 of the Herefordshire Unitary Development Plan 2007.

8. The finished ground floor levels of the houses hereby permitted shall be set 0.15 metre above finished ground level.

Reason: To ensure that the houses are not affected by overland flow of surface water that does occur in accordance with policy DR7 of the Herefordshire Unitary Development Plan 2007.

9. Prior to the commencement of the development, an ecological protection and enhancement strategy shall be submitted shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise

agreed in writing with the Local Planning Authority.

Reason: To comply with policies NC6, NC8 and NC9 of the Herefordshire Unitary Development Plan 2007 and to meet the requirements of Planning Policy Statement 9 and the NERC Act 2006.

10. **The existing hedgerow along the Brockhill Road frontage (i.e. the eastern boundary of the site) shall remain in-situ and none of it shall be removed other than at the approved vehicular means of access and two pedestrian pathways hereby permitted.**

Reason: To ensure that the hedgerow along the road frontage that makes a positive contribution to the character and appearance of the area is retained in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

11. **All works on-site shall be carried out in full accordance with the Arboricultural Method statement prepared by ACD Arboriculture dated 22/10/2009 received on 17 June 2010.**

Reason: To safeguard all trees of amenity value that are worthy and capable of retention in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

12. **Prior to commencement of the development hereby permitted the protective fencing as detailed upon drawing number BAN17092-03C (Scale 1:250) received 17th June 2010 and according with the advice in section 9.2 of BS5837:2005 comprising vertical and horizontal framework of scaffolding (well braced to withstand impacts) supporting either chestnut cleft fencing or chain link fencing in accordance with figure 2 of BS5837:2005 shall be erected in the positions shown upon that plan. Once these protective measures have been erected but prior to the commencement of the development a suitably qualified arboricultural consultant shall inspect the site and write to confirm that the protective measures are in situ. Upon confirmation of receipt of that letter by the Local Planning Authority the development may commence but the tree protection measures must remain in-situ until completion of the development.**

Reason: To ensure that the trees of amenity value that are worthy and capable of retention are not damaged and their long-term health and future retention not prejudiced in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

13. **All of those parking areas, pedestrian pathways and parts of the vehicular means of access that are shaded in blue upon drawing number BAN17092-03C (Scale 1:250) received 17 June 2010 shall be constructed in full accordance with the "no-dig" method as set out in para. 11.8 of BS5837:2005 and thereafter maintained in accordance with that detail.**

Reason: To ensure that the trees of amenity value that are worthy and capable of retention are not damaged and their long-term health and future retention not prejudiced in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

14. **During the course of development and thereafter there shall be no excavation (including pipework and other excavation for services) within those areas of land that are shown upon drawing number BAN17092-03C (Scale 1:250) received 17 June**

2010 to be enclosed by tree protection fencing and marked as exclusion zones.

Reason: To ensure that the trees of amenity value that are worthy and capable of retention are not damaged and their long-term health and future retention not prejudiced in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

15. That part of the vehicular means of access to the site shown upon drawing number BAN17092-03C (Scale 1:250) received 17 June 2010 to be constructed using a "no-dig" method as advised in BS5837:2005 shall be constructed in full accordance with that detail prior to any construction traffic entering the site. Thereafter that access detail shall be maintained in-situ in accordance with that detail.

Reason: To ensure that the trees of amenity value that are worthy and capable of retention are not damaged and their long-term health and future retention not prejudiced in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

16. H27 - Parking for site operatives

17. H18 - On site roads - submission of details

18. I55 - Site Waste Management

19. During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

20. Prior to commencement of the development a timetable shall be submitted, for approval in writing of the Local Planning Authority, agreeing deliveries taken at or despatched from the site during the construction phase to ensure no conflict with school traffic and development carried out in accordance with this condition.

INFORMATIVES:

1. **Reason for approval:-** The development accords with the provisions of the Development Plan in that it involves house building upon a site specifically allocated for housing development. The detail of the development is considered to preserve the character and appearance of the Conservation Area and Area of Outstanding Natural Beauty. It is not considered that any unacceptable risk to highway safety would arise and both the foul and surface water drainage arrangements are considered to be acceptable. There would not be any adverse impacts upon trees the subject of a Tree Preservation Order nor would there be any undue loss of amenity to neighbouring residents. The loss of the playing field would not lead to a deficiency of open space and recreational provision within the locality. There are no other material planning considerations that would justify a refusal of planning permission.
2. **N19 Avoidance of doubt - Approved Plans**
3. **HN08 Section 38 Agreement & Drainage details**

4. **HN01 Mud on highway**
5. **HN04 Private apparatus within highway**
6. **HN05 Works within the highway**
7. **HN28 Highways Design Guide and Specification**
8. **I13 - This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.**

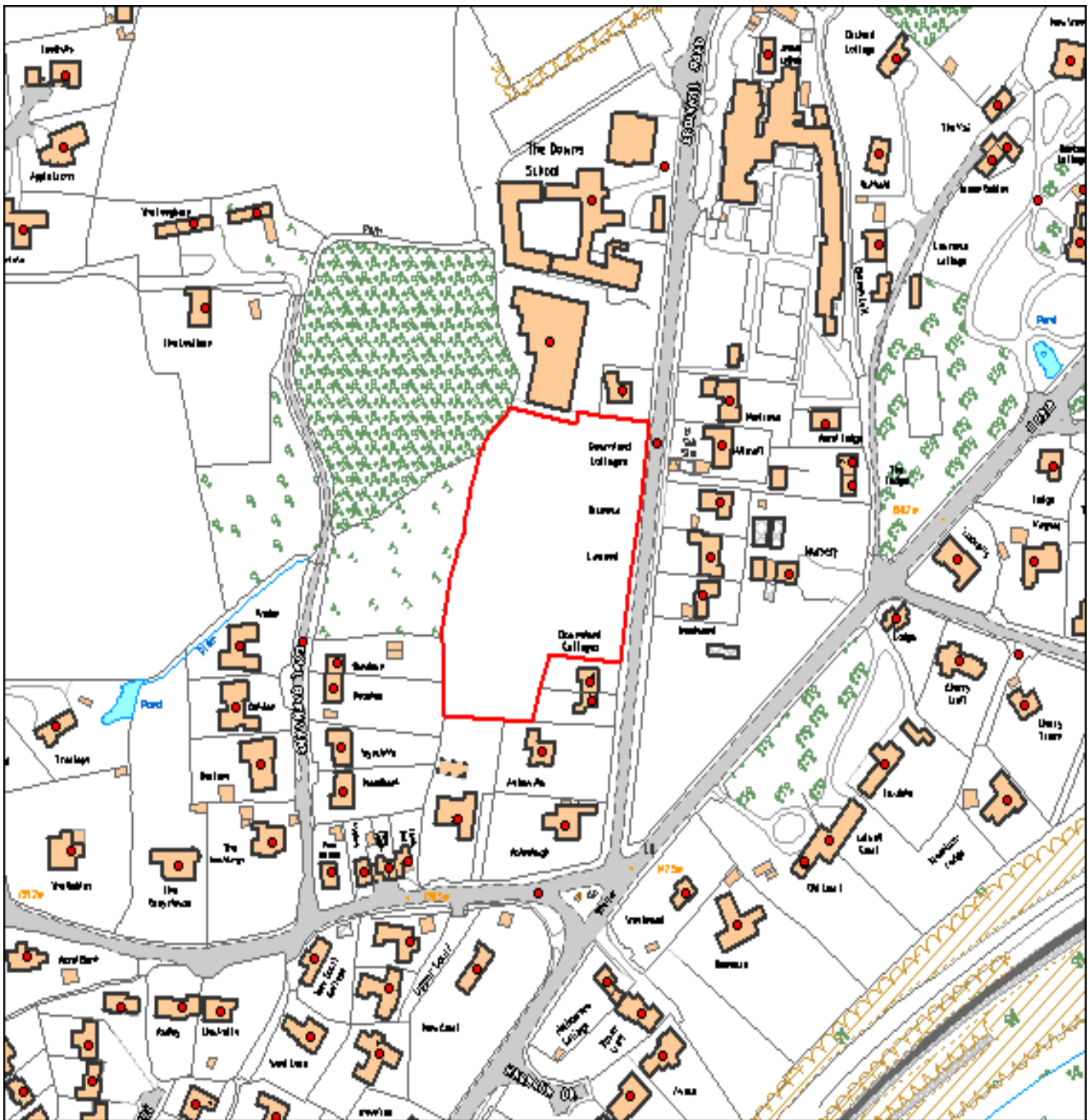
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMN/101505/F

SITE ADDRESS : COVENT GARDEN, BROCKHILL ROAD, COLWALL, HEREFORDSHIRE, WR13 6EY

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Further information on the subject of this report is available from Mr R Close on 01432 261803

ANNEX 1

DRAFT HEADS OF TERMS

Proposed Planning Obligation Agreement

Section 106 Town and Country Planning Act 1990 (as amended)

Planning Application: - DMN/101505/F

Site:- Covent Garden Colwall, Herefordshire WR13 6EY

Applicant:- Banner Homes (Midlands) Ltd

Proposal:- Construction of new access and erection of 20 houses

1. The developer covenants with the Herefordshire Council, in lieu of the provision of on-site children's play equipment and open space, the sum of £39,267 (index linked). The sum shall be paid prior to the first occupation of any of the dwellings.
2. The monies shall be used by Herefordshire Council for-
 - The provision and/or upgrading children's play equipment and/or open space within the Colwall Parish area.
3. In the event that Herefordshire Council does not for any reason use the said sum of Clause 1 for the purpose specified in the agreement in Clause 2 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
4. The developer covenants with the Herefordshire Council, in lieu of the provision of on-site youth and adult sports provision, the sum of £12,152 (index linked). The sum shall be paid prior to the first occupation of any of the dwellings.
5. The monies shall be used by Herefordshire Council for:-
 - Sporting provision at priority facilities in Ledbury including the swimming pool and/or local sports club facilities in Colwall and the surrounding parishes.
6. In the event that Herefordshire Council does not for any reason use the said sum of Clause 4 for the purpose specified in the agreement in Clause 5 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £68,956 (index linked) to provide and/or improve education facilities. The sum shall be paid prior to the first occupation of any of the dwellings.
8. The monies shall be used by Herefordshire Council for-
 - £43,298 (index linked) towards improvements to Colwall Primary School;
 - £5,042 (index linked) towards infrastructure/facilities for Colwall 'early years' pre-school;
 - £1,392 (index linked) towards infrastructure/facilities improvements for post 16 education at John Masefield High School (Sixth Form);

Further information on the subject of this report is available from Mr R Close on 01432 261803

- £15,806 (index linked) towards improvements to existing facilities for the Hereford Youth Service;
 - £3,418 (index linked) towards additional facilities for special educational needs at Blackmarston and Barr Court Road schools.
9. In the event that Herefordshire Council does not for any reason use the said sum of Clause 7 for the purpose specified in the agreement in Clause 8 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
 10. The developer shall construct and complete four 'Affordable Housing Units' (Plots 1, 2, 10 and 11), which meets the criteria set out in Section 5.5 of the Herefordshire Unitary Development Plan and related policy H9. These five 'Affordable Housing Units' shall be transferred to a Registered Social Landlord prior to the occupation of the tenth other (i.e. 'open market') dwelling upon the site. Three (Plots 1, 10 and 11) of the four affordable Housing Units' shall be subsidised housing for rent and one (Plot 2) shall be in the form of shared ownership.
 11. The developer covenants to pay Herefordshire Council the sum of £57,039 (index linked) towards highway improvements/sustainable transport initiatives. £15,000 (index linked) of the sum shall be paid prior to commencement of the development and the remaining £42,039 (index linked) shall be paid prior to the first occupation of any of the dwellings.
 12. The monies shall be used by Herefordshire Council for:-
 - works to further revise the Old Church Road, Walwyn Road and Brockhill Road junction (n.b. the £15,000 (index linked) to fund these works to be paid prior to commencement of the development);
 - street lighting improvements and dropped kerbs between the application site and the junction of The Crescent and Walwyn Road and between Colwall Primary School and Walwyn Road; and
 - improvements and additions to existing bicycle parking and storage facilities adjacent to Colwall Railway Station.
 13. In the event that Herefordshire Council does not for any reason use the said sum of Clause 11 for the purpose specified in the agreement in Clause 12 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
 14. The developer covenants to pay Herefordshire Council the sum of £1,920 (index linked) towards local recycling and household waste reduction facilities and initiatives. The sum shall be paid prior to the first occupation of any of the dwellings.
 15. In the event that Herefordshire Council does not for any reason use the said sum of Clause 14 and for the purpose specified in the agreement in Clause 14 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
 16. The developer covenants to pay Herefordshire Council the sum of £3,580 (index linked) towards improving library services in Colwall and the mobile library service. The sum shall be paid prior to the first occupation of any of the dwellings.
 17. In the event that Herefordshire Council does not for any reason use the said sum of Clause 16 and for the purpose specified in the agreement in Clause 16 within 5 years from the date of this

agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.

17. The developer covenants to pay Herefordshire Council the sum of £3,658.28 (index linked) towards the monitoring of this Agreement. The sum shall be on completion of the Agreement.
18. In the event that Herefordshire Council does not for any reason use the said sum of Clause 17 and for the purpose specified in the agreement in Clause 17 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
19. A “dual-use” agreement that would allow community use of the retained outdoor sporting facilities of the School (i.e. a synthetic hockey pitch & tennis courts, a senior rugby pitch, cricket nets, a cricket pitch (summer months), an athletics track (summer months), two senior football pitches and a synthetic cricket wicket).



MEETING:	PLANNING COMMITTEE
DATE:	24 NOVEMBER 2010
TITLE OF REPORT:	<p>DMS/102345/F- PROPOSED POULTRY UNITS EXTENSION:- 3 NO. REPLACEMENT UNITS, 3 NO. ADDITIONAL UNITS AT UPPER HOUSE FARM, MORETON ON LUGG, HEREFORDSHIRE, HR4 8AH.</p> <p>For: Mr FSH Perkins per Acorus Property Services, Woodthorne Wergs Road, Wolverhampton, West Midlands, WV6 8TQ.</p>

Date Received: 10 September 2010 **Ward: Sutton Walls** **Grid Ref: 349841,245861**
Expiry Date: 10 December 2010
Local Member: Councillor KS Guthrie

1. Site Description and Proposal

- 1.1 Upper House Farm comprises approximately 42 hectares of mixed arable and poultry-rearing use situated west of the A49 and Moreton on Lugg village, 6 kilometres north of Hereford. Part of the application site is currently occupied by 3 poultry units which were established around 20 years ago.
- 1.2 The proposal is to replace the three existing units with 6 new ones built to modern standards. The maximum number of birds would increase from 84,500 to 265,000. Each building would be 106.9m x 21.6m x 5.8m high to ridge (2.9m to eaves), and would require 4 no 27 tonne feed bins to be located between each pair of units. Hardstandings and roadways would be required around the units; areas for screening, landscaping and planting are also included.
- 1.3 The site is accessed from the A49 (T), along a modern farm road constructed to Highways Agency specification.
- 1.4 Due to the number of birds the application falls within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 ('The EIA Regulations') and is accompanied by an Environmental Statement (ES). It was publicised by special press notice in the Hereford Journal on 6 October 2010, by site notice on 29 September 2010, and written notification of neighbours on 28 September 2010, giving a consultation period ending on 26 October 2010.
- 1.5 The applicant's wife is employed in Planning Services.

2. Policies

- 2.1 National Planning Policy:
PPS1 - Delivering Sustainable Development (January 2005)

Further information on the subject of this report is available from Mrs D Klein on 01432 260136

PPS4	-	Planning for Sustainable Economic Growth
PPS7	-	Sustainable Development in Rural Areas (August 2004)
PPS9	-	Biodiversity and Geological Conservation (August 2005)
PPS23	-	Planning and Pollution Control (November 2004)

2.2 Herefordshire Unitary Development Plan 2007:

S1	-	Sustainable Development
S2	-	Development Requirements
S6	-	Transport
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR7	-	Flood Risk
DR9	-	Air Quality
DR13	-	Noise
DR14	-	Lighting
E13	-	Agricultural and Forestry Development
E16	-	Intensive Livestock Units
T8	-	Road Hierarchy
LA2	-	Landscaped Character
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	New Development Within Conservation Areas
NC1	-	Biodiversity and Development
NC2	-	Sites of International Importance
NC3	-	Sites of National Importance
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement
NC9	-	Management of Features of the Landscape Important for Fauna and Flora
ARCH1	-	Archaeological Assessments and Field Evaluations

2.3 Other Material Legislation and Policy Documents:

Conservation (Natural Habitats, &c) Regulations 1994 ('The Habitats Regulations')
 Natural Environments and Rural Communities Act 2006 ('The NERC Act')
 Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 ('The EIA Regulations')
 DETR Circular 02/99 Environmental Impact Assessment

3. Planning History

3.1 Relevant permissions include

- DCCW2001/3139/M dated 23rd September 2004 for construction of the access road from the A49(T), linked to an expired permission (reference DCCW2001/3140/M) to extract sand and gravel at St. Donats Farm.
- DCCW2008/1832/N; green waste compost site. Approved 13 March 2009.
- SH8781576PF; 1 poultry unit.
- SH882145PO and SH890687PM; 2 additional poultry units.
- DCCW2004/3699/O and DCCW2007/2438/RM; additional agricultural worker's dwelling.
- Various permissions relating to the main farmhouse and other agricultural buildings between 1984 and 1993.

Further information on the subject of this report is available from Mrs D Klein on 01432 260136

4. Consultation Summary

Statutory Consultations

- 4.1 Natural England: Advises the Council to undertake a Habitats Regulations screening to determine whether an Appropriate Assessment is necessary regarding any possible significant impact on the River Wye/Lower Lugg SSSI/SAC. This has been done and the findings are accepted; no objections.
- 4.2 Environment Agency: No objections or concerns. The farm operates under an Environmental Permit which regulates the existing poultry units, to be varied to include the proposed development. Further advice received 4 November 2010 relating to environmental factors including ammonia emissions and odour. Clarification on the necessary Habitats Regulations Assessment (HRA) screening. No concerns or objections.
- 4.3 Highways Agency: No objection – unlikely to impact upon the operation of the A49. Further advice sought from the HA following Parish Council's and local residents' concerns. Verbal confirmation that traffic implications, including cumulative effects, are well within margins of tolerance.
- 4.4 River Lugg Internal Drainage Board: The site lies partly within the Board's area of jurisdiction. Separation of clean and dirty water is supported. The proposal includes clean water storage of 1047 cu m. The Board accepts this volume and raises no objections. A Land Drainage Consent will be required.
- 4.5 Herefordshire Primary Care Trust:: Any response will be reported verbally.

Internal Council Advice

- 4.6 Head of Environmental Health and Trading Standards:

Environmental Services Manager: No objection; the site holds an IPPC Environmental Permit regulated by the Environment Agency and has recently been granted a new permit, which includes environmental controls. I can confirm we have no history of complaints against the premises.

- 4.7 Drainage Engineer: No comments on the proposals; recommend condition to finalise drainage arrangements.
- 4.8 Transport Manager: No objections in principle. The A49(T) is regulated by the Highways Agency.
- 4.9 Conservation Manager:

Landscape Officer - The proposal will not have a significant adverse effect on the overall character of the landscape; the new units would be clustered with other existing farm buildings. The application is in accordance with UDP policy LA2. There would be a visual impact but public viewpoints are limited and distant. The proposed mitigation planting is supported, subject to minor changes to species choice and protection of an existing hedgerow.

Planning Ecologist - No objections raised; welcomes proposed habitat enhancements; recommends conditions to secure the proposals made in the application. Habitats Regulations Assessment Screening found no likely significant effects on the River Wye SSSI/SAC.

County Archaeologist - No concerns.

5. Representations

5.1 Moreton on Lugg Parish Council: Concerns about increased vehicle movements and possible effects on road safety. Odours and noise issues may impact on nearby dwellings, particularly with regard to loading and unloading the units and filling the feed bins. The Council opposes the proposal on the grounds that it will add to traffic, odour and noise problems cumulatively with the approved green waste composting site. Approval should not be granted until after completion of the compost site:

5.2 Three representations from local residents have been received, and are summarised as follows:

- Mrs D Cooke, Yew Tree Cottage, Portway, Burghill, Hereford, HR4 8NG: we now have a collection of buildings to look upon. How will this [proposal] affect the flow of vehicles? Having poultry so near a compost site would encourage flies and vermin. This is well drained land more suitable for grazing animals and growing crops.
- Mr P Young, 42 St Andrews Close, Moreton on Lugg, Hereford, HR4 8DB: the smell from the existing sheds is deeply unpleasant. It is impossible to leave windows open. If this development is unavoidable can it be allowed only on the grounds that smells from the existing sheds are brought under control.
- Mr C G Payne, 3 Ordnance Close, Moreton on Lugg, Hereford HR4 8DA: there are other permissions on this site; a quarry and a green waste site, which need to be taken into account. It is untrue to say there have been no complaints of smell and noise from the existing poultry site, including night-time deliveries. The smell from the site is already intolerable. The application's traffic assessment does not take account of vehicle movements from the quarry and the green waste composting site; the total movements from the quarry, the farm, the poultry site and the composting site will be 19 per hour. This junction is not safe enough for that volume of traffic. The application should be refused or deferred until the green waste site has been in production for at least two years.

5.3 The full text of these letters can be inspected at Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Committee meeting.

6. Officer's Appraisal

6.1 The EIA Regulations require consideration of alternatives and the choices made. The applicant has stated that the option of doing nothing was considered but rejected on the grounds that the existing units are past their best and the parent operator (Cargill Meats Europe) requires increased production to meet supply chain demands and maintain viability. The ES states that alternative sites within the farm were considered but none was found to improve on the existing site, which is clustered with other buildings and served by the modern access. The following alternative configurations of buildings were considered:

- a) Retain the 3 existing and add 3 more;
- b) Retain and decommission the 3 existing for storage use, adding 6 new units;
- c) Replace the 3 existing and erect 6 new units.

The first option would not address air quality issues adequately; the second would result in over-development; the third option was chosen. Officers accept the reasoning and consider that this aspect of the EIA Regulations has been adequately addressed.

6.2 As with any proposal, this application must be determined in accordance with the provision of the current Development Plan, unless material considerations indicate otherwise. PPS23 carries weight; the Herefordshire Unitary Development Plan 2007 (UDP) remains in force pending adoption of a Core Strategy for the Local Development Framework (LDF).

6.3 This site is already regulated by stringent environmental controls through an Environmental Permit from the Environment Agency. The necessary variation to accommodate additional poultry numbers is understood to be in train, and the Agency has full enforcement powers. Annex A of PPS23 states that local planning authorities should:

- Not try to duplicate controls properly exercised by other bodies under other legislation;
- Assume that those other bodies will act professionally and responsibly;
- Satisfy themselves that a proposal is capable of compliance with that other legislation;
- Take account of the comments of professional consultees to ensure that there would be no adverse environmental effects from the development;
- Concentrate on matters relevant to planning;
- Bear in mind the need for the development and its particular site requirements.

In this regard the application should be determined on its planning merits. The main issues for consideration are:

- Principle of the development;
- Land use and siting of units;
- Access and traffic;
- Environmental Considerations including odour;
- Landscape and visual impact;
- Lighting and noise;
- Drainage and flood risk;
- Biodiversity;
- Archaeology;
- Any other matters raised by objectors.

6.4 **Principle of the development**

The existing units are well established. However, they are over 20 years old and reaching the end of their life in terms of construction standards and energy efficiency. The units are part of the franchise system operated by Cargill Meats Europe, formerly trading locally as Sun Valley until 2008. Cargill has pledged to reduce its carbon footprint, highlighting an overriding need to reduce the current 30% volume of imported poultry meat to the UK. The inevitable outcome is a drive to increase in unit and bird numbers whilst the market for competitively priced poultry meat remains strong. In terms of improved animal welfare, reduced food miles and support for British farmers, this move is accepted. The proposed new units would include modern hygiene and ventilation standards, providing an opportunity to reduce odour and noise. No adverse comments have been received on the principle of this proposal. Having particular regard to Policies S1, S2, DR4 E13 and E16 of the Herefordshire Unitary Development Plan, officers feel that this aspect has been adequately addressed.

6.5 **Siting of units**

The ES assesses the site by agricultural land type, using Defra data, to be 'slowly permeable [and] seasonally wet' with 'low natural fertility', suitable for grassland with some scope for arable and/or forestry. The site is more than 400m from any other dwellings. The choice of this particular part of the farm for poultry-rearing is consistent with efficient land use and policy E16 of the Herefordshire Unitary Development Plan.

6.6 The applicant has considered site issues through detailed pre-application discussions. The proposed arrangement is based on the following objectives:

- To cluster the units with other farm buildings and maintain the agricultural character of the locality;

- To maintain an optimum distance between units;
- To locate ancillary requirements (e.g. feed bins, clean and dirty water storage) amongst the units and within a limited planning unit;
- To turn the units by 90 degrees compared with current arrangements, so as to reduce visual impact.

The configuration presented accords with the advice given, and does not conflict with Policies DR1 DR2 and E13 of the Herefordshire Unitary Development Plan. In relation to site choice and related criteria, your officers consider that this matter is satisfactorily addressed by the application.

6.7 Access and traffic

The A49 trunk road falls under the jurisdiction of the Highways Agency (HA). The farm has a modern access with good visibility in both directions and a wide splay, constructed to HA specifications and safety-audited. The application includes an assessment of traffic impact, which compares existing and proposed movements relating to the poultry units on a weekly basis. Operational factors are key, and the ES explains the management cycle: Broilers are purchased as day-old chicks and reared for approximately 35 days (5 weeks). All units are stocked and subsequently cleared at the same time. Litter removal, cleaning and drying takes about 10 days; each cycle is around 45 days and 8 of these 6-week cycles are anticipated per year.

- 6.8 The application estimates average weekly traffic movements connected with the proposed poultry units would rise from 10 visits (20 movements) to 21.3 (43 movements). A peak would occur in week 5, when a total of 62 visits (124 movements) are anticipated (equivalent to 12-13 (25) per day over 5 days). However visits in weeks 1 to 3 of the cycle would be in single figures; weeks 4 and 6 would also see significantly less activity compared with week 5. Matured birds would be removed from the units during this week, making the short journey to the Cargill plant in Hereford.
- 6.9 It is appreciated that the farm generates additional traffic, and that other development has been permitted which would use the same access, including a green waste composting site exclusively to take garden cuttings from the county's amenity sites. That permission was granted in March 2009 but has not yet been implemented. Relevant traffic figures were based on peak periods in late summer as a worst-case scenario. Daily trip generation was predicted at up to 14 in and 14 out as a maximum. Data provided at the time from the DfT traffic monitoring points at Holmer and Wellington indicated (2007/8) average daily vehicle flows of between 10,000 and 13,000 vehicles. The compost site movements represented a maximum increase of 0.28% (much lower at off-peak times). At the time the Highways Agency felt this was well within margins of tolerance for this stretch of road, which is designed to take high traffic volumes.
- 6.10 The projected combined maximum to be generated by the green waste site and the additional poultry units, for example during a peak 'week 5' in late summer, would broadly represent a less than 0.5% increase on total A49 traffic. Other farm traffic would be unchanged, and movements in other weeks and seasons would be significantly fewer. In considering this application the Highways Agency has not raised any objection, but was contacted again to ensure that cumulative impacts from other development are taken into account. The Agency has affirmed that the access and visibility are to a very high standard it has no concerns or objections regarding the additional movements from this application or the cumulative impact from the composting site. In its view, the increase in traffic would be minor.
- 6.11 There is also a gravel extraction site to the north-west at St Donats Farm, which would be required to use the same access as the farm. However a fresh permission is necessary

before any extraction could start; the local planning authority would then be in a position to take account of and limit traffic numbers, if necessary, on HA advice.

6.12 On balance the increase in traffic is not considered to be significant or unacceptable, even when considered in conjunction with other development nearby. The proposal accords with Herefordshire Unitary Development Plan Policies DR3, E16 and T8.

6.13 **Environmental Considerations including odour**

Section 7 of the Environmental Statement (ES) deals with environmental factors. It explains that odour from poultry litter increases when moisture exceeds 46%. Older units are more likely to experience problems, and the new units would be designed to very high standards. Improved best practice measures are proposed, to conform to Defra guidelines, including:

- Computerised ventilation system to ensure dry floor litter and temperature control;
- High speed insulated exhaust fans to disperse odours quickly at a high level;
- The use of nipple drinkers to reduce litter moisture.

Odour concentration models for the existing and proposed scenarios show a significant improvement from the new units in terms of the distance within which odour could be detected and the concentration of odours in that range. For example, the majority of Moreton on Lugg Village would no longer be included. Officers consider adverse odour from day to day operation would be unlikely and anticipate significant improvement.

6.14 The ES states that odour emissions peak when units are cleared of litter at the end of each cycle. This occurs 8 times a year. Clearing time is estimated at about 4 hours. Surplus litter is removed off-site promptly by a licensed contractor. A management regime for litter clearing is proposed and a condition is recommended to secure this to comply with Herefordshire Unitary Development Plan Policies S1, S2, DR1, DR4, DR9 and E16.

6.15 The ES states that dust is unlikely to be a concern beyond 100 metres of the units. There are no other dwellings within 300 metres of the site, and the approved green waste composting site is also a minimum of 300 metres away. There would be no risks from flies as the units are enclosed, the litter is not a breeding ground for flies during the broiler lifecycle, and litter is not stored on site thereafter. Vermin are already controlled at the site and this would continue, operated by an accredited local contractor.

6.16 The main instrument of regulation on all these matters would be the Environmental Permit. The Environment Agency has no concerns, supporting that view with a further response confirming no objections and acceptance of the Environmental Statement's relevant contents. Officers are confident that the proposal is capable of complying with an Environmental permit and Defra guidelines. The proposal does not conflict with Herefordshire Unitary Development Plan Policies S2, E16, DR4 and DR9.

6.17 **Landscape and visual impact**

The application includes a comprehensive Landscape and Visual Impact Assessment (LVIA) based on desk study, field survey and subsequent analysis. It identifies that the site lies within 'Herefordshire Lowlands' in the National Character Assessment, and 'Principal Settled Farmlands' in the Council's Landscape Character Assessment. The report found a medium impact on landscape quality, having a 'low to medium' magnitude of change and a 'minor to moderate' significance of impact. The proposal would double the area of poultry units. However the existence of the current poultry units means that the change would be less significant than a new site. The number of public viewpoints is limited and generally distant (ranging from approximately 0.4 km to 1km). The site is not visible from the A49 but the development would be visible from some properties along Moreton Road, a public right of way,

and more distant properties on higher ground at Portway and St Donats. The Senior Landscape Officer nonetheless agrees with the findings of the report, concluding that the report is in accordance with Herefordshire Unitary Development Plan Policy LA2.

6.18 In mitigation, the proposal includes generous native planting belts almost entirely surrounding the units. The necessary loss of a stretch of relatively recent hedgerow west of the existing units would be mitigated by this planting. The applicant is currently planting up a Perry pear orchard on adjacent land which would add to the dedicated screening. Feed bins and ancillary service requirements would be located between the units, keeping the site contained. The Senior Landscape Officer has no objections, subject to conditions to secure the new planting and to protect a retained hedgerow to the east of the site in accordance with Herefordshire Unitary Development Policies LA5 and LA6.

6.19 **Lighting and noise**

The applicant has explained that there is no permanent lighting left on around the existing units. Any other external lighting at the farm would be outside the application site. There is however an opportunity to require time-controlled downward-facing lights at the proposed units, to minimise light pollution during operations after dark. A condition is recommended in accordance with UDP policy DR14. The application explains that the proposed units would be fitted with modern ventilation systems which would be a marked improvement on the existing fans in terms of noise. Local residents have mentioned noise from vehicles and the filling of the feed bins, and the application states that the new bins and filling systems would be an improvement on existing arrangements. In particular, the location of the feed bins between the units would assist in reducing noise. Some vehicle noise is unavoidable, but the site is relatively distant from other dwellings. The configuration of the site was chosen so as to increase the distance from most neighbours. The application recognises that some necessary farming activities will generate noise, however noise management falls within the Environmental Permit requirements. The Environment Agency is satisfied that the proposal is capable of compliance and officers do not consider the application conflicts with Herefordshire Unitary Development Policy DR13.

6.20 **Drainage and flood risk**

The parent operator company sets high standards of hygiene, and site drainage is also regulated by the Environmental Permit. The application details cleaning procedures, undertaken by specialist contractors after each unit clearance. Dirty wash-down water would be drained to 3 underground storage tanks protected by an alarm system and emptied daily during the washing period. Clean roof water would be collected separately to an existing attenuation pond which discharges to a ditch at a controlled rate under EA consent. The Drainage Engineer has no concerns but has recommended that final details of the clean and dirty water systems be submitted through a condition. The site is not within an area of significant flood risk. The River Lugg Internal Drainage Board (RLIDB) is satisfied with the arrangements and accepts the storage capacity as adequate. Neither the EA nor the RLIDB have raised objections and there would be no conflict with Herefordshire Unitary Development Policies E16, DR4 and DR7.

6.21 **Biodiversity**

The application includes a Phase 1 habitats survey undertaken by FWAG. The detailed report notes the location of the proposal within an arable field in area of limited biodiversity value at present, although having potential for improvement. Recommendations are given, primarily relating to trees, hedgerows, and better management of the clean water lagoon including its discharge to ditches. The proposals for screening planting and the Perry pear orchard are regarded as a clear opportunity to raise biodiversity levels at Upper Houser Farm generally and at the application site in particular.

6.22 Natural England is a statutory consultee and has highlighted the need to address the Habitats Regulations. A screening as to the need or otherwise for an Appropriate Assessment is required ('HRA Screening'), in relation to any possible significant impacts on the River Wye SAC/SSSI (lower Lugg section). The Environment Agency has provided a very useful assessment of the relevant factors, with particular regard to the report on ammonia depositions. It concludes that 'we have no reason to doubt the [report results;] ... the approach seems to be consistent with our modelling guidelines'. The EA states that sufficient detail has been provided to enable the Council, as 'competent authority' to carry out the appropriate screening. There is a degree of duplication in that the EA undertakes a similar exercise in connection with the Environmental Permit and takes account of Natural England's comments when doing so. The Council's HRA Screening has found no likely significant effects on the River Wye SAC/SSSI (lower Lugg) and Natural England has no concerns. It should be noted that as the Environmental Permit would be the primary means of regulating the site, the Environment Agency's view is a key factor. Officers feel that the Environmental Statement adequately addresses biodiversity factors in accordance with Herefordshire Unitary Development Plan Policies NC1, NC2 and NC3. The planning Ecologist accepts the submission and requests a condition to secure the recommended improvements in accordance with Herefordshire Unitary Development Plan Policies NC1, NC8 and NC9.

6.23 **Archaeology**

The ES includes a report by Border Archaeology on a field evaluation undertaken in February 2010. Details of the extent of the requirements were agreed with the Council's Archaeological Advisor in advance. Investigations ahead of development elsewhere in the Lower Lugg valley have revealed human occupation from early prehistoric times. However, trenches on the application site produced no remains at all. The only features found were related to modern drainage, which supports the assertion that the site is 'seasonally waterlogged'. The Archaeological Advisor accepts the report's findings and has no further comments. Policy ARCH1 of the Herefordshire Unitary Development Plan has been met.

7. **Conclusion**

7.1 The application is accompanied by an Environmental Statement in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1995 (as amended) which has been fully taken account of in considering this proposal.

7.2 Paragraph 2 of PPS23: 'Planning and Pollution Control' states that control measures should complement rather than duplicate each other, although the planning system has a key role in determining suitable locations for development. Paragraph 15 states: 'Local planning authorities must be satisfied that planning permission can be granted on land-use grounds taking full account of environmental impacts. This will require close co-operation with the Environment Agency to be satisfied that potential releases can be adequately regulated under the pollution control framework'. According to professional advice, the proposal is capable of meeting the required high quality environmental standards. Relevant points raised by objectors have been considered, and additional information obtained where necessary. The Highways Agency regulates the A49(T) and regards the combined uses envisaged for the access road to be acceptable in terms of traffic volumes.

7.3 In balancing up the various policy matters with other material considerations, your officers conclude that there is a clear case for supporting the proposal. The Environmental Statement supports it in principle, location and operational detail. The proposal accords with the Herefordshire Unitary Development Pan 2007 and is therefore recommended for approval.

RECOMMENDATION

That planning permission be granted (taking the submitted environmental information into consideration) subject to the following conditions:

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **C09 Details of cladding (agricultural and industrial buildings)**
4. **Before the development hereby permitted is brought into first use, a comprehensive Method Statement for the management of waste and poultry litter shall be submitted to and approved in writing by the local planning authority. The scheme shall include in particular the recommendations and points listed in Section 4.4 and Appendix 7 (and its own appendix) of the submitted Environmental Statement and shall be implemented as approved from the first stocking cycle of the new units.**

Reason: To ensure efficient waste management and reduce the risk of odour nuisance in the interests of the amenity of the locality and to comply with Policies S2, S2, DR1, DR4, DR9 and E16 of the Herefordshire Unitary Development Plan.

5. **I18 Scheme for foul and surface water drainage**
6. **G04 Protection of trees/hedgerows that are to be retained**
7. **G13 Tree planting**
8. **I33 External lighting**
9. **The recommendations set out in Section 3 'Protection of Habitats and Mitigation Measures' of the submitted FWAG Report dated 26 June 2009 shall be implemented in full unless otherwise agreed in writing in advance by the local planning authority. An appropriately qualified and experienced named Ecological Clerk of Works shall be appointed (or consultant engaged in that capacity) to oversee the ecological and habitat enhancement work.**

Reason: To ensure all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan and to meet the requirements of PPS9 'Biodiversity and Geological Conservation' and the NERC Act 2006.

10. **M13 Pollution prevention**
11. **I16 Restriction of hours during construction**
12. **No waste materials arising from this development shall be transported on the public highway unless they are contained within sealed, securely covered vehicles.**

Reason: In the interests of highway safety, to safeguard the amenity of the area and to comply with Policies S1, S2, DR1, DR4 and T8 of the Herefordshire Unitary Development Plan 2007.

Informatives:

1. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**

Further information on the subject of this report is available from Mrs D Klein on 01432 260136

- 2. **N19 Avoidance of doubt - Approved Plans**
- 3. **N15 Reason(s) for the Grant of PP/LBC/CAC**

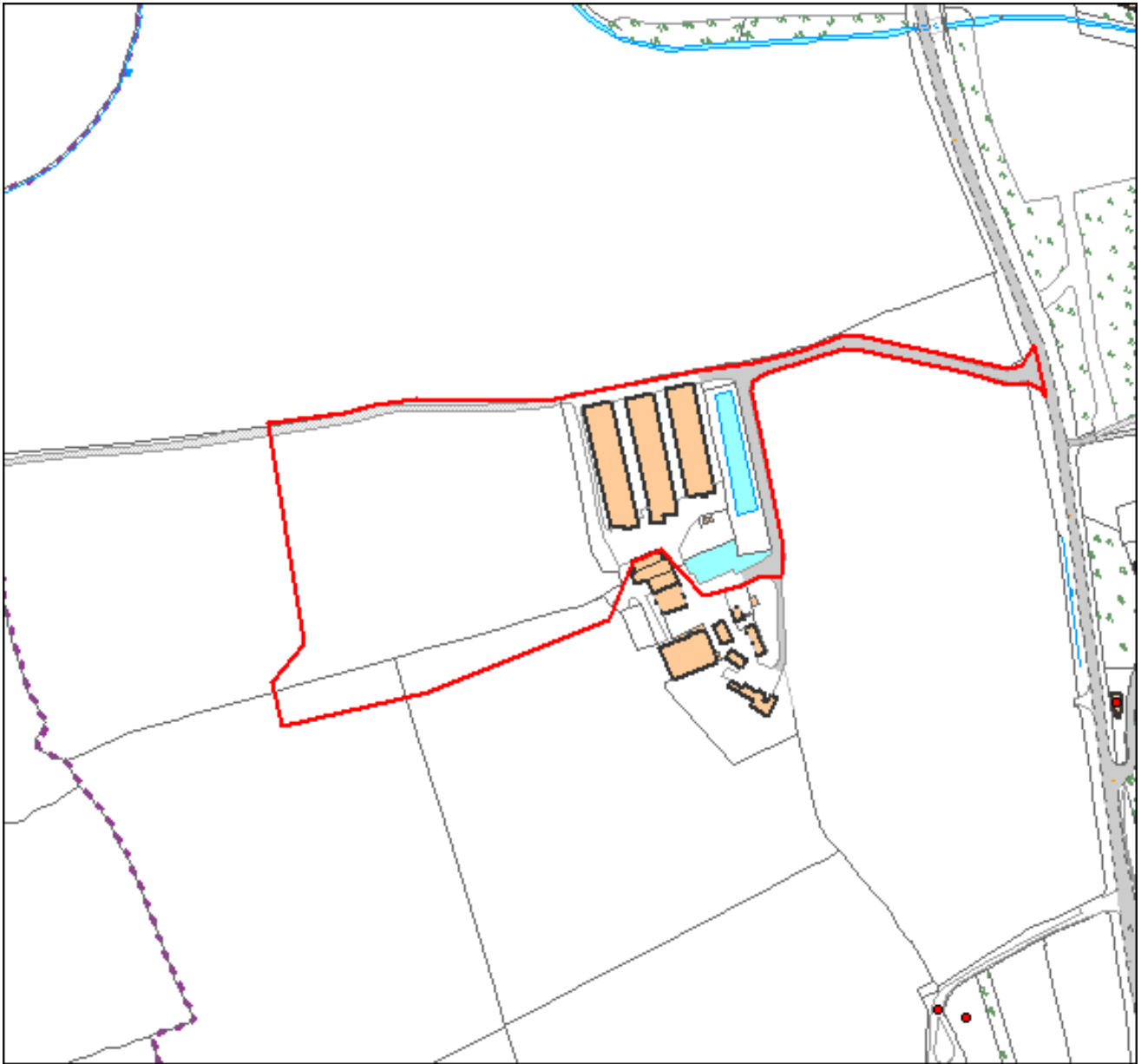
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMS/102345/F

SITE ADDRESS : UPPER HOUSE FARM, MORETON ON LUGG, HEREFORDSHIRE, HR4 8AH

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Further information on the subject of this report is available from Mrs D Klein on 01432 260136



MEETING:	PLANNING COMMITTEE
DATE:	24 NOVEMBER 2010
TITLE OF REPORT:	<p>DMS/101741/O - ERECTION OF 2 DWELLINGS, CONSTRUCTION OF NEW VEHICULAR ACCESS AND ASSOCIATED WORKS AT MOREBOROUGH, LEDBURY ROAD, ROSS ON WYE, HEREFORDSHIRE, HR9 7BE.</p> <p>For: Mr and Mrs Davis per Mr Paul Smith, 12 Castle Street, Hereford, Herefordshire, HR1 2NL.</p>

Date Received: 12 July 2010

Ward: Ross-on-Wye East

Grid Ref: 360486,224957

Expiry Date: 6 September 2010

Local Members: Councillors PGH Cutter and AE Gray

Introduction

The application was deferred by Members at the Planning Committee on 13 October 2010 in order to enable officers to negotiate the reduction of the proposal to a single dwelling. On 25 October the applicants representative confirmed that his clients wish to progress with their application for the two houses.

The layout of the scheme has though been revised and the dwellings are now located in an identical position to the refused application such that there is no difference in relation to the impact of the proposal upon the immediately neighbouring occupier. Members will recall that the previous scheme was refused on highway safety grounds only. The revised layout has been reconsulted upon and any further comments received will be reported verbally to the Committee.

In addition to the above, one of the Ward Members referred to planned waiting restrictions close to the junction of John Kyrle High School and Ledbury Road. The restrictions, which would be in effect from 8.0am to 6.00pm from Monday to Friday, seek to prevent parents parking immediately outside the school so as to ease bus and coach movement in and out of the school at arrival and departure times. The junction of Court Road and Ledbury Road is some 180 metres from the access to the school and accordingly it is not considered that this proposed waiting restriction will have a significant bearing upon parking in and around Court Road such that a refusal of planning permission would be warranted.

1. Site Description and Proposal

- 1.1 The application site comprises part of the large, mature rear garden of Moreborough. The property has a frontage onto Ledbury Road but the rear of the site has a boundary onto Court Road. The area of the site accommodates a detached double garage and associated hardstanding with access road from Court Road. The site is elevated above the level of the

Further information on the subject of this report is available from Mrs A Tyler on 01432 260372

carriageway and is located on the inside of a sweeping bend into the residential estate. To the immediate north-east of the site is Meadow View a modern detached dwelling and opposite are further modern dwellings and a residential mobile home park.

- 1.2 Outline planning permission is sought for the erection of two dwellings on the site incorporating the construction of a new access and parking. The application seeks approval for the access and layout with appearance, landscaping and scale being reserved for future consideration. In addition to the 2 dwellings, the proposal also includes details relating to the alteration of the access and a parking area for 2 cars serving Moreborough from Ledbury Road.
- 1.3 The proposed site plan identifies a staggered semi-detached arrangement for the dwellings which would be set back behind the front elevation of Meadow View with a combined frontage of 12 metres. Set out in front of the proposed dwellings would be the new access, which includes 4 parking spaces and associated turning space.
- 1.4 The Design and Access Statement advises that the proposal is for two bedroomed dwellings that would each be 6 metres wide, 8 metres deep with eaves and ridge heights of 5 metres and 8 metres respectively. The proposed garden areas have been extended through negotiation and would be between 6-8 metres in length.
- 1.5 The application is a resubmission following the refusal of a previous application (DMSE/100293/O) on the grounds that inadequate access and parking arrangements had been proposed and that there was no undertaking to enter into the necessary Section 106 Agreement.

2. Policies

2.1 National Guidance

PPS1	-	Delivering Sustainable Development
PPS3	-	Housing
PPG13	-	Transport

2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design
DR3	-	Movement
DR5	-	Planning Obligations
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H13	-	Sustainable Residential Design
H14	-	Re-using Previously Developed Land and Buildings
H15	-	Density
H16	-	Car Parking
T8	-	Road Hierarchy
T11	-	Parking Provision

2.3 Supplementary Planning Documents

Planning Obligations

3. Planning History

- 3.1 DMSE/100293/O Proposed erection of 2 starter homes. Refused 5 May 2010.

4. Consultation Summary

- 4.1 Welsh Water: No objection subject to conditions
- 4.2 Traffic Manager: Comments awaited on revised plans.

5. Representations

- 5.1 Ross Town Council: The Committee would ask the planning officers to pay particular attention to the design of the access and egress of the site onto Court Road as it is considered to be a dangerous junction.
- 5.2 Eight letters of objection have been received from Mr and Mrs McLachlan (2), Meadow View, Court Road; Mr and Mrs Constance, 2 Court Road; Mrs Carter (2), 17 Cottage Park; Messrs Dixon, Haslemere, Ledbury Road, Simon Clarke, Tara, Court Road and S Smith, 20 Cottage Park.
- 5.3 The objections raised can be summarised as follows:-
 - Dangerous access with poor visibility.
 - Road is busy and is also a bus route.
 - Long established pond at rear of Moreborough with active wildlife (frogs migrate to our garden).
 - Development of 2 dwellings would impinge upon the use and enjoyment of our garden.
 - Loss of green space, undesirable garden grabbing.
 - Conflict with school pick up point.
 - Completely out of character, cramming of site.
 - A larger single dwelling would be more appropriate and in keeping with the character of the area.
 - Additional traffic will increase the risk of accidents.
- 5.4 The full text of these letters can be inspected at Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Committee meeting.

6. Officer's Appraisal

- 6.1 The site lies within the settlement boundary of Ross-on-Wye and an established residential area and accordingly, it is considered that the principle of residential development within the application site is acceptable in policy terms. The main issues for consideration in the determination of this application are as follows:-
 - (a) the impact of the development on highway safety;
 - (b) the impact of the development on the character and appearance of the site and surrounding area and;
 - (c) the impact of the development on the residential amenity of neighbouring occupiers.

Highway Safety

- 6.2 It is clear from responses received that this issue remains of particular concern to local residents. Since the refusal of the previous proposal, the applicant has sought to revise the parking and access arrangements to the site and demonstrate that the necessary four vehicles can enter and leave the site in an acceptable manner.
- 6.3 The revised arrangement for the two dwellings identifies the appropriate number of spaces per dwelling and subject to conditions, acceptable turning space within the site and visibility splays to enable vehicle to enter and leave without detriment to highway safety. There remains a

need to demonstrate that this elevated part of the site can be provided with a driveway of a sufficiently shallow gradient and revised plans are awaited such that the recommendation set out below reserves judgment on this issue pending the receipt of further comments from the Traffic Manager.

- 6.4 In all other respects, the Traffic Manager is satisfied that parking and access arrangements for the site are acceptable and accordingly, notwithstanding the concerns raised locally, it is considered that the proposal complies with Policies DR1, DR3, H13 and H16 of the Herefordshire Unitary Development Plan and as such a refusal on the grounds of highway safety could not be sustained.

Character and Appearance

- 6.5 The proposal in terms of its scale and layout is identical to the previous scheme although the applicant has extended the garden curtilages available to the proposed dwellings. It is considered that the footprint of development can be accommodated without unacceptable cramming of the site and at a density that is appropriate to the general grain of development within the surrounding residential estate. A key consideration for any future reserved matters application would be the relative height of the dwellings in relation to the immediate neighbouring property given its elevated and prominent location. In this respect, subject to a detailed design, appropriate materials, eaves and ridge height, it is considered that the two staggered dwellings could be constructed in a manner that would respect the character and appearance of this established residential area. Consideration has been given to the concerns raised in relation to “garden grabbing” and with particular reference to the recent revised PPS3: Housing. It is concluded that the form of development would be an acceptable one within the established residential character of the area and having regard to the garden space provided for both the new development and that retained by Moreborough there is no conflict with national guidance. Furthermore it is considered that subject to careful control over any future reserved matters application relating to the scale and appearance of the dwellings, the proposal satisfies Policies DR1, H13 and H14 of the Herefordshire Development Plan.

Residential Amenity

- 6.6 Having regard to the relative distance and orientation of the site to existing dwellings in the locality, it is considered that the only property materially affected by the proposed development is Meadow View to the immediate north-east of the site. The site layout, which forms part of this application, originally envisaged a staggered semi-detached arrangement which would be set back 3 metres from the rear elevation of Meadow View and some 2.4 metres from its flank elevation. However since the deferral of this application, the layout has been changed to replicate the first application. As a result the rear elevation would now be set back 2 metres from the rear elevation of Meadow View with the 2.4 metre flank to flank elevation remaining unchanged. The relative distance between the proposed and existing properties is similar to the relationship that Meadow View has with its existing neighbour (Tara) and in this respect it is not considered that there would be any material harm caused by overlooking since the same level of overlooking is already possible.
- 6.7 The main issue is therefore the degree of overbearing and loss of sunlight/daylight. It is acknowledged that the introduction of new dwellings on this open site will result in a greater impact upon the occupants of Meadow View. However the garden area is already largely overshadowed by reason of its north west facing orientation and it not considered that there would be sufficient harm to warrant refusal. This is consistent with the approach taken to the refused application, which was limited to the highway safety implications of the development

Other Matters

- 6.8 The application is accompanied by a Heads of Terms for a Section 106 Agreement (appended to the report), which is consistent with the requirements of the adopted SPD and secures contributions towards improved sustainable transport infrastructure, educational facilities, recreation open spaces, libraries and recycling/refuse facilities.
- 6.9 One objection refers to the potential habitat value of an existing garden pond. It refers to the migration of frogs into a neighbouring garden. There is no specific mention of any protected species and no evidence of such has been identified on site. Accordingly it is not considered that the loss of the garden pond would impact unacceptably upon the habitat value of the site or its locality.

RECOMMENDATION

Subject to no further objections raising material planning considerations by the end of the consultation period that planning permission be granted subject to the following conditions:

- 1. **A02 Time limit for submission of reserved matters (outline permission)**
- 2. **A03 Time limit for commencement (outline permission)**
- 3. **A04 Approval of reserved matters (appearance, landscape and scale)**
- 4. **A05 Plans and particulars of reserved matters (appearance, landscape and scale)**
- 5. **B01 Development in accordance with approved plans**
- 6. **B07 Section 106 Agreement**
- 7. **C97 Landscaping scheme - implementation**
- 8. **CAL Access, turning area and parking**
- 9. **CAP Junction improvement/off site works**
- 10. **CBK Restriction of hours of construction**
- 11. **CD3 Foul/surface water drainage**
- 12. **CD4 No surface water to connect to public system**
- 13. **CD5 No drainage run-off to public system**

Informatives:

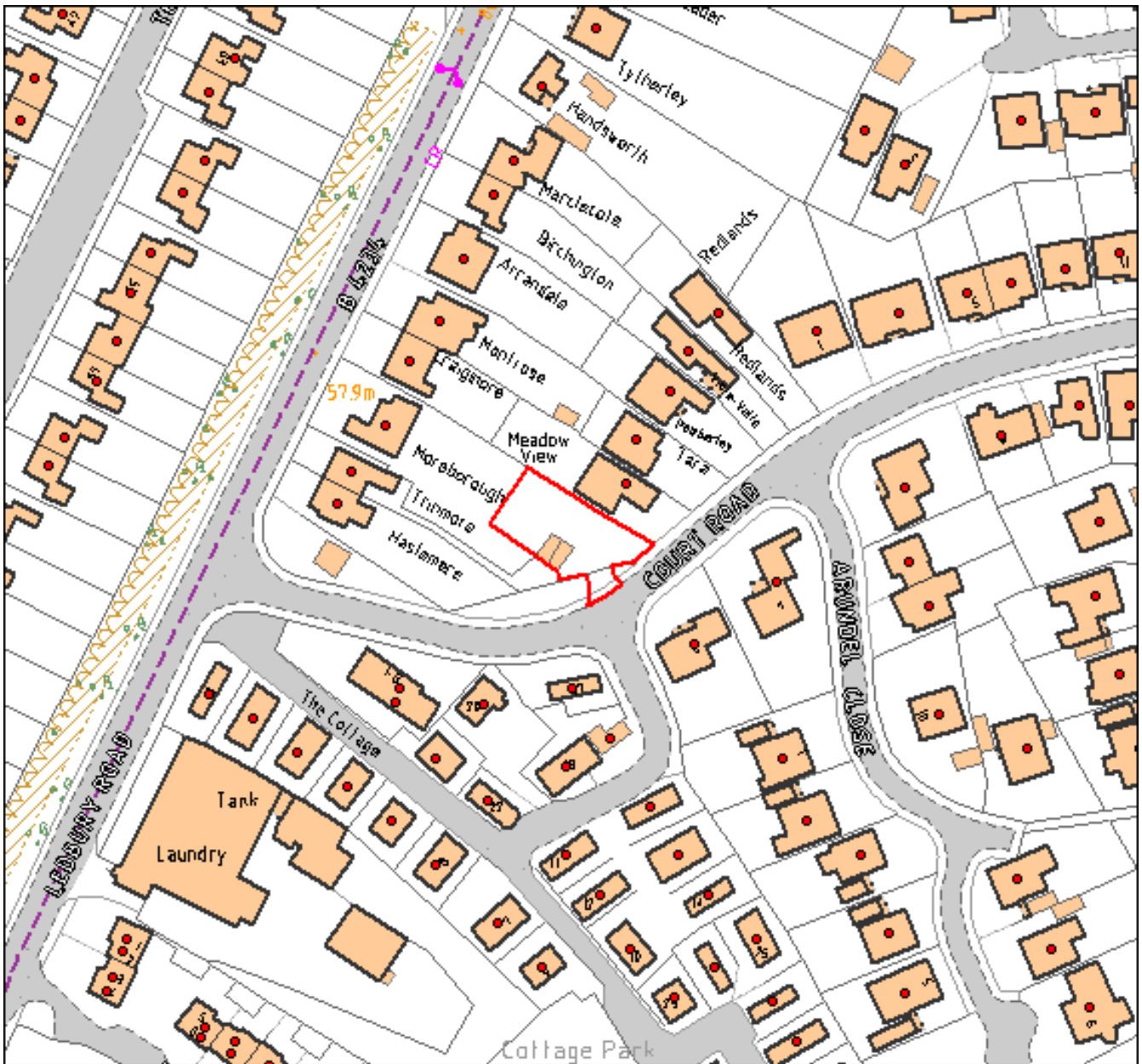
- 1. **I13**
- 2. **I21**
- 3. **I34 (visual and residential amenity and highway safety)**

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMS/101741/O

SITE ADDRESS : MOREBOROUGH, LEDBURY ROAD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7BE

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Further information on the subject of this report is available from Mr S Withers on 01432 260612

Draft Heads of Terms

Proposed Planning Obligation Agreement
Section 106 Town and Country Planning Act 1990

Erection of Two Dwellings

Land at 'Moreborough', Ledbury Road, Ross-on-Wye,
Herefordshire, HR9 7BE

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £3440 towards the provision for sustainable transport infrastructure. The sum shall be paid on or before the commencement of development. The monies may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £9800 towards the provision for enhanced educational facilities. The sum shall be paid on or before the commencement of development. The monies may be pooled with other contributions if appropriate.
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £1932 towards the provision for enhanced formal or informal recreational or public open space. The sum shall be paid on or before the commencement of development. The monies may be pooled with other contributions if appropriate.
4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £292 towards the provision of enhanced library facilities. The sum shall be paid on or before the commencement of development. The monies may be pooled with other contributions if appropriate.
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £240 towards the provision of enhanced recycling and refuse facilities. The sum shall be paid on or before the commencement of development. The monies may be pooled with other contributions if appropriate.
6. In the event that Herefordshire Council does not for any reason use the sum referred to paragraphs above, for the purposes specified in the agreement within 5 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
7. The sum referred to in paragraphs 1,2,3,4 and 5 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sum is paid to the Council.
8. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of development.
9. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.
10. The developer shall complete the Agreement by (date to be agreed) otherwise the application will be registered as deemed refused.

July 2010

Further information on the subject of this report is available from Mr S Withers on 01432 260612

