

AGENDA

Planning Committee

Date: **Wednesday 1 February 2012**

Time: **10.30 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:

Ricky Clarke, Democratic Services Officer

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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.

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Agenda for the Meeting of the Planning Committee

Membership

Chairman	Councillor PGH Cutter
Vice-Chairman	Councillor BA Durkin
	Councillor PA Andrews
	Councillor AN Bridges
	Councillor PJ Edwards
	Councillor DW Greenow
	Councillor KS Guthrie
	Councillor J Hardwick
	Councillor JW Hope MBE
	Councillor RC Hunt
	Councillor Brig P Jones CBE
	Councillor JLV Kenyon
	Councillor JG Lester
	Councillor MD Lloyd-Hayes
	Councillor G Lucas
	Councillor RI Matthews
	Councillor FM Norman
	Councillor GR Swinford
	Councillor PJ Watts

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

AGENDA

	Pages
WEBCASTING NOTICE	
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1. APOLOGIES FOR ABSENCE	
<p>To receive apologies for absence.</p>	
2. NAMED SUBSTITUTES (IF ANY)	
<p>To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
3. DECLARATIONS OF INTEREST	
<p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
4. MINUTES	1 - 10
<p>To approve and sign the Minutes of the meeting held on 11 January 2012.</p>	
5. CHAIRMAN'S ANNOUNCEMENTS	
<p>To receive any announcements from the Chairman.</p>	
6. APPEALS	11 - 12
<p>To be noted.</p>	
7. DMN/111899/O - PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE	13 - 34
<p>An outline application for the erection of up to 127 dwellings (35% to be affordable) with all matters except access to be reserved for future consideration.</p>	
8. DMN/111900/N - PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE, HR7 4NS	35 - 48
<p>Retrospective planning application for the retention of an existing bund and its remodelling with appropriate engineering works and landscaping of the remodelled bund.</p>	

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| 9. | DMN/111770/F - LAND ADJACENT TO 4 VALENTINE COURT, CANON PYON, HEREFORD, HR4 8NZ | 49 - 62 |
| | Erection of 14 no. affordable homes on Greenfield site including required access and services. | |
| 10. | DMS/113120/F - MARSH FARM, TANHOUSE ROAD, UPTON BISHOP, HEREFORDSHIRE, HR9 7UP | 63 - 70 |
| | Demolition of existing remains of farmhouse & attached barn and rebuild new dwelling to match existing. | |
| 11. | DMS/112643/F & DMS/113213/G - WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN | 71 - 82 |
| | Proposed erection of two dwellings. | |
| | and | |
| | Discharge of planning obligation – SH920169PO erection of one bungalow. | |
| 12. | DATE OF NEXT MEETING | |
| | Date of next site inspection - 21 February 2012 | |
| | Date of next meeting - 22 February 2012 | |

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- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

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 11 January 2012 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor BA Durkin (Vice Chairman)

Councillors: PA Andrews, AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, JW Hope MBE, RC Hunt, JA Hyde, Brig P Jones CBE, JLV Kenyon, JG Lester, MD Lloyd-Hayes, RI Matthews, FM Norman, GR Swinford and PJ Watts

In attendance: Councillors AJM Blackshaw, ACR Chappell and SJ Robertson

111. APOLOGIES FOR ABSENCE

Apologies were received from Councillor G Lucas.

112. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor JA Hyde attended the meeting as a substitute member for Councillor G Lucas.

113. DECLARATIONS OF INTEREST

7. DMN/111770/F - LAND ADJACENT TO 4 VALENTINE COURT, CANON PYON, HEREFORD, HR4 8NZ.

Councillor DW Greenow, Personal, The Councillor knows the applicant.

8. DMS/111711/F - LAND AT LOWER LYDE (PARCEL 7209), SUTTON ST NICHOLAS, HEREFORD, HR1 3AS.

Councillor JLV Kenyon, Personal, The Councillor knows the applicant.

9. DMS/112643/F - WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN.

Councillor J Hardwick, Personal, The Councillor is a Member of the Wye Valley AONB Board; owns land adjacent to the site; and knows the applicant..

9. DMS/112643/F - WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN.

Councillor JA Hyde, Personal, The Councillor is a Member of the Wye Valley AONB Board.

9. DMS/112643/F - WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN.

Councillor PGH Cutter, Personal, The Councillor is a Member of the Wye Valley AONB Board.

10. DMS/112675/F - THE HEREFORD ACADEMY, MARLBROOK ROAD, HEREFORD, HEREFORDSHIRE, HR2 7NG.

Councillor ACR Chappell, Personal, Council Representative on the Academy Board.

114. MINUTES

RESOLVED: That the Minutes of the meeting held on 14 December 2011 be approved as a correct record and signed by the Chairman.

115. CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised the Committee that the Council were undertaking a trial webcast of the forthcoming Planning Committee scheduled to take place on 1 February 2012.

116. APPEALS

The Development Manager (Enforcement) advised the Committee that the appeal at Losito Stud was an appeal based on non-determination and not refusal of planning permission as stated in the report.

The Planning Committee noted the report.

117. DMN/111770/F - LAND ADJACENT TO 4 VALENTINE COURT, CANON PYON, HEREFORD, HR4 8NZ

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mr Drew, representing Pyons Group Parish Council, and Mrs McLeod, a neighbouring resident, spoke in objection to the application and Miss Wright, the applicant, spoke in support.

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

- That for the first time since he had been elected he was not in agreement with the case officer's recommendation for an application in his ward.
- The concept of affordable housing in Canon Pyon was supported.
- The Parish Council were against the application, emerging legislation outlined in the Localism Act gave considerably more weight to the views of Parish Councils.
- There was an alternative site which was deemed more acceptable.
- The application was contrary to Unitary Development Plan Policy DR1 as there was an alternative site available.
- Members should undertake a site inspection prior to making a decision in respect of the application.

The Committee felt that there was a need for affordable housing throughout Herefordshire but noted the concerns expressed by the Parish Council, the local residents and CPRE. A site inspection was proposed on all three grounds as set out in the Council's Constitution.

RESOLVED:

THAT the determination of the application be deferred pending a site inspection on the following grounds:

- 1. The character or appearance of the development itself is a fundamental planning consideration.**
- 2. A judgement is required on visual impact.**

3. **The setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.**

118. DMS/111711/F - LAND AT LOWER LYDE (PARCEL 7209), SUTTON ST NICHOLAS, HEREFORD, HR1 3AS

The Development Manager (Enforcement) gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

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

- The site visit, undertaken the previous day, had proved extremely beneficial.
- Sutton St Nicholas Parish Council had now expressed similar concerns to Pype and Lyde, and Holmer and Shelwick Parish Councils.
- More weight was being given to Parish Councils as part of the Localism Act, their concerns should be taken seriously.
- The Planning Inspector had upheld previous refusals of planning permission on the site.
- The application was contrary to Policy H7 and H8 of the Council's Unitary Development Plan.
- There was no need for the applicant to reside on the site.
- There was concern in respect of the visibility splay proposed.
- If the large shed on the site is being used for incubation purposes would a change of use be required?

The debate was opened with members voicing concern in respect of a number of aspects of the application. It was felt that the business case had not been sufficiently met and that the application could also be viewed as contrary to Unitary Development Plan Policy E11. Concern was also expressed in respect of the site location, the site access and the size of the proposed dwelling. Members also discussed certain areas of the site including the incubation shed and the man-made pools and requested clarification as to whether planning permission had been obtained, or was required, for these.

Other Members of the Committee however were in support of the application and noted that the site was well screened from the public highway. It was also felt that the need issue had been addressed at paragraph 6.5 of the Development Manager's report. Members discussed the previous refused applications on the site and noted that the Planning Inspector had upheld the Council's decision as the functional need tests had not been met, however it was felt that this issue had been addressed in the current application. Members also noted that the application was temporary and would give the applicant an opportunity to establish his business.

Further concern was expressed in respect of the access and egress to the site with full details of the visibility splay requirement requested from the Development Manager (Enforcement). Further clarification in respect of the requirements of PPS7 was also requested. Members also requested clarification in respect of the usage of the site and asked for confirmation that the usage was not deemed as commercial.

In response to a number of questions raised by the Committee, The Development Manager (Enforcement) provided the following information:

- If the shed was to be used for intensive livestock purposes it could require the benefit of separate approval
- The 400m rule was not an exclusion zone. Any development for the use of a building for livestock inside 400m of a protected building would require planning permission.
- The use of the site was agricultural. Even if it was not deemed as agricultural the temporary accommodation policy was broad enough to cover it.
- The previous application was refused and the appeal was upheld as no agricultural assessment had been submitted, this had been submitted for this application.
- The assessment had been submitted by the applicant and not by the county land agent.
- The temporary permission enabled the applicant to establish a successful business.
- PPS7 required one out of the previous 3 years to be profitable.
- Deliveries out of the site were approximately once every 8 days and utilized the applicant's vehicle with a trailer.
- Lorry deliveries into the site were less than once a month.
- The transport manager found the access acceptable.

A number of Members were of the opinion that small rural businesses should be encouraged and supported however they felt that this had to be balanced with an acceptable application site. Further concern in respect of the access and egress was expressed.

The Committee also noted that the application sought a temporary planning permission for an agricultural worker, it was felt that approving the application would give the applicant an opportunity to establish a successful business. It was also noted that the Council was often quoted as having a 'can do' attitude and that this should be demonstrated through the support of small business.

In response to the points raised by the Committee, the Head of Neighbourhood Planning reminded them that the use of the site was not open to debate and that they were solely determining a temporary dwelling. He added that the agricultural usage of the site was likely to continue with or without the temporary dwelling.

In response to further questions from the Committee, the Development Manager (Enforcement) advised that:

- the proposed dwelling had a ridge height of six metres, although the applicant was happy to reduce this if required,
- the required visibility splay was 2.4 x 75 metres to the north and 2.4 x 100 metres to the south,
- the required visibility splay could be achieved via appropriate hedge trimming.

Councillor SJ Robertson was given the opportunity to close the debate. She reiterated her opening remarks and made additional comments, including:

- The title of the application referred to a farm worker and made no mention of his family.
- The three neighbouring Parish Councils were all concerned in respect of the application.

A motion to approve the application in accordance with the case officer's recommendation failed.

Members discussed the reasons that had been suggested for refusing the application and felt that any refusal should be based on Unitary Development Plan Policies H7 and E11.

The Head of Neighbourhood Planning advised that Policy E11 was based solely on employment and as the application was not for the actual business and just for the dwelling it would not be appropriate. The Committee therefore based their reason for refusal solely on Policy H7 of the UDP as in their opinion the functional and financial need for the dwelling had not been sufficiently met.

Prior to the vote the Chairman had a brief discussion with the Head of Neighbourhood Planning in respect of any need for a further information report in accordance with the Council's Constitution. He felt that a further information report would not be required. It was also noted that the Deputy Monitoring Officer had advised the Democratic Services Officer that he would not request a further information report so the Committee were able to proceed to the vote. The resolution as set out below was agreed.

RESOLVED

THAT planning permission be refused for the following reason:

- 1. It is not considered that sufficient justification has been provided to substantiate a full-time residential presence on the site and in the absence of a functional need, the proposal is contrary to Policies H7 and H8 of the Herefordshire Unitary Development Plan and Annex A of PPS7: Sustainable Development in Rural Areas.**

119. DMS/112643/F - WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN

The Development Manager (Hereford and Southern Localities) gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mrs Rowles, representing Fownhope Parish Council, and Mr Jolley, a neighbouring resident, spoke in objection to the application and Mr Jamieson, the applicant's agent, spoke in support.

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

- That the planning history on the site, and in particular the existing Section 106 agreement needed to be considered.
- The site was at the gateway to the village and was therefore an important site to the people of Fownhope.
- The application was contrary to UDP Policies HBA6 and HBA9 as it failed to improve or enhance the conservation area.
- The trees on the site needed to be protected, the encroachment on the root zone of one of the trees on plot 1 was a concern.
- Members should undertake a site inspection prior to making a decision in respect of the application.

The Committee discussed the benefits of undertaking a site inspection and decided that it would be beneficial and was in accordance with the criteria for site inspections as set out in the Council's Constitution.

Members requested that further information in respect of the root protection areas of protected trees and the existing Section 106 agreement on the site be provided when the application was brought back to the Committee at a later date.

RESOLVED

THAT the determination of the application be deferred pending a site inspection on the following grounds:

1. **A judgement is required on visual impact.**
2. **The setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.**

120. DMS/112675/F - THE HEREFORD ACADEMY, MARLBROOK ROAD, HEREFORD, HEREFORDSHIRE, HR2 7NG

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

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

- The all-weather pitches would give the local community the opportunity to use the academy's new facilities.
- The local community currently has the opportunity to use the academy's sports hall outside of school times.
- The lighting is needed to enable the pitches to be hired into the evening.
- The Academy's directors were happy with the application.

Members discussed the application and had concerns in respect of the condition allowing the floodlights to be used until 2000 on Sunday evenings. Some members were of the opinion that 1600 or 1800 would be a more acceptable terminal hour. Concern was expressed regarding the possibility of antisocial behaviour occurring as a result of groups of youths congregating in the vicinity. It was felt that floodlighting could exacerbate this issue.

Councillor ACR Chappell was given the opportunity to close the debate. He reiterated her opening remarks and made additional comments, including:

- The hours requested were reasonable and should be supported.
- In the Olympic year the possibility of encouraging people to partake in outside sports should be supported.
- Groups of youths would be welcomed to the site to take part in sporting activities.

RESOLVED:

That condition 21 of the planning permission DCCW0009/0958/F be varied as follows :

1. The permission hereby granted is an amendment to planning permission DCCW0009/0958/F dated 18 August 2011 and, otherwise than is altered by this permission, the development shall be carried out in accordance with that planning permission and the conditions attached thereto.

Reason: For the avoidance of doubt and to comply with the requirements of Policy DR1 of the Herefordshire Unitary Development Plan.

2. The floodlighting hereby permitted for the MUGA shall not be switched on outside of the following times: - 0900 - 2200 Mondays to Fridays nor at any time on Saturdays, Sundays, Bank or Public Holidays

Reason: To minimise the impact of the floodlights and to protect the residential amenity of nearby dwellings so as to comply with Policy DR14 of Herefordshire Unitary Development Plan.

3. The floodlighting hereby permitted for the All Weather Pitch shall not be switched on outside of the following times: - 0900 – 2200 Mondays to Fridays and 9.00 and 20.00 on Saturdays, Sundays nor at any time on Bank or Public Holidays.

Reason: To minimise the impact of the floodlights and to protect the residential amenity of nearby dwellings so as to comply with Policy DR14 of Herefordshire Unitary Development Plan.

4. This permission shall expires on 11 January 2014, after which time, the use of the MUGA and all weather pitches shall refer back to the restrictions imposed by Condition 21 of Planning Permission DCCW0009/0958/F unless otherwise agreed in writing (planning permission) by the local planning authority.

Reason: To enable the planning authority to give further consideration to the acceptability of the proposed use on Saturdays and Sundays after the temporary period has expired and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.

Informative:

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

121. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

The meeting ended at 12.25 pm

CHAIRMAN

PLANNING COMMITTEE

11 January 2012

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.

DMN/111770/F – Erection of 14 no. affordable homes on Greenfield site including required access and services on land adjacent to 4 Valentine Court, Canon Pyon, Hereford, HR4 8NZ

For: Two Rivers Housing per Mr Colm Coyle, Imperial Chambers, Longsmith Street, Gloucester, GL1 2HT

ADDITIONAL REPRESENTATIONS

The following comments from the Senior Ecologist (Planning) have been received:

Unimproved pastures are becoming increasingly rare across the County; whilst this field does not appear to have rare species present, as semi-improved grassland it does have some ecological value. If this application were to be approved, an appropriate compensation scheme for loss of grassland would be to secure the retention of the southern half of the field as a wildflower meadow.

If you are minded to approve this application, further outline information regarding an appropriate mitigation and compensation scheme should be provided in order to comply with UDP Policy NC7. The finer details of this could be subject to a planning condition.

OFFICER COMMENTS

The southern part of the meadow does not form part of the application site and is not within the applicant's control. As such it would be unreasonable to impose a condition to require its retention as a semi-improved meadow. The recommendation does include a landscaping condition and some habitat compensation may be achieved through this mechanism.

NO CHANGE TO RECOMMENDATION

DMS/111711/F - Siting of temporary living accommodation for agricultural worker at land at Lower Lyde (Parcel 7209), Sutton St Nicholas, Hereford, HR1 3AS

For: Mr I Joseph per Mr Paul Smith, 12 Castle Street, Hereford, HR1 2NL

ADDITIONAL REPRESENTATIONS

Sutton St Nicholas Parish Council

Regarding the above the Parish Council considered the matter at its meeting last night and objected on the following grounds

- That the current use did not constitute agricultural use;
- Further expansion would have a detrimental environmental impact;
- There is no action plan to prevent and control disease;
- There is no identifiable procedure to ensure that the pens would be kept clean;
- There is no impact assessment on the likely impact on the water course that any further expansion will bring;
- Bearing in mind the current level of business and the untidiness of the site what will be the impact of further expansion; and
- There seems to be a lack of enforcement in relation to the failed planning application for the caravan.

Transportation Manager – in terms of how far back the hedge would need trimming advises that it would not require a hard cut just the equivalent of an annual trim.

OFFICER COMMENTS

In response to the parish council comments-

The use of the site is considered to fall within the definition of agricultural and its use and/or expansion for this purpose would therefore not constitute development requiring planning permission.

Further expansion may need to be subject of further planning applications.

Disease and pollution control concerns in relation to the agricultural use of the land are not matters regulated through Planning legislation.

The caravan subject of enforcement action is not being used for residential purposes, but is now part of the rearing process.

NO CHANGE TO RECOMMENDATION

DMS/112643/F – Proposed erection of two dwellings at Westholme, Fownhope, Hereford, HR1 4NN

For: Messrs Paton per Mr Paul Lodge, Jamieson Associates Architects, 30 Eign Gate, Hereford, HR4 0AB

ADDITIONAL REPRESENTATIONS

The Conservation Manager has confirmed the extent of the Tree Preservation Order that relates to the site and this will be clarified in the officers` presentation

A petition (90 signatories) and 30 additional letters of objection have been received in respect of the application to lift the requirements of the Section 106 Agreement restricting further development of the site. This application remains undetermined.

OFFICER COMMENTS

There is a correction needed to the history section at paragraph 3.1. Application No. SH861190PF does not relate to this site

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING COMMITTEE
DATE:	1 FEBRUARY 2012
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. DMS /111901/F

- The appeal was received on 21 December 2011
- 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 S Galvin
- The site is located at Friars House, 9 Friars Street, Hereford, HR4 0AS
- The development proposed is Demolition of existing building and construction of 3 storey block of 6 apartments.
- The appeal is to be heard by Written Representations

Case Officer: Ms Kelly Gibbons on 01432 261781

Application No. DMS /111396/FH

- The appeal was received on 30 December 2011
- 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 Mark Crockett
- The site is located at The Old Chapel, Tillington, Herefordshire, HR4 8LW
- The development proposed is Proposed extension to dwelling and erection of garage and store.
- The appeal is to be heard by Householder Procedure

Case Officer: Ms Kelly Gibbons on 01432 261781

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

APPEALS DETERMINED

Application No. DMS/102895/F

- The appeal was received on 26 August 2011
- 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 Miss Karen Harris
- The site is located at Losito Stud, Harris Lodge, Ross on Wye, Herefordshire, HR9 6EG
- The application dated 1 November 2010 was refused on 25 July 2011
- The development proposed was Retrospective application for siting of mobile home for residential occupation associated with equine business on part industrial part agricultural land.
- The main issue is whether or not there is sufficient justification for a temporary dwelling. Given that UDP Policies H7 and H8 largely follow the approach in PPS7.

Decision: The application was refused under delegated powers on 25 July 2011.
The appeal was dismissed on 16 December 2011.

Case Officer: Mr M Tansley on 01432 261815

Application No. DMS/111153/O

- The appeal was received on 24 August 2011
- 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 And Mrs G Walsh
- The site is located at Garden of Brynhyfryd, Peterstow, Herefordshire, HR9 6JZ
- The application dated 21 April 2011 was refused on 12 July 2011
- The development proposed was Outline application for the erection of new dwelling, vehicle turning and manoeuvring space.
- The main issues are the effect on highway safety and the flow of traffic and whether the proposal would comply with local planning policy aimed at providing a mix of housing in order to meet the needs of the whole community.

Decision: The application was refused under delegated powers on 12 July 2011.
The appeal was dismissed on 5 January 2012.

Case Officer: Andrew Prior on 01432 261932

Application No. DMN/112758/FH

- The appeal was received on 19 December 2011
- 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 Spriggs
- The site is located at The Kilns, Avenbury Lane, Avenbury, Herefordshire, HR7 4LD
- The application dated 5 October 2011 was refused on 28 November 2011
- The development proposed was Proposed replacement of conservatory with dining room extension.

Decision: The appeal was withdrawn on 17 January 2012.

Case Officer: Ms R Jenman on 01432 261961

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



MEETING:	PLANNING COMMITTEE
DATE:	1 FEBRUARY 2012
TITLE OF REPORT:	<p>DMN/111899/O - AN OUTLINE APPLICATION FOR THE ERECTION OF UP TO 127 DWELLINGS (35% TO BE AFFORDABLE) WITH ALL MATTERS EXCEPT ACCESS TO BE RESERVED FOR FUTURE CONSIDERATION AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE</p> <p>For: Ms N Harrison per Mr John Cornwell, Oakview House, Station Road, Hook, Hampshire, RG27 9TP</p>

Date Received: 14 July 2011

Ward: Bromyard

Grid Ref: 365239,255362

Expiry Date: 13 October 2011

Local Members: Councillors A Seldon and JG Lester

1. Site Description

- 1.1 The application site is on the eastern side of Tenbury Road (B4214) at the northern end of Bromyard. The boundary of the site, adjacent to Tenbury Road, is largely characterised by a roadside hedge of indigenous species. Within or immediately to the rear of this hedge are seven trees of amenity value. These trees are protected by a Tree Preservation Order (Ref: TPO 557/T1-T7). Within the application site in its south-eastern corner is the Polytec factory which is a general industrial premises. The eastern boundary of the site largely follows the line of the former railway in a general arc. The land slopes down from west to east towards the River Frome. Between the application site and the River Frome is an attractive riverside meadow, a part of which is liable to flood. Upon the application site, parallel to the industrial premises to the south is a bund. The retention of that bund in a materially different form (in terms of grading) is the subject of a separate application (DMN/111900/N) reported upon this agenda. The application site, other than the Polytec premises, was formerly used for agricultural purposes.
- 1.2 Beyond the application site on the western side of the Tenbury Road and to the north built development is of a sporadic nature. To the north beyond the River Frome is the Bromyard Rugby Club.
- 1.3 The site is located approximately 500 metres from the Town Centre.

Proposal

- 1.4 The planning application is made in outline form and proposes to erect up to 127 dwellings (35% to be affordable). Significantly all matters, other than access, are reserved for future consideration. This means that matters of layout, scale (i.e. design), appearance (i.e. materials) and landscaping are reserved for future consideration.

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

- 1.5 There would be two vehicular means of access onto the Tenbury Road. One would be located to the south of the site some 15 metres south of the property known as 'Becks Cottage' which is situated on the opposite (western) side of Tenbury Road accessed off Lower Hardwick Lane. The second would be sited further north some 25 metres north of the property known as 'The Lilacs' on the opposite (western) side of Tenbury Road. The southernmost access would have a visibility splay of 2.4m x 112 metres in a southerly direction and a splay of 2.4 metres x 160 metres in a northerly direction. The northernmost access would have splays of 2.4 metres x 160 metres in both directions. The two existing vehicular means of accesses would be closed.
- 1.6 The issue of access is not merely confined to how vehicles would enter the site from the public highway but also how pedestrians and cyclists would enter the site. The access plans show the provision of a shared pedestrian/cycleway parallel to the Tenbury Road but set inside the site to the rear of the existing roadside hedgerow, other than a small section to the north of the site immediately south of the River Frome that would be in front of the roadside hedgerow. A zebra crossing for pedestrians would be provided to the south of the southernmost access allowing pedestrians to cross to the western side of Tenbury Road prior to Winslow Road.
- 1.7 A Section 106 Agreement would be required and Draft Heads of Terms are attached as Annex 1.

Planning History

- 1.8 As will become apparent within the appraisal below the site is allocated for housing development. It is worth noting that its allocation for housing purposes was the subject of objections at the time by twelve persons or organisations (although two of those objections were withdrawn). An Inspector appointed by the Secretary of State held an Inquiry to consider the objections that had been lodged to the Herefordshire Unitary Development Plan Revised Deposit Draft. After considering the objections and examining all the evidence the Inspector accepted the suitability of the land for housing purposes and supported the residential allocation. The Council accepted the Inspector's conclusions and the allocation for housing purposes were retained in the adopted Herefordshire Unitary Development Plan 2007.
- 1.9 On 5th January 2010 an outline planning application (DCNC0009/2844/O) was submitted for the erection of up to 175 dwellings with garages, sports pavilion and pitches, community/youth building, landscaping and associated works. That application proposed, amongst other matters, the erection of new housing beyond the allocated site and as such within open countryside. That planning application was refused on the following summarised grounds:-
- The unjustified erection of new residential development within the countryside;
 - The failure to demonstrate that the local highway network has sufficient capacity to cater with the traffic generated by the proposal;
 - The failure to provide sufficient detail with regard access for pedestrians and cyclists;
 - The failure to demonstrate how the additional community facilities they were proposing were to be managed and maintained;
 - The deficiency of the ecological assessment;
 - The failure to satisfactorily address the inter-relationship between the industrial development and the proposed residential development;
 - The failure to complete the requisite Planning Obligation; and
 - The failure to demonstrate that the local sewerage network had sufficient capacity.
- 1.10 An appeal was then lodged but formally withdrawn in July 2010.
- 1.11 Pre-application discussions then took place that resulted in the submission of this materially different application that limits the extent of residential development to the allocated housing site.

2. Policies

Central Government advice

Planning Policy Statement 1 – ‘Delivering Sustainable Development’ and Planning policy Statement: ‘Planning and Climate Change’ Supplement to Planning Policy Statement 1.

Planning Policy Statement 3 – ‘Housing’

Planning Policy Statement 9 – ‘Biodiversity and Geological Conservation’

Circular 06/2005 ‘Bio-diversity and Geological Conservation – statutory Obligations and their impact within the planning system’

Planning Policy Statement 12 – ‘Local Spatial Planning’

Planning Policy Guidance Note 13 – ‘Transport’

Planning Policy Guidance Note 23 – ‘Planning and Pollution Control’

Planning Policy Guidance Note 24 – ‘Planning and Noise’

Planning Policy Statement 25 – ‘Development and Flood Risk’

Draft National Planning Policy Framework – July 2011

Circular 05/05 – ‘Planning Obligations’

Herefordshire Unitary Development Plan 2007

Part I

S1 – Sustainable Development

S2 – Development Requirements

S3 – Housing

S6 – Transport

S7 – Natural and Historic Heritage

S8 – Recreation, Sport and Tourism

Part II – Development Requirements

DR1 – Design

DR2 – Land Use and Activity

DR3 – Movement

DR4 – Environment

DR5 – Planning Obligations

DR7 – Flood Risk

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

DR10 – Contaminated Land

DR13 – Noise

Housing

H1 – Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas

H2 – Hereford and the Market Towns: Housing Land Allocations

H9 – Affordable Housing

H13 – Sustainable Residential Design

H15 – Density

H19 – Open Space Requirements

Transportation

T6 – Walking

T7 – Cycling

Natural and Historic Heritage

LA2 – Landscape Character and Areas Least Resilient to Change

LA5 – Protection of Trees, Woodlands and Hedgerows

NC1 – Regard for and Retention of Biodiversity

NC6 – Protection and Enhancement of Herefordshire’s Biodiversity Action Plan Priority Habitats and Species

NC7 – Habitat Mitigation and Compensation Measures

NC8 – Habitat Creation, Restoration and Enhancement Measures

NC9 – Habitat Management and Monitoring

Recreation Sport and Tourism

RST3 – Standards for Outdoor Playing and Public Open Space

Supplementary Planning Guidance

Supplementary Planning Document entitled ‘Planning Obligations’ (April 2006)

3. Consultation Summary

External Consultees

- 3.1 Environment Agency – no objections raised, although conditions are recommended.
- 3.2 The Land Drainage advisor is satisfied with the proposal.
- 3.3 Welsh Water – no objection. A condition is recommended.
- 3.4 River Lugg Internal Drainage Board – No objections raised.

Internal Consultees

- 3.5 Transportation/Highways – Area Engineer (Development Control) – No objections to the proposed access.
- 3.6 Strategic Housing – No objections. Satisfied with the level of affordable housing provision (35%) and the proposed tenure mix of at least 65% social rent and the remainder intermediate tenure.
- 3.7 Public Rights of Way – no public rights of way affected.
- 3.8 The County Archaeologist has no objections.
- 3.9 The Environmental Health Section has no objections to the proposal subject to conditions.

4 Representations

- 4.1 Five letters have been received raising the following matters and/or objecting to the development:-
 - Bromyard requires employment land also to ensure an adequate balance;
 - Concern regarding noise and odour from the Polytec factory;
 - Concern with regard foul sewerage capacity;
 - Potential traffic congestion;
 - Undue visual impact;
 - Concern as to light pollution from headlights into ‘Becks Cottage’ adversely affecting amenity;
 - Devaluation of property.
- 4.2 A letter of support has been received from a local business which makes the following points:-
 - Additional housing in Bromyard will make it a more attractive place to live & work;
 - The company struggles to attract the right calibre of people. Provision of such housing may assist in attracting people; and
 - The noise mitigation measures are adequate.
- 4.3 Bromyard and Winslow Town Council in their response to the initial consultation merely stated “A resolution to support this application was defeated”.
- 4.4 In a subsequent response to amended details the Bromyard and Winslow Town Council stated that they oppose the housing development and made detailed comment upon the Draft Heads of Terms in relation to the proposed Planning Obligation.
- 4.5 Brockhampton Group Parish Council object on the following summarised grounds:-
 - Concern that a residential development in close proximity to the existing industrial premises could potentially prejudice the future of those businesses;
 - The adequacy of the local highway network

- There still needs to be employment land provided to ensure sufficient supply;
- Doubt as to whether the sewerage network has sufficient capacity;
- Concern re: flood risk; and
- Concern as to whether the bund includes any contaminated material.

4.6 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

5. Officer's Appraisal

5.1 Principle of Development

5.2 The proposal involves residential development upon a parcel of land that is specifically allocated for residential development in the Herefordshire Unitary Development Plan 2007 (UDP) by virtue of policy H2. As stated earlier within this report the allocation of this land for residential purposes was the subject of objection when the Plan was on Deposit. Those objections were heard by an Inspector appointed by the Secretary of State at a public inquiry. Following consideration of all the objections raised, the Inspector concluded that the land was suitable as a residential allocation.

5.3 The site does not immediately adjoin other residential development and would need to create an identity of its own. Whilst policy H2 of the Herefordshire Unitary Development Plan estimated that the site may have a capacity of 87 dwellings, it must be understood that the figures given in that policy are estimates. The figure of 87 was based on an estimated site area of 3.7 hectares and an estimated net site area of 2.9 hectares. Some sites may yield a greater number of dwellings whilst others may yield a lesser number. In this particular case the site area of the allocated site is actually 3.9 hectares (net area of some 3.4 hectares excluding the bund). The planning application proposes "up to 127 dwellings" which would create a density of development of some 32.63 dwellings to the hectare (or some 37.35 dwellings to the hectare excluding the bund). Your officers consider that the site could accommodate this number of dwellings. Much would depend on the size and mix of the dwelling houses. This is a matter that can adequately be dealt with at the reserved matters stage.

5.4 Affordable Housing

5.5 The application proposes 35% affordable housing provision. Within the affordable housing element of the development 65% of dwellings will be made available for social rent with the remainder being available for intermediate tenure. This accords with the level of affordable housing provision set out in policy H2 of the Herefordshire Unitary Development Plan 2007.

5.6 Sewerage Capacity

5.7 At the time of the previous application there was an issue of foul sewerage capacity at Bromyard. However, Welsh Water has undertaken improvements such that the Petty Bridge Sewage Pumping Station or the Bromyard Waste Water Treatment Works can now cater with the amount of development proposed upon this allocated housing site.

5.8 Discussions with Welsh Water did reveal, however, that the developer would either need to undertake improvement works to the Porthouse Farm Industrial Estate Sewage Pumping Station or construct a new pumping station upon the allocated site. It is the latter option that the applicant has chosen. The new pumping station would need to be designed such that the flow into the system is controlled.

5.9 Welsh Water has recommended a series of conditions, which are reflected in the recommendation.

5.10 Flooding

5.11 Unlike the previous application (DCNC0009/2844/O), this application does not propose any housing development within the riverside meadow, east of the disused railway line and boundary of the allocated housing site. The application site is not liable to flood.

5.12 The Environment Agency has been consulted upon the planning application and do not raise objection.

5.13 Noise

5.14 The inter-relationship between the proposed residential development and the adjoining employment uses needs to be addressed to ensure that the occupiers of any residential development enjoy a satisfactory level of amenity and the operators of the industrial premises do not receive complaint.

5.15 This issue has been assessed in detail. The current position is that the noise from the Polytec general industrial premises (which operates on a 24 hours a day basis) would have an adverse impact upon the occupiers of the proposed residential development.

5.16 However, following thorough analysis and discussions it is considered that this issue can be satisfactorily addressed by a series of noise mitigation measures. Firstly, it is proposed to undertake a series of noise mitigation measures at source (i.e. upon the Polytec premises themselves). Noise/acoustic experts have identified seven elevated sources of noise upon the Polytec site that are capable of radiating noise to the proposed residential development. A technical solution has been found to attenuate these sources as follows:-

- Digester Fan – Acoustic Louvre Air – In & Out, Blockwork Enclosure
- Paint Dryer Fan – Acoustic Louvre Enclosure End Intake – 2 sides & Top Acoustic Panel Enclosure
- Extract next to Paint Dryer – Exhaust attenuator upgrade
- Compressor House ‘A’ – Acoustic Louvre’s & Acoustic Louvre Door
- Compressor House ‘B’ – Acoustic Louvre’s & Acoustic Louvre Door
- Chemical Mixer Extract – Exhaust Attenuator
- Dust Extractor – Acoustic Panel Surround & Exhaust Attenuator

5.17 The Environmental Health Manager is satisfied as to the efficacy of these works. The works together with the future maintenance can be secured by way of a planning condition.

5.18 The bund proposed to be retained by way of planning application DMN/111900/N, albeit in a regraded form, also has an acoustic function in attenuating the Polytec noise sources closer to the ground. These include the storage and movement of materials / products, general activity on the yard area and plant that is located near the ground level. This would become more relevant with the reduction in noise output of the higher level sources as the noise from these lower areas would become more pronounced. The retention of the bund, albeit in its modified form, would have the benefit of mitigating this noise.

5.19 The retention of the bund, albeit in a modified form, is an integral part of the acoustic design of the noise reduction package of the Polytec site. It serves to safeguard the amenities of the occupiers of future residents whilst protecting Polytec’s operational activities from possible adverse reaction by new residents.

5.20 It is concluded that this package of noise mitigation measures will ensure that the future occupiers of the dwelling houses would enjoy a satisfactory level of quietude and as such the proposal complies with policy DR13 of the Herefordshire Unitary Development Plan 2007.

5.21 Odour

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

- 5.22 The control of odours due to the operations at Polytec are regulated by means of a permit from the Local Authority which requires that emissions to air are controlled at an acceptable level and there is a requirement for ongoing improvement. The Environmental Health Manager is satisfied that the occupiers of the proposed dwellings are sufficiently protected. The company is required by the permit to comply with nationally set standards.
- 5.23 Transportation
- 5.24 The Transportation Manager is satisfied that the local highway network has sufficient capacity. The proposed development would generate significantly less vehicle movements than the previously refused planning application which proposed 175 dwellings rather than a maximum of 127 dwellings.
- 5.25 Two vehicular means of access are required for this scale of development. The positions of the accesses are logical and the visibility splays acceptable.
- 5.26 The proposed accesses for pedestrians and cyclists are also considered to be suitable.
- 5.27 The site is in a sustainable location being within reasonable walking distance of the Town Centre, community facilities and employment premises. There are no objections from the Transportation Manager.
- 5.28 Residential Amenity
- 5.29 The occupiers of 'Becks Cottage' on the western side of Bromyard Road have expressed concerns as to the impact upon their amenity by the southernmost vehicular access. The case officer has specifically visited their property, which is split-level, to assess the impact. There is a need for a vehicular access in this area close to the Town and it has in fact been deliberately offset from 'Becks Cottage', so that it is not directly opposite, to safeguard the amenities of the occupiers of that property. It is considered that the occupiers of 'Becks Cottage' would not suffer any undue loss of amenity.
- 5.30 Landscape & Ecology
- 5.31 By allocating the site for residential development the Council has accepted that such a development can be satisfactorily integrated into the landscape.
- 5.32 The trees along the road frontage of amenity value have been protected by way of a Tree Preservation Order and are shown to be retained as is the majority of the roadside hedgerow on the eastern side of the Tenbury Road which is considered to be of both landscape and ecological value.
- 5.33 An ecological assessment and reptile survey did not identify any protected species on the housing development site. The site is allocated for housing in the UDP and it is concluded that whilst there will be some loss of nesting bird habitat on site, the revised scheme will retain roadside hedgerow where possible as well as the mature oak tree. A habitat and biodiversity enhancement scheme will compensate for habitat loss and provide opportunities to enhance local wildlife.
- 5.34 Employment Land Supply
- 5.35 Concern has been expressed with regard the adequacy of employment land supply in the Bromyard area. The Inspector in considering objections to the deposit version of the UDP considered that there was sufficient employment land supply in the area, as the Council also considered in adopting the Plan.

- 5.36 The current position is that there is limited available employment land in Bromyard and for a variety of reasons the allocated employment site south of the Linton Trading Estate has limited prospects of being delivered. However, the Economic Development Manager advises that demand for employment land in and around Bromyard is only moderate and tends to be locally derived demand.
- 5.37 With regard the future, the need for 5 hectares of employment land for Bromyard for the Core Strategy Plan Period (2011-2031) has been identified. This is linked to the additional housing proposed for Bromyard. The original preferred options for the Market Towns identified the general area for the provision of this further 5 hectares being in the vicinity of the Linton Trading Estate. The Planning Policy Team are currently reviewing this issue as part of the consideration of the comments received during the recent Core Strategy consultation. However, ultimately, the precise allocation of land would need to be considered via the Market Town and Rural Areas Plan or a Neighbourhood Plan.
- 5.38 Draft Heads of Terms
- 5.39 The Draft Heads of Terms set out in Annex 1 comply with the policy DR5 of the Herefordshire Unitary Development Plan 2007 and the Council's adopted Supplementary Planning Document entitled 'Planning Obligations' (April 2008).
- 5.40 Bromyard and Winslow Town Council are satisfied with the proposal other than on two matters:-
1. They wish an education contribution for the Queen Elizabeth Humanities College also. However, based on the numbers on roll at October 2011 and the latest census data, no year groups are at or near capacity and therefore there is no justification to put forward to request a contribution for the secondary school.
 2. They wish the financial contribution with regard the CCTV coverage to be increased from (£6,150 index linked) to £16,150 (index linked), an increase of £10,000. This has been reviewed by the Commissioning Officer (CCTV) who sees no justification for such an increase and actually has a quote for a scheme that demonstrates that a payment of £6,150 (index linked) is sufficient.

6. Conclusion

- 6.1 The application site is allocated in the Herefordshire Unitary Development Plan 2007 for housing development.
- 6.2 The principle of the development has been established. The application is made in outline with, other than the access, all matters reserved for future consideration. There are no objections to the access.
- 6.3 As such, the proposal clearly accords with the provisions of the development plan and there are no other material considerations that indicate that a decision should be made contrary to the Council's adopted policy.

RECOMMENDATION

Subject to the prior completion of a Section 106 legal agreement in accordance with the Draft Heads of Terms attached as Annex 1, the Assistant Director Economic, Environment & Cultural Services be DELEGATED POWERS TO GRANT OUTLINE PLANNING PERMISSION subject to the following conditions:-

1. **The development shall not commence until approval of the following reserved matters has been obtained from the Local Planning Authority:-**

- Layout
- Scale
- Appearance
- Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

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

Reason: No such details have been submitted and in accordance with Section 92 of the Town and Country Planning act 1990.

2. The finished floor levels of all the dwelling houses shall be set a minimum of 600mm above Q1000 flood level at each river station section (sections referred to in Appendix H of the Flood risk Assessment Report 1577 dated 26th June 2009).

Reason: To protect the development from flooding, in accordance with policy DR7 of the Herefordshire Unitary Development Plan 2007.

3. There shall be no raising of ground levels within flood zone 3, the 'high risk', 1% annual probability flood plain.

Reason: To protect the development from flooding, in accordance with policy DR7 of the Herefordshire Unitary Development Plan 2007.

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

- Full details of foul sewerage disposal arrangements
- Full details of surface water drainage arrangements
- Full details of land drainage arrangements

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 that effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the existing public sewerage system, in accordance with policies DR4 and DR6 of the Herefordshire Unitary Development Plan 2007.

5. With regard the details required to be submitted pursuant to condition 4 above, no surface water or land drainage run-off shall be discharged, either directly or indirectly, to the public sewerage system.

Reason: To protect the integrity of the public sewerage system, to prevent hydraulic overloading of the public sewerage system and ensure no detriment to the environment, in accordance with policies DR4 and DR6 of the Herefordshire Unitary Development Plan 2007.

6. With regard the details of foul sewerage disposal arrangements required to be submitted pursuant to condition 4 above, no more than 7 litres per second shall be

discharged into the public sewerage system, thus requiring an on-site pumping station. The scheme shall be implemented with this restricted flow and thereafter maintained as such.

Reason: To protect the integrity of the public sewerage system, to prevent hydraulic overloading of the public sewerage system and ensure no detriment to the environment, in accordance with policies DR4 and DR6 of the Herefordshire Unitary Development Plan 2007.

7. The scheme of noise attenuating measures proposed by Colin Waters Acoustics and submitted as part of the application, including:-

- Digester Fan - Acoustic Louvre Air - In & Out, Blockwork Enclosure
- Paint Dryer 7Fan - Acoustic Louvre Enclosure End Intake – 2 sides & Top Acoustic Panel Enclosure
- Extract next to Paint Dryer - Exhaust attenuator upgrade
- Compressor House 'A' - Acoustic Louvre's & Acoustic Louvre Door
- Compressor House 'B' - Acoustic Louvre's & Acoustic Louvre Door
- Chemical Mixer Extract - Exhaust Attenuator
- Dust Extractor - Acoustic Panel Surround & Exhaust Attenuator

shall be fully implemented prior to the first occupation of any of the dwelling houses and thereafter maintained to the satisfaction of the Local Planning Authority

A noise level rating level of 35dBA Laeq,T using the methodology prescribed by BS4142 'Method for Rating Industrial Noise affecting mixed residential and industrial areas' shall not be exceeded at the façade when measured at ground and first floor level at any dwelling on the site.

Reason: To ensure that the occupiers of the dwellinghouses enjoy a satisfactory level of amenity in compliance with policy DR13 of the Herefordshire Unitary Development Plan 2007.

8. No development shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors,

a conceptual model and a risk assessment in accordance with current best practice

b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health in accordance with policy DR10 of the Herefordshire Unitary Development Plan 2007.

9. **The Remediation Scheme, as approved pursuant to condition number 8 above, shall be fully implemented before development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.**

Reason: In the interests of human health in accordance with policy DR10 of the Herefordshire Unitary Development Plan 2007.

10. **None of the dwelling houses hereby permitted shall be occupied until the regraded bund permitted by planning permission DMN/111900/N has been fully implemented. Thereafter this bund shall remain in-situ and be maintained to the satisfaction of the Local Planning Authority.**

Reason: To ensure that the occupiers of the dwellinghouses enjoy a satisfactory level of amenity in compliance with policy DR13 of the Herefordshire Unitary Development Plan 2007.

11. **The hedgerow along the western boundary of the site on the eastern side of the Tenbury Road shall be retained as shown on the approved plans.**

Reason: The roadside hedgerow is considered to be of both landscape and ecological value, to accord with policy LA5 of the Herefordshire Unitary Development Plan 2007.

12. **The details of layout required to be submitted pursuant to condition 1 above shall show the entirety of the residential development, including the dwelling houses, gardens, roadways, pedestrian routes, cycles routes, outdoor playing space, open space and equipped children's play space, confined to the allocated housing site as defined on the Proposals Map to the Herefordshire Unitary Development Plan 2007.**

Reason: To ensure that there is no unjustified encroachment of development into the open countryside or onto employment land in accordance with policies H7 and E5 of the Herefordshire Unitary Development Plan 2007.

13. **The details of layout required to be submitted pursuant to condition 1 above shall show the entirety of the provision of a shared pedestrian/cycleway route along the approximate route of the former railway line adjacent to the eastern boundary of the site.**

Reason: To ensure that there is adequate permeability through the development and to enhance both cycle and pedestrian routes, in accordance with policies T6 and T7 of the Herefordshire Unitary development Plan 2007.

14. **The details of layout required to be submitted pursuant to condition 1 above shall include the provision of outdoor playing space, open space and equipped children's play space in accordance with policies H19 and RST3 of the Herefordshire Unitary Development Plan 2007.**

Reason: In accordance with policies H19 and RST3 of the Herefordshire Unitary Development Plan 2007.

15. **Prior to commencement of the development hereby permitted protective fencing in accordance with the advice contained in Section 9.2 of BS5837 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 at the furthest extent of the root protection areas to the seven trees protected by way of a Tree Preservation Order and the furthest extent of the roots of the roadside hedgerow that is to be retained. Once these protective measures have been erected but prior to commencement of the development hereby permitted a suitably qualified arboricultural consultant shall inspect the site and write to confirm that the protective measures specified by this condition are in-situ. Upon receipt of that letter by the Local Planning Authority the development may commence but the protective measures must remain in-situ until completion of the development. No storage may take place within the tree protection areas. If any works are required within the tree protection areas an Arboricultural Method Statement shall be submitted to and approved by the Local Planning Authority prior to commencement of the development.

Reason: To ensure that the trees and hedgerow of amenity value that are both 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. The details of layout and landscaping required to be submitted pursuant to condition 1 above shall include a scheme for the permanent closure of the two existing vehicular means of accesses. The two existing vehicular means of accesses shall be permanently closed in full accordance with the approved scheme prior to the first occupation of any of the dwellinghouses hereby permitted.

Reason: In the interests of highway safety, in accordance with policy DR3, T6 and T7 of the Herefordshire Unitary Development Plan 2007.

17. The approved vehicular access including visibility splays, cycleway and pedestrian route shown upon drawing number 617-05 Revision A received 8th November 2011 shall be fully implemented prior to the first occupation of any of the dwellinghouses hereby permitted and thereafter maintained to the satisfaction of the Local Planning authority.

Reason: In the interests of highway safety and to encourage travel by alternative modes of transport in accordance with policy DR3 of the Herefordshire Unitary Development Plan 2007.

18. B01 Development in accordance with the approved plans

19. The details of layout required to be submitted pursuant to condition 1 above, shall include full details of all proposed boundary treatments (i.e. walls, gates, fences or any other means of enclosure).

Reason: To ensure a satisfactory appearance to the development in accordance with policies DR1 and LA2 of the Herefordshire Unitary Development Plan 2007.

20. The details of layout required to be submitted pursuant to condition 1 above, shall include full details of existing site levels, all proposed earthworks and proposed finished levels.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007.

21. The recommendations set out in the ecologist's reports dated March 2010 and June

2010 shall be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, an update assessment and full working method statement should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.

Reasons:

To ensure that 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 and NC7 of the Herefordshire Unitary Development Plan.

To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

- 22. Prior to commencement of the development, a full habitat enhancement and management scheme, including reference to Herefordshire's Biodiversity Action Plan Priority Habitats and Species, shall be submitted to and be approved in writing by the local planning authority. The work shall be implemented as approved.**

Reasons:

To ensure that 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 and NC7 of the Herefordshire Unitary Development Plan.

To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

- 23 An appropriately qualified and experienced ecological clerk of works shall be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation and enhancement work.**

Reasons:

To ensure that 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 and NC7 of the Herefordshire Unitary Development Plan.

To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

- 24 CCO – Site Waste Management**

- 25 CAZ - Parking for Site Operatives**

INFORMATIVES:

- 1. A written Land Drainage Consent will need to be obtained from the Board under the terms of the Land Drainage Act 1991 and the Flood and Water Management Act 2010.**
- 2. The details of layout required to be submitted pursuant to condition 1 should follow the advice contained within 'Manual for Streets 2' and include the vehicle parking and cycle parking facilities as set out in the Herefordshire Council 'Highways**

Design Guide for New Development (July 2006)'

3. This permission does NOT relate to illustrative drawing 2589/008 Revision F.

4. The documents to which this decision relate are:-

- **Proposed Site Access – Drawing number 617-05 Revision A received 8th November 2011;**
- **Colin Water Acoustics (Consultants in Environmental Acoustics) Report CWA 26310/R05/1/ May 2011 received 14th July 2011;**
- **Tree Survey Report prepared by illmanyounng May 2011 received 14th July 2011 which sets out the root protection areas in Appendix 2 (i.e. T15 – T7 of the TPO – 6 metres radius, T7 – T6 of the TPO – 6.48 metres radius, T6 – T5 of the TPO – 7.08 metres radius, T4 – T3 of the TPO – 5.64 metres radius, T3 – T2 of the TPO – 6 metres radius and T2 – T1 of the TPO – 7.2 metres radius;**
- **Phil Jones Associates Transport Assessment dated May 2011 received 14th July 2011;**
- **Proposed Zebra Crossing (Porthouse Farm Development) – Stage 2 Road Safety Audit prepared by Amey dated 21st June 2011 received 14th July 2011;**
- **Flood Risk Assessment (Report No. 1577) prepared by Robert West Consulting received on 14th July 2011;**
- **Topographical Survey Drawing No. T 5637/2 received 14th July 2011; and**
- **Application Site Plan – Drawing number 2589/015 (Scale 1:1250) received 14th July 2011.**
- **Ecological Appraisal (March 2010)**
- **Reptile Survey (June 2010)**

5. N15 Reason(s) for the Grant of Outline Permission

6. N11C – General

7 The details of landscaping required to be submitted pursuant to Condition 1 shall include hard landscaping, soft landscaping and a fully detailed landscape management plan.

8 I11 - Mud on Highway

9 I09 - Private Apparatus within Highway

10 I45 - Works within the Highway

11 I08 – Section 278 Agreement

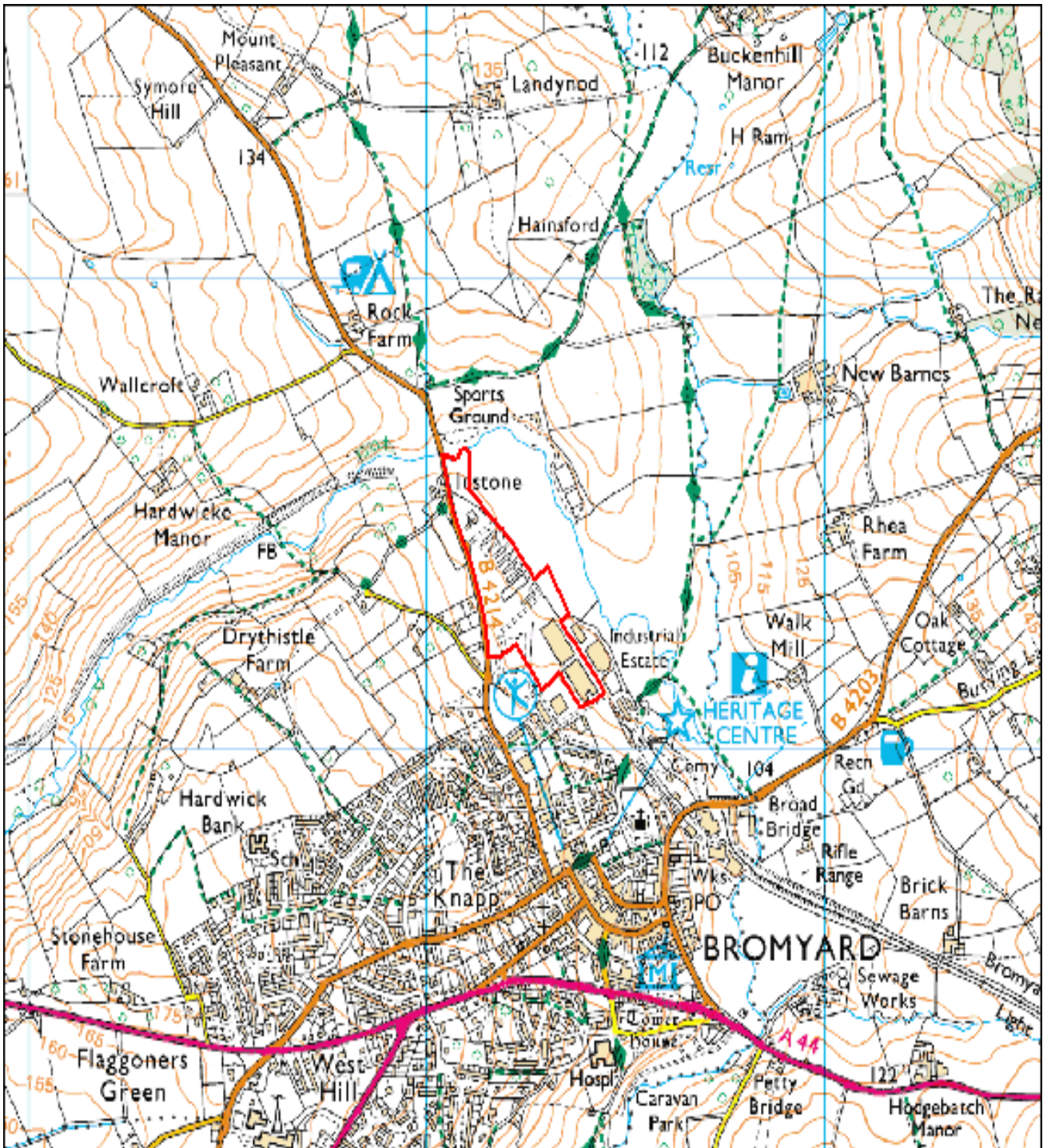
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMN/111899/O

SITE ADDRESS : PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE

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

ANNEX 1

HEADS OF TERMS Proposed Planning Obligation Agreement Section 106 Town and Country Planning Act 1990

Planning Application: N/111899/O

Proposal: Construction of up to 127 dwelling houses with all matters other than the means of access reserved for future consideration

Site: Porthouse Farm, Tenbury Road, Bromyard, Herefordshire

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of
 - £ 1,809 (index linked) for a 2 bedroom open market unit
 - £ 2,951 (index linked) for a 3 bedroom open market unit
 - £ 4,953 (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced educational infrastructure at St Peters Primary School, Post 16, Bromyard Early Years, Bromyard Youth Service and the Special Education Needs Schools. The sum shall be paid on or before first occupation of the 1st open market dwelling house, and may be pooled with other contributions if appropriate.

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of
 - £ 2,092 (index linked) for a 1 bedroom open market unit
 - £ 2,457 (index linked) for a 2 bedroom open market unit
 - £ 3,686 (index linked) for a 3 bedroom open market unit
 - £ 4,915 (index linked) for a 4 bedroom open market unit
 - £ 6,143 (index linked) for a 5 bedroom open market unit

The contributions will provide for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1st open market dwelling house and may be pooled with other contributions if appropriate. The

monies shall be used by Herefordshire Council at its option for any or all of the following purposes:-

- Dropped crossings in the Town. All along routes used by residents of the development to shops and schools.
 - Improved cycle parking in the town centre and schools.
 - Improvements to the junction from the B4214 into Porthouse Industrial Estate. The footway to be diverted to the open grass area on the town side. This is on the route from the development to town/schools.
 - Provision/improvements to proposed Greenway along old railway.
 - Old Road Footway
 - Extension of footway on the A465 towards the garage and Panniers Lane
 - Enhancement of southerly visibility at junction of Winslow Road with Tenbury Road (B4214)
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £627 (index linked) per head of population (the population shall be calculated by multiplying the total number of open market and affordable dwellings by 2.3 which is the assumed occupancy of each dwelling) to be spent for the enhancement / provision of outdoor sports facilities in consultation with local sports clubs in Bromyard & Winslow and adjacent parishes. The sums shall be paid on or before the occupation of the 1st open market dwelling. 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 (index linked) per head of population (the population shall be calculated by multiplying the total number of open market dwellings by 2.3 which is the assumed occupancy of each dwelling) to be spent to support the existing indoor sports provision in Bromyard & Winslow and adjacent parishes. The sums shall be paid on or before occupation of the 1st open market dwelling. The monies may be pooled with other contributions if appropriate.
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of
- £120 (index linked) for a 1 bedroom open market unit
 - £146 (index linked) for a 2 bedroom open market unit
 - £198 (index linked) for a 3 bedroom open market unit
 - £241 (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced Library facilities in Bromyard. The sum shall be paid on or before the occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £120 (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Bromyard & Winslow. The sum shall be paid on or before occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.
7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £6,150 (index linked) towards the enhancement of CCTV provision in Bromyard Town Centre to include 6 cameras, DVR, PC review station and wireless links to the local police station. The sum shall be paid on or before the occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.
8. The developer covenants with Herefordshire Council to pay a sum equal to 1% of the gross project cost, which will be used to provide for public art within the development or within the vicinity of the development. The sum shall be paid on or before the occupation of the 1st open market dwelling.
9. The developer covenants with Herefordshire Council that 35% of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
10. Of those Affordable Housing units, at least 65% shall be made available for social rent with the remainder being available for intermediate tenure.
11. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
12. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
 - 12.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
 - 12.2 satisfy the requirements of paragraphs 13 & 14 of this schedule
13. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-
 - 13.1 a local connection with the parish of Bromyard and Winslow; or Grendon Bishop, Bredenbury, Wacton, Edwyn Ralph, Norton, Linton, Avenbury, Stoke Lacy, Little Cowarne, Pencombe and Grendon Warren
- 13.2 in the event there being no person with a local connection to any of the above parishes any other person ordinarily resident within the administrative area of Herefordshire

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

Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 12.1 or 12.2 above.

14. For the purposes of sub-paragraph 13.1 or 13.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - is or in the past was normally resident there; or
 - is employed there; or
 - has a family association there; or
 - a proven need to give support to or receive support from family members; or
 - because of special circumstances
15. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
16. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
17. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4, 5, 6, 7 and 8 above for the purposes specified in the agreement within 10 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.
18. The sums referred to in paragraphs 1, 2, 3, 4, 5, 6, 7 and 8 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 sums are paid to the Council.
19. 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 the development.

20. 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.
21. The Children's Play Area and amenity public open space area shall be provided on-site prior to the occupation of 50% of the open market dwellings. The Children's Play Area and public open space shall be maintained by the developer for a period of one year and then transferred to Herefordshire Council at a cost of £1 provided that the play area and open space are to an acceptable standard as agreed by Herefordshire Council. At the time of transfer the developer shall pay Herefordshire Council a 15 year maintenance sum in accordance with the Tariff for Calculation of Commuted Sums 2011.



MEETING:	PLANNING COMMITTEE
DATE:	1 FEBRUARY 2012
TITLE OF REPORT:	<p>DMN/111900/N - RETROSPECTIVE PLANNING APPLICATION FOR THE RETENTION OF AN EXISTING BUND AND ITS REMODELLING WITH APPROPRIATE ENGINEERING WORKS AND LANDSCAPING OF THE REMODELLED BUND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE, HR7 4NS</p> <p>For: Ms N Harrison per Mr John Cornwell, Bell Cornwell LLP, Oakview House, Station Road, Hook, Hampshire, RG27 9TP</p>

Date Received: 14 July 2011

Ward: Bromyard

Grid Ref: 365269,255285

Expiry Date: 13 October 2011

Local Members: Councillor A Seldon and JG Lester

1. Site Description and Proposal

- 1.1 The proposal site of approximately 1 hectare lies on the north side of Bromyard, 500 metres from the town centre, and situated between the Porthouse industrial estate and the remaining open land comprising the former Porthouse Farm. On the site's western side is the B4214 Tenbury Road. To the east is it bounded by the former railway, beyond which the land slopes down to the River Frome and its flood plain.

Background

- 1.2 The area known as Porthouse Farm comprises approximately 3.9 hectares of former agricultural land forming a triangular tongue of land extending from the northern limit of Bromyard town. Past agricultural activity included poultry and pig units, most of which have been demolished leaving the remains of hardstandings. It has lain vacant for many years. Beyond the southern end of the application site some of the former farmland has been redeveloped over the last few decades with industrial units. Established businesses include a car parts manufacturer, Royal Mail sorting office, and a skip hire transfer station with associated aggregate supplies and haulage yard. Some of these business premises back onto the current northern residential limit of Bromyard town.
- 1.3 Projects have been proposed at various times to develop the remainder of Porthouse Farm but to date none has progressed to implementation. At some stage in recent years a substantial bund was created along the southern boundary of the vacant area without the benefit of planning permission.
- 1.4 The current scale of the bund development is estimated as follows: approximately 205 metres in length with a variable width of 13-18 metres. Levels vary, but the height is generally 4-5

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

metres, from approximately 113m AOD at the northern lower edge up to 118m AOD on the top. The slope is steeply graded along the northern side with a gradient of roughly 40%. On the south side of the bund (adjoining the industrial units) the adjoining land level is higher and the bund appears as a much lower bank from that upper viewpoint. An estimate of the overall gross volume would be between 7,500 and 10,000 cubic metres of material

- 1.5 The application includes the statement (paragraph 2.1 of the submitted supporting statement) that 'The majority of the site is comprised of an existing bund that was constructed around 2000, and is unauthorised and without the benefit of a formal planning consent.' This has formed the basis of the consideration of this application.
- 1.6 The application goes on to state that preliminary investigations found the bund to contain 'predominantly natural soils, with a range of other materials including concrete, stone, timber, plastic and tarmac, though in levels not considered deleterious'. The findings of the submitted investigation report have been taken into account, along with subsequent further details in assessing the merits of the proposal.

The proposal

- 1.7 The proposal under consideration is to retain the bund as a functional noise and visual impact landscape buffer between the existing industrial area and the adjoining allocated housing site. UDP policy H2 (para 5.4.27) notes the need for a 'significant buffer strip of some 0.8 hectare' for the southern boundary (i.e. this application site). The need for such a buffer is thus embedded in policy, although the nature and scale of it is not specified.
- 1.8 Under this application the bund would be remodelled and landscaped in order to create a more appropriate profile. The work would require some additional material, stated to be available from within the allocated housing site, proposals for which are subject of the separate housing application referenced DMN/111899/O. The two applications are being considered together, but separate applications are necessary because (a) the housing proposal is in Outline only at this stage, (b) the bund application is partly retrospective and therefore cannot be considered in Outline, and (c) the bund is regarded as a 'waste' development due to the possibility of imported material having been incorporated within the bund. This approach enables detailed specialist consideration of the bund rather than as an adjunct to a different proposal.
- 1.9 The remodelling would entail softening the profile of the bund, widening it, reducing the gradients and varying the height so as to produce a more naturalistic appearance. Landscape planting is also proposed, and an area described as a 'SuDS pond' (Sustainable Drainage Scheme) at the eastern end of the bund area, to assist with surface water management. There is a noticeably wet area at that point.
- 1.10 The application as initially submitted included plans showing formal/ornamental planting areas within the bund, along with specific path/cycle ways and play areas. Amended plans were subsequently provided by the applicant omitting the formal design, following negotiations which will be examined in more detail in the officer's appraisal below. Fresh consultations were made on the amended plans.

2. Policies

2.1 National Guidance

PPS1	-	Delivering Sustainable Development
PPS3	-	Housing
PPS4	-	Planning for Sustainable Economic Growth
PPS9	-	Biodiversity and Geological Conservation
PPS10	-	Sustainable Waste Management
PPS23	-	Planning and Pollution Control
PPS25	-	Development and Flood Risk

2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
S4	-	Employment
S6	-	Transport
S7	-	Natural and Historic Heritage
S10	-	Waste
DR2	-	Land Use and Activity
DR4	-	Environment
DR7	-	Flood Risk
DR10	-	Contaminated Land
DR11	-	Soil Quality
DR13	-	Noise
H1	-	Hereford and the Market Towns: settlement boundaries and established residential areas
H2	-	Hereford and the Market Towns: housing land allocations
T8	-	Road hierarchy
LA2	-	Landscape Character
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
RST1	-	Criteria for recreation, sport and tourism development
W2	-	Landfill or landraising
W8	-	Waste disposal for land improvement
W9	-	Reclamation, aftercare and afteruse

2.3 **Other Legislation**

Wildlife and Countryside Act 1981 (as amended)

Natural Environments and Rural Communities Act 2006 ('The NERC Act')

3. **Planning History**

3.1	DMN/111899/O	Outline - 127 dwellings	-	Under consideration
	DMNC2009/2844/O	Outline 175 dwellings (allocated housing site)	-	Withdrawn 10/02/2010
	DMNC2009/0366/N	Retention of bund	-	Withdrawn 24/4/2009
	NC2001/3278/F	12 live/work units at north end of site (allocated housing site)	-	Withdrawn 5/8/2004
	NC2001/1128/O	Mixed use - office/industrial/	-	Withdrawn

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

	residential/live-work units	27/12/2001
NC2001/1123/F	Office/warehouse, access, parking and yard (on adjoining land)	- Approved 9/7/2001
MH97/1102	PO Sorting Office (adjoining land)	- Approved 10/11/1997
MH96/1184	Access/estate road (adjoining land)	- Approved 5/11/1996
MH95/1204	Industrial development and access (on adjoining land)	- Approved 28/11/1995
MH90/2194	Mixed industrial/residential/ change of use of farm to commercial etc (allocated housing site)	- Approved 11/12/1990

4. Consultation Summary

Statutory Consultees

- 4.1 Environment Agency: No objection; the bund is located in flood zone 1 (low risk) and will have no detrimental effect on flooding in the area. We have no comments to make with regard to contaminated land but you are advised to seek the advice of the Environmental Health Officer. Notes added relating to the movement and disposal of wastes under relevant legislation.
- 4.2 River Lugg Internal Drainage Board: The site lies partly within the Board's operational area. The proposal will have no effect on the Board's operational interests or watercourses in its control.

Internal Council Advice

- 4.3 Traffic Manager: No highway implications
- 4.4 Team Manager (Air, Land and Water Protection): The Environmental Health Officer comments on the submitted report 'Phase 1 and Phase 2 Environmental Investigation Porthouse Farm - Landscape Bund 776-06' (Pam Brown Associates Ltd May 2011). Analysis did not identify any compound levels above guideline values with regard to any of the contaminants for which testing was undertaken. Trial pitting was limited and some uncertainty remains as to the nature and quality of some of the materials; further information should be provided, including on whether asbestos fibres have been considered as a potential source of contamination. Plastic, metal, wire and other materials encountered should be removed and responsibly disposed of; any further soil to be imported must be tested for fitness for purpose at source. Validated documentation will be required in due course to verify the final depth and source of any imported soils used in the bund remodelling. In conclusion, further information is required to address outstanding uncertainties. Specialist advice should be sought, should any unexpected contamination be encountered during the works. Condition recommended, to secure adequate soil management, quality verification and fitness for purpose. [Please note: this is discussed in more detail in the Officer's Appraisal below].
- 4.5 Public Rights of Way Officer: No objection
- 4.6 Drainage Adviser: no objections

- 4.7 Parks Countryside and Leisure Development Manager: The Council would not wish to adopt the bund for future maintenance but we need clarity as to maintenance and ownership responsibilities. A long-term management plan would be required, to include tree health and safety surveys. Clarity is also needed regarding maintenance and ownership of the proposed SUDS (balancing pond).

5. Representations

- 5.1 Bromyard & Winslow Town Council: On the initially submitted plans: a resolution to support this application was defeated. On the amended plans: Bromyard Town Council objects to this unlawful development
- 5.2 Brockhampton Group Parish Council: Objects to both this application and the partner application reference DMN/111899/O on the following grounds: a housing development would be detrimental to existing industries already in place; there is insufficient infrastructure such as traffic capacity and employment for the extra households; concerns about sewerage capacity and additional flood risk; the site is more suited to industrial development than housing; concerns about the unlawful and unregulated/undocumented nature of the bund. On the amended plans: [response awaited]
- 5.3 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

6. Officer's Appraisal

- 6.1 The existence of the unauthorised bund was first brought to officers' attention in early 2009, with some evidence for its existence from 2006. An initial application to retain and remodel it was made promptly on request, under reference DMNC2009/0366/N, but was withdrawn on 24 April 2009. The current proposal is the result of further protracted negotiations which have taken time. This appraisal does not consider the merits of the Outline housing proposal which is being considered separately under reference DMN/111899/O, although officers acknowledge the direct relationship between the two. In particular, the need for a buffer between any future housing and the industrial premises, as outlined in policy H2 of the Herefordshire Unitary Development Plan (UDP), is a material consideration which is discussed below.
- 6.2 The key considerations for this application are:
- Function, form and purpose
 - Composition and suitability of the bund material
 - Waste management and alternatives to retention
 - Landscaping and future use
 - Biodiversity considerations

6.3 Function, form and purpose

The retention and remodelling of the bund is presented by the applicant as having two main functions; providing a physical barrier and noise attenuation buffer between proposed new housing and the established industrial premises to the south. Current and previous local plan policies allocated the remaining vacant area at Porthouse Farm for housing. UDP policy H2 (para 5.4.27) notes in particular the need for a high standard of housing design, a 'significant buffer strip of some 0.8 hectare' for the southern boundary and a requirement for developers to demonstrate that 'the legitimate interests of future residents and existing employers are not prejudiced'. This last point refers to the potential for adverse effects such as noise or fumes from pre-existing industrial premises to affect residential amenity.

- 6.4 UDP policy DR11 allows for the use of surplus soils to be used for landscaping and noise barriers provided proposals would be 'necessary and appropriate to the townscape and landscape character of the locality'. This is further reflected in the requirements of policy W8. In this instance, the bund is located in an area characterised (at present) by industrial land and derelict farmland. The proposal to remodel and landscape the bund feature seeks to comply with policies DR11 and W8 in the interests of projected future uses. There is no reason to suggest that it would not be capable of compliance.
- 6.4 The applicant has undertaken to put into effect a package of noise mitigation measures, as part of the separate outline housing application (DMN/111899/O), by installing appropriate equipment at source. In particular these would be at Polytec Holden. The Environmental Health Officer has agreed with the applicant's acoustics consultant that the physical reduction of noise levels from equipment associated with the factory units would very likely mean that ground-level operational noise such as vehicles could be more apparent to new residents, should the housing proposal go ahead. Both have commented that the bund would fulfil an important function in that regard. The retention of the bund would thus be integral to the proposed noise mitigation measures related to the partner housing application, in reducing noise from outdoor activities at ground level within the industrial premises. This would include vehicle loading/unloading, movement and yard plant.
- 6.5 The submission also includes a wet area denoted as a 'SUDS' pond, to take surface drainage from the bund and elsewhere. The plans show swale ditches along the bund base, to feed into the dedicated wet area. The initial plans suggested a permanent water body provided with decking and seats round it. However on request for clarification the applicant confirmed that this area would be dry for most of the year, only occasionally holding water for any length of time. The revised plans reflect this correction, now noting the SUDS pond as 'wet grassland' (seeded with an appropriate mix), and removing the recreational/leisure element. Nonetheless, with the SUDS area in place, there would be scope for future landscaping schemes to incorporate surface water management relating to the housing scheme, if approved. As wet grassland, a Biodiversity Action Plan Priority Habitat, this area could also be beneficial to wildlife. The bund site is in an area of low flood risk (zone 1 suitable for any development) and there are no flood concerns or issues, although the SUDS pond area has been noted as frequently marshy from some drainage.
- 6.6 On balance, officers take the view that the bund is capable of providing the necessary landscape and noise buffer area deemed by policy H2 to be necessary in developing the northern sector of Porthouse Farm as allocated for housing.
- 6.7 **Composition and suitability of the bund material**
The nature and suitability of the bund content are material considerations. In particular, there has been concern about materials embedded in the bund, observed during initial visual inspection prior to submission of this application. Construction and demolition waste (including metal, cement, wood, plastic, wire etc) and other items were noted. Investigations were undertaken by the applicant on request, entailing initial test-pitting, analysis and subsequent reporting. Policy DR10 requires a site investigation and risk assessment for such sites, to be followed by 'appropriate remediation and protection measures to an acceptable level'. The Environment Agency has no comments to make on the bund materials, referring back to the Council's Environmental Health Section in this case.
- 6.8 To address the policy requirements, the application includes submitted report 'Phase 1 and Phase 2 Environmental Investigation Porthouse Farm - Landscape Bund 776-06' (May 2011) undertaken by Pam Brown Associates Ltd. The report provides an overview of the development and what is believed to be the origin of the material, primarily from within the farmland or close by. Intrusive investigation (test pitting) was carried out to address uncertainties about the bund's composition. Analysis did not identify any compound levels above guideline values with regard to any of the contaminants for which testing was

undertaken. Large fragments of plastics, metals and other materials were encountered and recommended for removal.

- 6.9 The Environmental Health Officer specialising in contaminated land issues accepts that the testing results received did not indicate a risk to human health, or levels of contamination above acceptable levels. However, he commented on limitations of the sampling pit distribution, leaving some uncertainty as to the nature and quality of some of the materials along the top of the bund. He recommended further information be provided, by which the applicant would need to demonstrate an appropriate suite of contaminants analysed, adequate for the likely relevant materials including demolished agricultural buildings, and commensurate with possible uncertainties of provenance and probable future land use. For example, due to the age of the old farm buildings known to have previously existed on site, the applicant should demonstrate that asbestos fibres had been considered as a potential source of contamination.
- 6.10 Accordingly, further study to widen the scope of investigation on the bund was requested from the applicant, following discussion with the Environmental Health Officer. A further report from Pam Brown Associates Ltd, reference 'PBA.SH.776-06 Additional SI to the bund (3 January 2012)', includes full details of the additional investigations and the testing determinands. It found all results to be 'within guideline values with the exception of two determinands: naphthalene and benzo(a)pyrene, which were marginally elevated in test pits 16 and 21'. The report recommends the precautionary removal of 5 cubic metres of material from these two identified locations under professional supervision to a reputable licensed waste handler. According to the Environmental Health Officer these two substances are associated with ash, being 'commonly encountered on sites and relatively straightforward to remediate'. He accepts the findings of the report and has no concerns provided appropriate safeguards are secured by condition.
- 6.11 Accordingly a remediation Method Statement would be needed to ensure the following:
- a) That the recommendations made by Pam Brown Associates Ltd in their two reports will be observed in full;
 - b) That the plastic, metal, wire and any other deleterious materials encountered would be recorded in a site diary when found, and then removed for responsible disposal;
 - c) Provision for specialist advice to be immediately sought and further sampling undertaken, should any unexpected contamination be encountered during the works.
 - d) In the absence of historic evidence being available, the sampling suite should include heavy metals, pH, speciated TPH, PAH and asbestos screen, plus any other suspected substances.
 - e) That any further soil to be imported shall be tested for fitness for purpose and its source thoroughly investigated and analysed with regard to its composition and any likely contamination;
 - f) A scheme of reporting to ensure any imported material is the same as that tested at source;
 - g) Validated documentation in due course, to verify the final depths on completion and the source/s of any imported soils used in the bund remodelling.

A condition is therefore recommended to secure the above, including adequate verification and assurances as to fitness for purpose in accordance with UDP policies DR4 and DR10.

6.12 **Waste management and alternatives to retention**

As a precautionary measure the bund material needs to be regarded as a 'waste'. The consideration is whether it would be acceptable to retain it in situ or require its removal. However, it should be borne in mind that removal of the material would give rise to significant transportation and handling of waste. It would probably have to be taken to Hereford or out of county for appropriate disposal. The requirements for further testing would subsist and additional risks might arise, connected with transportation of the material. Removal of the

bund would need a full justification as it would be contrary to UDP policies T8, S10, W2, W3, and W8 - chiefly because it would not be regarded as the Best Practical Environmental Option (BPEO), a concept formerly built in to regional policy. BPEO now carries less weight as it has been superseded by the Sustainability Assessment process and the revocation of regional policy, but it remains within the UDP as a valid form of appraisal.

- 6.13 The above policies allow for land-filling or land-raising subject to certain safeguards and criteria including BPEO principles, that only inert waste may be deposited, that the minimum quantity to achieve the stated purpose should be permitted, and that clearly expressed material planning benefits must outweigh any material planning objections. In this case there is additional support from policy H2 requiring a landscape buffer at this particular site.
- 6.14 Officers take the view that, provided adequate testing and mitigation to ensure the material is safe and fit for purpose are in place, retention on site would be preferable. In particular, if the material were removed there would still be the policy H2 requirement for the provision of a 'significant landscape buffer', should the remainder of Porthouse Farm be approved for housing. The proposals for remodelling would ensure the bund would be capable of a beneficial purpose and offer opportunities for appropriate remedial soil-handling and treatment, in accordance with policies DR10, DR11, W8 and W9 in particular.
- 6.15 **Landscaping and future use**
In its present form the bund is a utilitarian deposit of mixed material. Besides acting as a buffer area as noted above, the bund's proposed remodelling would be designed to reclaim the structure to a more acceptable form in the landscape, in accordance with policies W9 and LA6, and to ensure its capability for supporting planting and seeding to a required standard. The applicant has stated that some additional material would be necessary to complete it, which would be available from within the adjoining site, the subject of the housing scheme proposal.
- 6.16 The initial submission indicated formal ornamental and native planting, and a network of pathways and play areas within the bund area. This was contrary to officer advice, concerns having been raised regarding future responsibility for maintenance and safety/security. Officers felt that the bund, if retained, should have a clear primary function as noise/landscape buffer as outlined above, without general public access. Further, it was felt that recreational use would be inappropriate on the bund. The Principal Parks, Countryside and Leisure Officer supports that view. She has commented that the existence of the bund should not be used as a substitute for obligatory formal and informal play and recreation areas to be provided within the proposed housing scheme. It is unlikely that the Council would wish to commit itself to the cost of maintaining such a site in that form in the future.
- 6.17 The Planning system is also required to take account of the need to deter crime. The inclusion of publicly accessible areas on the bund could lead to anti-social behaviour issues which might affect both the security of the industrial premises and the amenity of any future adjoining housing. For preference the bund should be planted with robust native species for low or no maintenance, and be fenced off to provide a genuine buffer between the potentially conflicting land uses.
- 6.18 Following negotiations with the applicant, revised plans were submitted, removing the references to formal/ornamental planting, play areas, paths and cycleways. Instead, indicative native planting and seeding, and fencing on both sides of the bund, would follow from the remodelling exercise. The role of the SUDS pond would be reduced, and is marked on the fresh plans as 'wet grassland', fed by a swale along the bottom of the bund area. Any final landscaping could be undertaken as a requirement under the Reserved Matters associated with application reference DMN/111899/O.

- 6.19 The Senior Landscape Officer has no objections to the retention of the bund in principle, and welcomes the revised plans which remove the formal planting and recreational elements on the plans as initially submitted. It is accepted that there would be a need for close-boarded fencing for both security and added noise mitigation, the final details of which could be secured through a planning condition.
- 6.20 **Biodiversity considerations**
The application includes two reports by Richard Tofts Ecology, comprising 'Ecological Appraisal March 2010' and 'Reptile Survey June 2010'. Both reports are concerned with the entire site and relate more properly to the separate housing proposals. With regard to the latter report, the conclusion is that no evidence of reptiles was found and no further recommendations are made. The Ecological Report includes a series of 11 bullet-point recommendations, some of which are relevant to the bund. No particular concerns have been raised however, and a condition is recommended to secure the recommended measures in accordance with policy NC1
- 6.21 **Conclusion**
It is clearly undesirable when any development takes place without the requisite planning permission. However, Government advice is that "... it is not an offence to carry out development without first obtaining any planning permission required for it...", stating further that "While it is clearly unsatisfactory for anyone to carry out development without first obtaining the required planning permission, an enforcement notice should not normally be issued solely to 'regularise' development which is acceptable on its planning merits, but for which permission has not been sought". The expediency of taking enforcement action is therefore an important consideration.
- 6.21 In visual terms the bund as constructed is not ideal. However, if regraded and landscaped to an appropriate visual appearance as proposed, it would also have two useful functions:
- a) As a visual and separation barrier between the existing industrial buildings and the allocated housing site, as envisaged in the pre-amble to policy H2 of the Herefordshire Unitary Development Plan 2007; and
 - b) As an acoustic barrier.
- 6.22 Detailed technical matters relating to the deposited material may be adequately dealt with through planning conditions. The testing reports identify some unsuitable materials, and fresh investigations highlight the presence of some items recommended for removal. However there has been no suggestion of a high risk or that remediation would be impractical to achieve. The requirement for a suitable scheme to ensure that any unsuitable material is identified and removed under supervision to a licensed waste handler would ensure the proposal would be capable of compliance. On the other hand, removing the entire bund would create multiple difficulties as to its destination, handling, highway and traffic issues, and including the same methodology for dealing with any contamination concerns that might arise. Herefordshire Unitary Development Plan Policy W8 allows for the use of land for the deposit of suitable inert material where a benefit can be demonstrated.
- 6.23 On balance officers take the view that the requisite investigative works and recommended planning conditions would secure retention of appropriate material in an improved form. The granting of conditional full planning permission is therefore recommended.

RECOMMENDATION

Subject to there being no objections raising additional material planning considerations by the end of the consultation period and/or no objections from the Environmental Protection Manager regarding further contamination testing results, the officers named in the Scheme of

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Delegation be authorised to approve the application subject to the following conditions and any further conditions considered necessary by officers.

1. **B01 Development in accordance with the approved plans**
2. **Within 9 months of the date of this permission, and in any case before the bund remodelling and landscaping development hereby permitted begins, a final Remediation Method Statement for handling the soils and other materials in order to improve the form of the bund shall be submitted to and approved in writing by the local planning authority. The Method Statement shall include the following in particular:**
 - a) **Estimated timescales for the start and completion of the work, including any phased working;**
 - b) **That all the recommendations made by Pam Brown Associates Ltd in the submitted reports reference 'Phase 1 and Phase 2 Environmental Investigation Porthouse Farm - Landscape Bund 776-06 (May 2011)', and 'PBA.SH.776-06 Additional SI to the bund (3 January 2012)' will be observed in full;**
 - c) **That observation of the work in progress shall be made available to the Council's Environmental Health Officer on request;**
 - d) **A site diary to be established and retained by the applicant, to be made available for inspection by the local planning authority at reasonable times, in which plastic, metal, cement, wire and all other deleterious materials encountered will be recorded along with details of their removal and responsible disposal;**
 - e) **Provision for specialist advice to be made available and promptly sought, should any unexpected contamination be encountered during the works, and contingency plans for dealing with any such unsuspected contamination encountered at the site but not previously identified;**
 - f) **That, in the absence of historic evidence being available, any further sampling deemed to be required should be undertaken to a specified appropriate testing suite, to include heavy metals, pH, speciated TPH, PAH and asbestos screen, plus any other suspected substances, to the written satisfaction of the Council's Environmental Health Officer ;**
 - g) **An estimation of the likely volume and type of any additional soils that will be required to complete the remodelling as approved, and where that additional material will be obtained from;**
 - h) **That any further soil to be imported shall be tested for fitness for purpose and its source thoroughly investigated and analysed with regard to its composition and any likely contamination; the results to be recorded and retained;**
 - i) **A scheme of reporting to ensure any imported material is the same as that tested at source;**
 - j) **Provision for validated documentation to be submitted in writing to the local planning authority within two months following completion of the works, to verify that completion including final soil depths and the source/s of any imported soils used in the bund remodelling.**
 - k) **Provision for tool-box talks with contractors, and review of the above Method Statement as necessary, and the means of reporting any revision to the local planning authority.**

The remodelling and remedial work hereby permitted shall be undertaken in accordance with the approved details and within the timescales specified unless otherwise agreed in writing in advance by the local planning authority.

Reason: To prevent pollution, to secure the function of the bund as a noise and

spatial barrier and to ensure a satisfactory form of development in compliance with policies S1, S2, DR4, DR10 and DR11 of the Herefordshire Unitary Development Plan.

3. Within 9 months of the date of this permission, and in any case before the bund remodelling and landscaping development hereby permitted begins, a final Working Method Statement, and a plan, shall be submitted to and approved in writing by the local planning authority. The details and plan shall include the following, having regard to the submitted 'Soil Management Strategy' (Illman Young, May 2011) and the Remediation Method Statement as approved under condition 2:
- a) Soil handling methodology to recommended quality standards including soil stripping and separation;
 - b) Arrangements and a location plan for the temporary storage or stockpiling of bund material during the remodelling work;
 - c) The means of providing for and storing any additional material including final topsoil for finishing the bund;
 - d) Location plan, area and enclosure arrangements for any temporary compound for materials, equipment, facilities and/or vehicles
 - e) Arrangements and timetabling for removal of temporary storage, equipment, compound, enclosure, facilities and any other paraphernalia associated with the work hereby permitted, on completion of the scheme.

The details shall be implemented as approved unless otherwise agreed in writing in advance by the local planning authority.

Reason: To protect local amenity, to secure the function of the bund as a noise and spatial barrier and to ensure site safety, proper soil handling and storage and site tidiness during the works, in accordance with policies S1, S2, S10, DR1, DR11 and W8 of the Herefordshire Unitary Development Plan.

4. Within 9 months of the date of this permission, and in any case before the bund remodelling and landscaping development hereby permitted begins, a finalised Landscaping and Ecology Scheme shall be submitted to and approved in writing by the local planning authority having regard to the recommendations made on page 15 of the submitted Ecological Appraisal (Richard Tofts Ecology, March 2010). The following shall be included in particular:
- a) The appointment of a named suitably qualified and experienced ecologist to oversee the scheme, and to advise in particular on how to deal with any Japanese Knotweed rhizomes that may be encountered;
 - b) Provision and timetabling for supplementary ecological surveys immediately prior to starting the remodelling work, notably to establish the presence or absence of nesting birds or any European Protected Species such as badgers, bats, reptiles or flora, and mitigation measures as a contingency for any such protected species being found to be present;
 - c) Adequate protection measures for all trees and hedges identified for retention, in accordance with BS 5837:2005 Trees in Relation to Construction
 - d) Illustrative details of the type, extent, design, height, and colour of all fencing and/or boundary treatments, including access gates.

The scheme shall be implemented in accordance with the approved details in conjunction with the approved landscape masterplan unless otherwise agreed in writing in advance by the local planning authority.

Reason: To maintain visual amenity of the area, to protect wildlife, and to comply with PPS9, the NERC Act and policies LA5, LA6, NC1, of the Herefordshire Unitary

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

Development Plan, having regard to the Wildlife and Countryside Act 1981 (as amended).

5. In the first available planting season following completion of the bund remodelling in accordance with the approved plans, schemes, timescales and details, the final landscaping, seeding and planting of the remodelled bund shall be undertaken in accordance with the following submitted documents unless otherwise agreed in writing in advance by the local planning authority:

- a) Annotated plan reference 2912/10 Rev B, Feb11 'Landscape Masterplan' received 5 December 2011;
- b) Annotated plan reference 2912/16 Rev A Mar11 'Detailed planting of bund' received 5 December 2011;
- c) Annotated plan reference 2912/18 Rev A, May11 'Landscape management strategy' received 5 December 2011

All plants shall be maintained for a period of 5 years from the planting date. During this time, any plants that are removed, die, or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the local planning authority gives its written consent to any variation. If any trees fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period.

Reason: To maintain and enhance the visual amenity of the area and to comply with policies S2 and LA6 of the Herefordshire Unitary Development Plan.

6. No stockpiles of soils or other materials shall be to a height exceeding 3 metres above the previously existing ground level.

Reason: To protect amenity and ensure safety during the construction period and to comply with policies S2, S10, DR4 and W8 of the Herefordshire Unitary Development Plan.

7. I16 Restriction of hours during construction

8. No deleterious or contaminated material, or any other wastes, shall be removed from the application site unless it is transported in sealed or securely covered vehicles and taken to an approved premises licensed for the handling of such material.

Reason: In the interests of road safety, to prevent pollution, and to ensure the responsible disposal of unsuitable materials that may be encountered during the course of the remodelling work to the bund, in accordance with policies S2, S10, DR1, DR4, DR11, T8 and W3 of the Herefordshire Unitary Development Plan.

9. I43 No burning of material/substances

10. F14 Removal of Permitted Development Rights

INFORMATIVES:

1. Due to the site's known former uses, there is a possibility of unforeseen contamination at the site. In the event of unexpected contamination being discovered, the applicant is advised to seek specialist professional advice in such circumstances. This should be reflected in the required Method Statement outlined above.

2. Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. All waste volumes should be minimised and excavated materials should be kept within the site for re-use/recycling.
3. **HN01 Mud on highway**
4. Developers should incorporate pollution prevention measures to protect ground and surface waters. Guidance is available from the Environment Agency at www.environment-agency.gov.uk/business.
5. **N11C General**
6. **N15 Reason(s) for the Grant of Planning Permission**

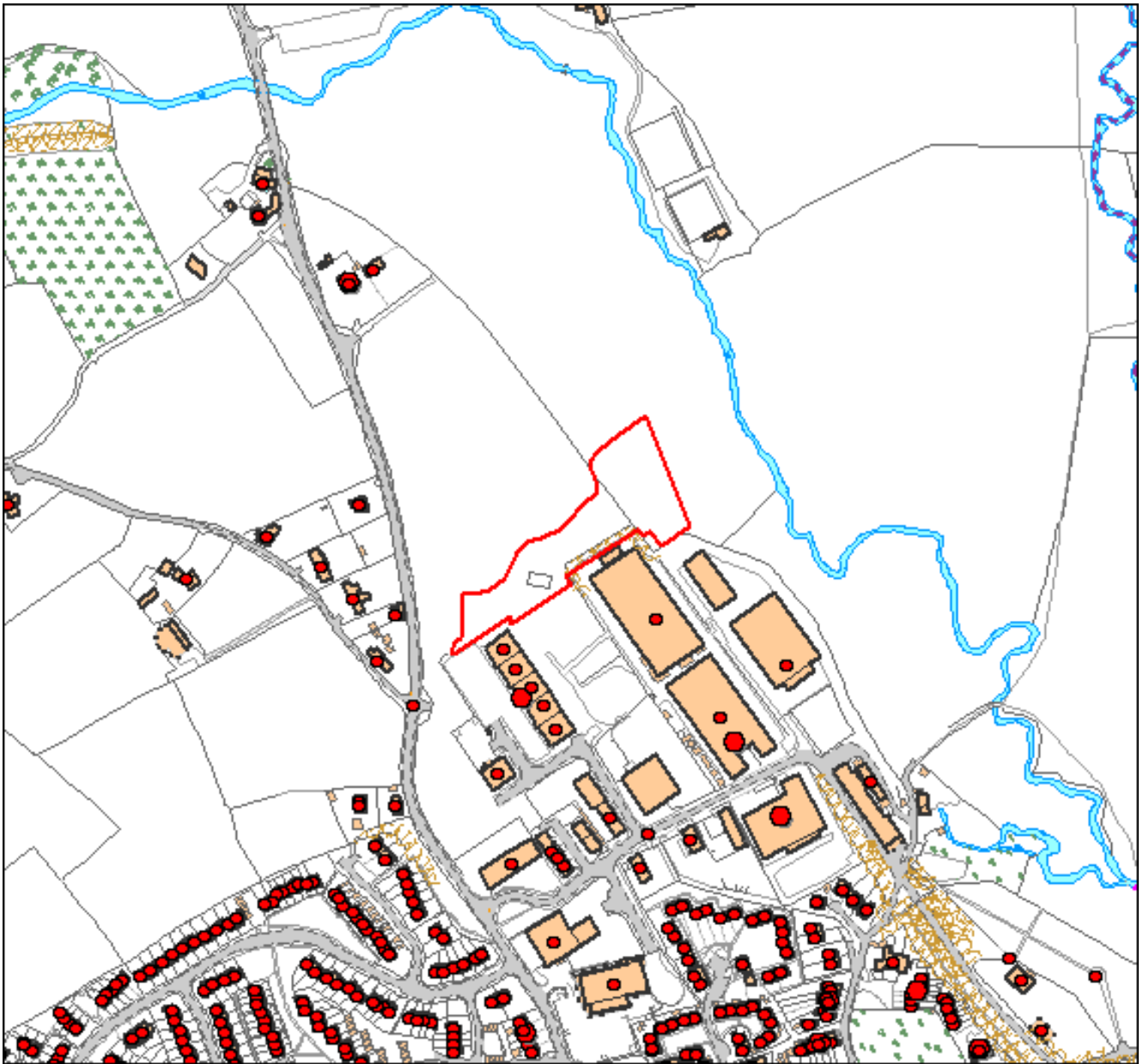
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMN/111900/N

SITE ADDRESS : PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE, HR7 4NS

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MEETING:	PLANNING COMMITTEE
DATE:	1 FEBRUARY 2012
TITLE OF REPORT:	<p>DMN/111770/F - ERECTION OF 14 NO. AFFORDABLE HOMES ON GREENFIELD SITE INCLUDING REQUIRED ACCESS AND SERVICES AT LAND ADJACENT TO 4 VALENTINE COURT, CANON PYON, HEREFORD, HR4 8NZ</p> <p>For: Two Rivers Housing per Mr Colm Coyle, Imperial Chambers, Longsmith Street, Gloucester, GL1 2HT</p>

Date Received: 4 July 2011

Ward: Wormsley Ridge

Grid Ref: 346337,248617

Expiry Date: 1 November 2011

Local Member: Councillor AJM Blackshaw

Introduction

This application was reported to Planning Committee on 11 January 2012 where Members resolved to undertake a site visit in order that they could consider the proposal in relation to its wider surroundings, and to take account of comments received from the Parish Council and local residents about the suitability of the site.

1. Site Description and Proposal

- 1.1 The application relates to an area of 0.314 hectares (0.77 acres) of grazing land, comprising the northern half of a larger field located towards the southern end of Canon Pyon. The land is flat and falls between two areas of residential development – the main village core to the north and a post-war residential estate, Meadow Drive, slightly divorced from the rest of the village, to the south. The site is bounded immediately to the east by a post and rail fence with a footpath and then hedgerow forming the roadside boundary. A mature hedge bounds to the west with open countryside beyond.
- 1.2 The village is very linear and older properties are arranged along the road frontage with outlooks across the countryside to the east and west. Meadow Drive is a cul-de-sac development, and a similarly sized development has also taken place at the northern end of the village and is known as Brookside.
- 1.3 Canon Pyon is identified as a main settlement by Policy H4 of the Unitary Development Plan. The settlement boundary excludes the application site, bounding it immediately to the north. The village facilities include a shop and post office, primary school, pub, playing fields and village hall.
- 1.4 The proposal seeks planning permission for the erection of 14 affordable dwellings to meet local housing needs and comprises eight 2 bed, four 3 bed and two 4 bed properties. It includes the creation of a new vehicular access and parking facilities for each dwelling.

Further information on the subject of this report is available from Mr A Banks on 01432 383085

Dwellings are arranged around a central hammer head. Properties front onto the A4110 to either side of the road junction, and a further eight dwellings are arranged in a staggered row behind.

- 1.5 The design of the dwellings has been amended since the original submission of the application and the plans show seven pairs of semi detached dwellings with dual pitched roofs. The materials to be used are a combination of brick, render and timber cladding with dark coloured roof tiles. It is also intended that every dwelling will be fitted with photovoltaic panels on its southern roof slope. This will help to achieve a minimum Code for Sustainable Homes Level 3, combined with construction methods to include high levels of insulation and possibly the installation of heat recovery ventilation systems to minimise fuel costs.
- 1.6 The details of the road layout have also been amended as a consequence of comments received through the consultation process. The proposal requires the removal of the roadside hedge in order to provide appropriate visibility in a southerly direction. The plans show that this will be reinstated behind the line of the splay. The plans also include the widening of the existing footpath to a minimum of 2 metres.
- 1.7 The application is supported by a Design and Access Statement and a Habitat Survey. The applicants have also provided details of the consultation process that has been undertaken with local people to determine the extent of housing required and provides information about the alternative sites that have been considered. Finally, the submission includes a Draft Heads of Terms Section 106 Agreement to include an off site contribution for the provision of sport and recreation facilities and to ensure the standards to which all housing will be constructed. A copy of the agreement is appended to this report.

2. Planning History

- 2.1 77/0627 – Erection of one bungalow – Refused.
- 2.2 75/0605 – Erection of one bungalow – Refused.
- 2.3 Two separate applications were also submitted and refused in 1966 for nine and five dwellings respectively. Both applications went to appeal and were both dismissed.
- 2.4 In the case of all of the applications referred to above the issues were the same;
 - That the application site was beyond the recognised settlement and that there were no circumstances to justify an exception to policy; and,
 - The site was within an Area of Special Landscape and development would detract from this.

3. Policies

Herefordshire Unitary Development Plan

- 3.1 S1 – Sustainable development
S2 – Development requirements
S3 – Housing
DR1 – Design
DR3 – Movement
H4 – Main villages: settlement boundaries
H7 – Housing in the countryside outside settlements
H10 – Rural exception housing
H13 – Sustainable residential design
H19 – Open space requirements

Further information on the subject of this report is available from Mr A Banks on 01432 383085

T8 – Road hierarchy
NC1 – Biodiversity and development

National Guidance

3.2 Planning Policy Statement 3 – Housing

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water – No objections subject to conditions

Internal Council Consultations

4.2 Transportation Manager – On the basis of the amended plans, no objections subject to the imposition of conditions.

4.3 Conservation Manager

4.4 Landscape – The proposed site is suitable in landscape terms as it does preserve the linear character of the original settlement of Canon Pyon. It retains the field hedgerow to the west, but the roadside hedge will be lost, which is a significant negative impact. However, the proposed terraced appearance fronting onto the road will have a positive streetscape impact.

The layout of the development is a little dense and further details are required about the nature of landscaping proposed within the site.

It is concluded that there is no overall landscape objection to the principle of housing on this site subject to the imposition of landscaping conditions and to ensure the protection of the retained hedgerow during construction.

4.5 Ecology – Unimproved pastures are becoming increasingly rare across the County; whilst this field does not appear to have rare species present, as semi-improved grassland it does have some ecological value. If this application were to be approved, an appropriate compensation scheme for loss of grassland would be to secure the retention of the southern half of the field as a wildflower meadow.

If you are minded to approve this application, further outline information regarding an appropriate mitigation and compensation scheme should be provided in order to comply with UDP Policy NC7. The finer details of this could be subject to a planning condition.

4.6 Minerals and Waste Officer – No objection subject to the completion of a site waste management plan.

4.7 Housing Officer – Is supportive of the application and comments as follows:

The Housing Team commissioned two Housing Need Studies within Canon Pyon, one in March 2006 with an identified need of 11 and the second in March 2011 with an identified need of 14. When the first need was identified Two Rivers Housing started the process of trying to source land to develop affordable housing. To aid with the process Herefordshire Council arranged a consultation event that was held in the Parish Hall, this was an opportunity for any land owners to put land forward that they wished to sell and for the parishioners to suggest locations for affordable housing. Following the event planners comments were requested and a sequential test of the sites was undertaken. Eventually the land adjacent to

the Plough Inn was offered by the land owner and negotiations began between him and Two Rivers Housing.

- 4.8 The Council has a statutory duty to assess housing needs under the Housing Act 1985. Housing Needs Surveys are carried out on a rolling programme and the Council seeks to update them approx. every 4/5 years. Every property within the chosen area receives a postal questionnaire which they are asked to complete if they consider themselves to be in Housing Need, on return of the questionnaire to the Research Team an analysis of the results are undertaken. The figures stated in the Housing Needs Study are extracted from the responses received from the postal questionnaires.
- 4.9 The first Housing Need study (March 2006) only took into account the need of people in the Pyons group parish. This group parish comprises the parishes of Canon Pyon and Kings Pyon. Within these 2 parishes are smaller settlements – Westhope, Bush Bank and Ledgemoor, as well as the villages of Canon Pyon and Kings Pyon. Unfortunately by only surveying villages in this manner an understanding of housing need for the whole county was not being established as many wider rural areas were not being surveyed. To address this, later studies not only identify the immediate area but that of any geographically linked with the most appropriate main village. The additional locations surveyed within the Housing Need Survey are Birley, Upper Hill, Dinmore and Kings Pyon, all of which are settlements not identified within the UDP for development, therefore they have been appropriately linked with Canon Pyon, a main development village within the UDP.
- 4.10 The reason for including a wider area than Canon Pyon itself is clearly stated in the Housing Needs Survey. As the main village, Canon Pyon would serve as the most sustainable delivery point for housing (open market and affordable) to meet the overall housing need. Therefore, development in Canon Pyon generally would meet the need not just of the immediate village, but could also meet need arising in the surrounding settlements.
- 4.11 Until the time of the consultation event held at the Parish Hall no comments on the additional areas attached to the Canon Pyon Study were raised.

5. Representations

- 5.1 Canon Pyon Parish Council – Comment as follows:

The need for new affordable housing development in Canon Pyon was raised with Herefordshire Council in 2005. The process used by Herefordshire Council to take this requirement forward included surveys, which were received positively by residents. The choice of site and plan, however, was not inclusive, resulting in a proposal that does not meet the needs of either the PC or residents.

- 5.2 The aspiration of the parish council for the development was to meet the following imperatives:

1. It **must** improve the character of the village, facilitate community integration between the Post Office, the village hall and playing field and improve communications by reinforcing the village centre.
2. It **must** take into account other plans under consideration to ensure the overall impact on the village is positive and proportional.
3. The housing content **must** serve the needs of the community, whilst maintaining the ecological assets valued by residents.

- 5.3 This application does not meet the parish council imperatives, nor does it consider the planning history of the site. The parish council's case includes a recent 'house to house'

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survey, confirming the strong views of residents and a critique of the defining surveys of housing need.

5.4 ***The Parish Council strongly opposes the approval of this Planning Application; however the PC and residents are in favour of meeting the affordable housing requirements.*** The PC, therefore, wishes to pursue an alternative course of action and to this end discussions have taken place with the owner of the preferred site. This has revealed a clear interest in developing a proportion of this site to meet the aspirations of the village community.

5.5 13 letters of objection have been received from local residents, and also a petition containing 95 signatures. In summary the points raised in the representations are as follows:

- The extent of the 2011 Housing Needs Survey is questioned, particularly as it includes, Upper Hill, Birley and Dinmore.
- The survey is considered to be misleading and biased.
- The housing to be built will not cater for the needs identified.
- It is unnecessary development with more suitable sites available in the middle of the village.
- The applicant's have chosen the wrong site and should have looked to develop the site next to the playing fields.
- A substantial amount of housing has been erected in the village and there is ample to meet local requirements.
- It would amount to ribbon development and contradict previous planning decisions.
- Play space for under 12's should be provided on site.
- The design of the dwellings is considered to be inappropriate.
- The development will be detrimental to the residential amenities of the residents of Valentine Court.
- It would result in the loss of an old hay meadow to the detriment of the local ecology of the area.
- The loss of the road side hedge would be to the detriment of the village and would remove a useful buffer between the road and footpath.
- The development would give rise to issues of highway and pedestrian safety
- The proposal will ultimately lead to the development of the rest of the land.

5.6 CPRE objects to the application on the following grounds:

- The application relates to a Greenfield site beyond the village settlement boundary.
- The need for affordable housing has not been demonstrated.
- Residents would need to walk a considerable distance to facilities within the village.
- A brownfield site within the settlement boundary is identified in the UDP
- Old, uncultivated pasture is a rare commodity within Herefordshire. A brief botanical survey provides evidence of its quality.
- Hedges on both east and west boundaries have a good mix of species and should be retained.
- The eastern boundary hedge should be retained as a buffer rather than removed.
- The proposal will be visually intrusive and detrimental to the local landscape.

5.7 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

6. Officer's Appraisal

- 6.1 The application site lies beyond the settlement boundary of the village and therefore, if the proposal is to be considered to be acceptable, it must demonstrate that it meets one of the exceptions outlined by Policy H7 of the Unitary Development Plan. In this case it relies on the final criteria in that it seeks to provide rural exception housing in accordance with Policy H10.
- 6.2 Policy H10 says that affordable housing may be permitted on land within or adjoining an established rural settlement which would not normally be permitted for housing provided that the scheme would contribute to meet a proven genuine and quantifiable local need through an up-to-date needs survey, and that it is evident that local housing conditions would not otherwise satisfy the need.
- 6.3 Canon Pyon is identified as a main village by Policy H4 of the UDP and the site is immediately adjacent to the settlement boundary. Setting aside all other material planning considerations in the first instance, the site meets the first requirement of Policy H10.
- 6.4 Questions have been raised by the objectors about the validity of the most recent needs survey completed in March 2011 in that only 18 out of 508 households responded and that it included parishes that a remote from Canon Pyon, particularly Dinmore and Upper Hill.
- 6.5 The methodology used to assess local need is considered to be transparent. It is very clearly set out in the report and includes a copy of the questionnaire used. The fact that only 18 households replied is not in itself evidence of a lack of need as is suggested by the objectors. Residents were asked to complete the survey only if their household foresees a need for affordable housing in the survey area. 18 replied and of these 14 were considered to represent genuine need cases.
- 6.6 It is accepted that it casts a wide net in that it includes parishes that are some distance away from Canon Pyon. However, if the Council's stated aim of promoting sustainable communities is to be met, it should look to target development to those villages capable of accommodating it. In comparison to many other villages in North Herefordshire, Canon Pyon benefits from a range of facilities and lies on a bus route, unlike the other smaller settlements that have been included with it for the purposes of the needs survey. If there is a fundamental question about the sustainable credentials of developments like this, the other alternative is that affordable housing is simply provided within the market towns. Whilst this might serve a purpose in terms of reducing people's needs to travel, it would not serve to create inclusive and diverse rural communities, but would rather be counter-productive and see rural communities stagnate and the need for local service provision reduce yet further. The approach that has been taken is therefore considered to be appropriate and the requirements of Policy H10 are met.

Site selection

- 6.7 Before submitting the application, the applicant's embarked upon a series of pre-application discussions with Council Officers. It seems that two alternative sites were put forward as realistic options, the site to which this application relates and one slightly further to the north, adjacent to the playing fields and opposite the Nags Head public house.
- 6.8 The Parish Council has clearly stated its preference for the latter, suggesting that it is more centrally located within the village and better placed in relation to local services. Some objectors have also suggested that the site opposite the Nags Head public house is much closer to the school.
- 6.9 The application site is 70 metres away from the shop and post office and is located at the southern end of the village. The site preferred by the Parish Council is 135 metres away. It is accepted that the Parish Council's preferred site is perhaps more central in terms of its

relationship to other built development, although it should be noted that there is no other residential development of note on this side of the A4110 to the north, and is better placed in terms of its proximity to the playing fields. The suggestion that parents would be more inclined to walk their children to school from a site that is 200 metres closer is questionable and does not carry any significant weight in terms of identifying preference for one site over the other. However, these points are marginal and it is not considered that this application should be refused on the basis that there is a preference for one site over another, particularly since the need exists and this site is currently available and has been progressed as a viable scheme and to this detailed level by the applicant.

- 6.10 Both sites offer a natural and logical extension to the village and have both been identified as having minor constraints in the Council's Strategic Housing Land Availability Assessment. It is your Officer's opinion that they both offer opportunities for residential use in the longer term should Canon Pyon continue to be identified as a settlement where development is accepted. This application should be considered on its merits and it is considered to provide an acceptable location for an exceptions site in accordance with Policy H10 of the UDP.

Design

- 6.11 Canon Pyon does not have a strong architectural identity. Its original core of buildings would have centred on the Nags Head public house and it is clear that the buildings that surround it are of some age. It is likely that the village evolved from here, predominantly along the eastern side of the A4110 where the majority of older buildings lie. These are a combination of timber frame, brick and stone construction and the majority are either rendered or painted, giving their appearance a degree of uniformity. The western side is dominated by post war developments of red brick bungalows and two storey dwellings arranged in a linear fashion along the road frontage, with later cul-de-sac developments at the northern and southern ends of the village as described earlier in this report.
- 6.12 The application as originally submitted proposed dwellings with mono-pitched roofs. The applicants are keen to ensure that the dwellings are as sustainable as possible and the original design was intended to maximise the south facing roof slope for the installation of photovoltaic panels. However, following the submission of objections from local residents and discussions with the case officer, the design of the dwellings has now been amended for a more typical dual pitch roof. The compromise in terms of sustainability is that there is a lesser roof slope to face in a southerly direction and consequently the area available for the installation of photovoltaic panels is reduced. The plans indicate that the dwellings will be faced with a combination of brick and render with tiled roofs, the details of which are to be agreed by condition should planning permission be granted.
- 6.13 The layout follows the linear pattern of the village. Dwellings are set back from the roadside edge and fronted onto the A4110. The existing roadside hedge will have to be removed in order to provide adequate visibility splays, but the plans indicate the creation of a new hedge boundary behind the edge of the widened footpath. A second staggered row of dwellings are set behind.
- 6.14 The design, layout and orientation of the dwellings is borne out of the desire to maximise the opportunity to employ sustainable energy measures and there is a degree of compromise between this and what might be considered as a more traditional approach towards residential development. However, your officers consider this to be acceptable in this particular case and the proposal is considered to accord with Policies S1, DR1 and DR13 of the UDP.

Highway Issues

- 6.15 The plans have been amended since their original submission in order to secure compliance with the Council's Highway Design Guide. This has resulted in a requirement for an additional

length of the hedgerow to be removed and re-planted in order to achieve adequate visibility in a southerly direction. It also requires the footpath to be widened to a minimum of 2 metres.

- 6.16 The site lies within the 30 mph speed limit that applies through the village and the road is straight. It is accepted that some highway users may exceed the speed limit, but this does not render this part of the road network as inherently unsafe and visibility is good in both directions. Some objectors have suggested that the existing hedge offers a buffer between the footpath and the road and that its removal will compromise the safety of pedestrians. The situation with the position of the hedge and footpath is very unusual and there is no doubt that it provides a buffer. Its removal to accommodate this development however, will not cause the safety of the footpath to be compromised. The footpath will not be significantly closer to the road and its widening is considered to be beneficial as it is currently rather narrow. The proposal is considered to accord with Policies DR3 and T8 of the UDP.

Ecology

- 6.17 A number of representations, including one from CPRE have referred to the application site as forming part of an ancient hay meadow that has been uncultivated for many years. They also refer to the significance of the roadside hedge and that forming the western boundary to the site.
- 6.18 The site is not afforded any particular protective designation and the habitat survey that accompanies the application does not conclude that the site should not be developed. It recommends a series of mitigation and enhancement measures to be undertaken should planning permission be granted. The scheme does include a vegetated buffer between the proposed dwellings and Valentine Court to the north and this area would certainly contribute towards this. The hedgerow along the western boundary is to be retained. Not only will this maintain an important habitat feature, it will also give the dwellings along this boundary a sense of openness as they look out across open countryside.
- 6.19 The Council's Ecologist has suggested that the remaining undeveloped part of the meadow should be retained and enhanced through the imposition of a condition. The southern part of the meadow does not form part of the application site and is not within the applicant's control. As such it would be unreasonable to impose a condition to require its retention as a semi-improved meadow. The recommendation does include a landscaping condition and some habitat compensation may be achieved through this mechanism.
- 6.20 It is considered that matters of mitigation can be addressed through the imposition of appropriately worded conditions and the proposal is considered to accord with Policies NC1 and NC7 of the UDP.

Residential amenity

- 6.21 Two properties within Valentine Court do look out across the application site and, at their closest point, lie within 15 metres of the dwelling proposed for plot 14. The flank wall of this property is blank, as is the same opposing wall of the dwelling on plot 1.
- 6.22 The relationship between the properties is considered to be appropriate. There will inevitably be a change in the outlook that is currently enjoyed by the properties in Valentine Court, but in terms of a typical residential context, this is considered to be acceptable and in accordance with Policies DR1 and H13 of the UDP.

Section 106 Agreement

- 6.23 Affordable housing is largely exempt from the requirements for Section 106 contributions, an indication of the high priority afforded to the delivery of such schemes. This exemption does

not extend to the appropriate provision of recreational open space. The applicant has submitted a Draft Heads of Terms Agreement as part of the application. Within this is contained a financial contribution towards the provision of off-site play equipment. Whilst Policy H19 of the UDP does suggest that a small infants play area should be provided on sites of 10-30 family dwellings the Council's preference is now that larger sites are provided. The reason being that small areas within residential developments are costly to maintain. The off-site contribution included in the Heads of Terms is supported by the Parks and Countryside team who were consulted before the application was submitted.

7. Conclusion

- 7.1 The application has raised significant local interest and there is a clear preference within the village for an alternative site to be developed. However, this application should be treated on its own merits and it is your officer's opinion that it does accord with the relevant policies of the UDP. An up-to-date housing needs survey has been completed and the need for 14 dwellings has been demonstrated. The design and layout of the development has been determined both by the linear pattern of development within the village and the desire to create a scheme that maximises sustainable energy methods. It has been shown that a safe means of access and an improvement to the existing footpath can be achieved and that the relationship between existing and proposed dwellings is acceptable. Although the loss of the meadow is regrettable, a balanced view must be taken against the benefits of providing an affordable housing scheme and it is as a consequence of this that the application is recommended for approval.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B03 Amended plans**
- 3. B07 Section 106 Agreement**
- 4. C01 Samples of external materials**
- 5. F14 Removal of permitted development rights**
- 6. F15 No windows in side elevation of extension**
- 7. G04 Protection of trees/hedgerows that are to be retained**
- 8. G10 Landscaping scheme**
- 9. G11 Landscaping scheme - implementation**
- 10. G14 Landscape management plan**
- 11. H03 Visibility splays**
- 12. H09 Driveway gradient**
- 13. H11 Parking - estate development (more than one house)**
- 14. I16 Restriction of hours during construction**

- 15. I55 Site Waste Management
- 16. I56 Sustainable Homes Condition
- 17. K4 Nature Conservation - Implementation
- 18. L01 Foul/surface water drainage
- 19. L02 No surface water to connect to public system
- 20. L03 No drainage run-off to public system

INFORMATIVES:

- 1. N15 Reason(s) for the Grant of Planning Permission
- 2. N02 Section 106 Obligation
- 3. HN01 Mud on highway
- 4. HN04 Private apparatus within highway
- 5. HN05 Works within the highway
- 6. HN10 No drainage to discharge to highway
- 7. N11C General

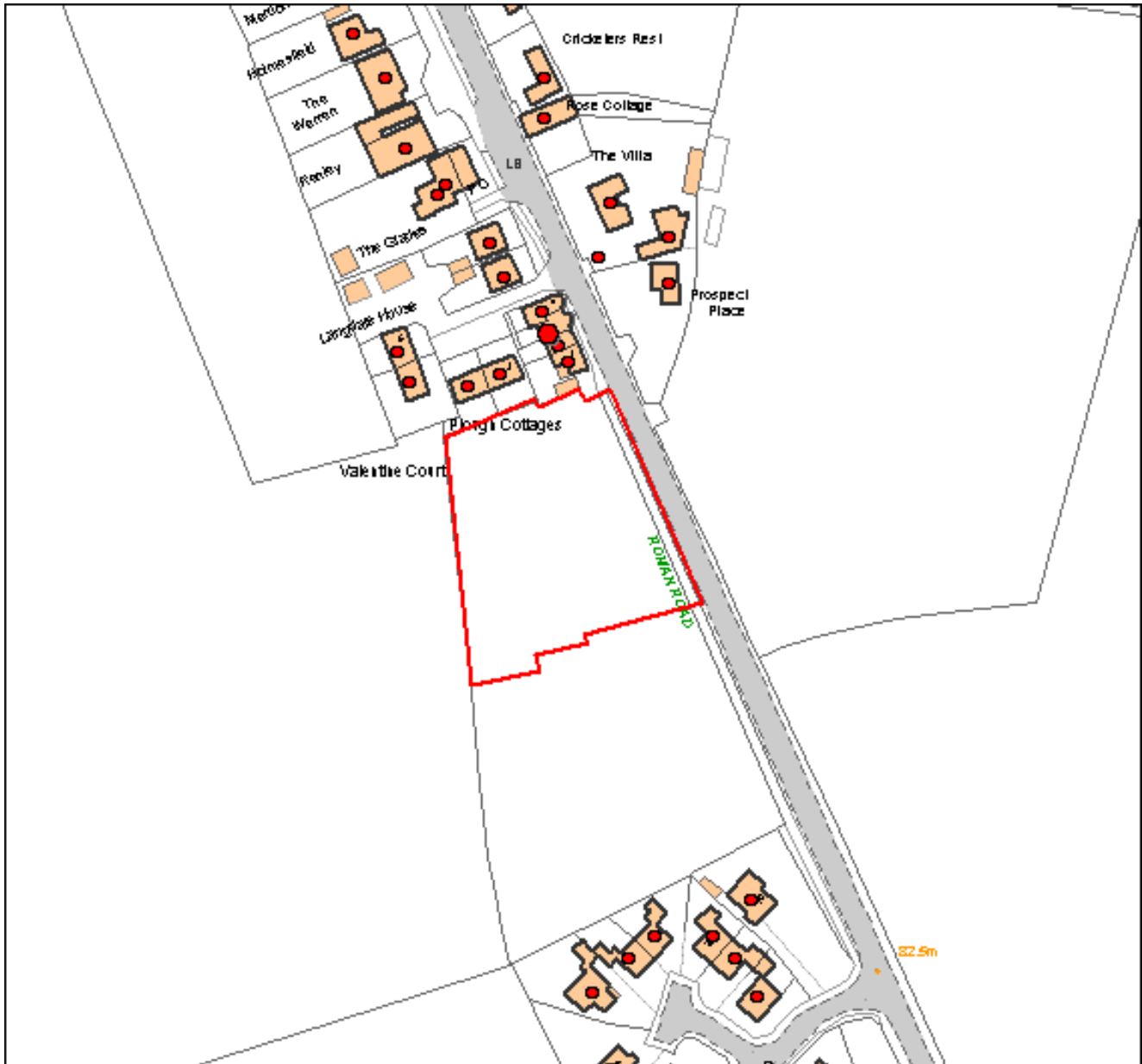
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMN/111770/F

SITE ADDRESS : LAND ADJACENT TO 4 VALENTINE COURT, CANON PYON, HERFORD, HR4 8NZ

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

DRAFT HEADS OF TERMS
Proposed Planning Obligation Agreement
Section 106 Town and Country Planning Act 1990

Erection of 14 affordable housing units on land adjacent to Valentine Court, Canon Pyon, Herefordshire, HR4 8NZ

1. The developer covenants with Herefordshire Council, in lieu of a deficit in the provision of play, sport and recreation facilities to serve the development to pay Herefordshire Council the sum of £20,692 for off-site play provision at the existing play facility in Canon Pyon.
2. In the event that Herefordshire Council does not for any reason use the said sum of Clause 1 for the purposes specified in the agreement within 10 years of the date of this agreement, and unless otherwise agreed in writing with the Council, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
3. All of the financial contributions shall be Index linked from the date of the permission and paid on or before commencement of the development or in accordance with the phasing of the development as agreed in writing with Herefordshire Council.
4. The residential units shall be "Affordable Housing" which meets the criteria set out in policy H10 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations. All affordable housing shall be constructed to Housing Corporation Design and Quality Standards and Joseph Rowntree Lifetime Homes. None of the Affordable Housing shall be occupied unless Herefordshire Council has given its written agreement to the means of securing the status and use of these units as Affordable Housing.
5. The development shall be designed and constructed to meet a Code Level 3 of the Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
6. The developer covenants with Herefordshire Council to pay Herefordshire Council an additional administration charge of 2% of the total contributions detailed in this Heads of Terms to be used toward the cost of monitoring and enforcing the Section 106 Agreement.

7. 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.

Andrew Banks
2nd August 2011



MEETING:	PLANNING COMMITTEE
DATE:	1 FEBRUARY 2012
TITLE OF REPORT:	<p>DMS/113120/F - DEMOLITION OF EXISTING REMAINS OF FARMHOUSE & ATTACHED BARN AND REBUILD NEW DWELLING TO MATCH EXISTING AT MARSH FARM, TANHOUSE ROAD, UPTON BISHOP, HEREFORDSHIRE, HR9 7UP</p> <p>For: Mr Maguire per Mr David Kirk, 100 Chase Road, Ross-on-Wye, Herefordshire, HR9 5JH</p>

Date Received: 4 November 2011

Ward: Old Gore

Grid Ref: 365393,226783

Expiry Date: 5 January 2012

Local Member: Councillor BA Durkin

1. Site Description and Proposal

- 1.1 Marsh Farm comprises a derelict and ruinous farmhouse. All that remains is a stone barn previously used as a cider press and part of the east wall of the farmhouse. The site is located between the B4221 and Tanhouse Lane. The former farmhouse was 2-storey T-shaped building with single storey elements that dated from the late C16 or early C17 with a cider house that was probably added in the C18. Much of the exterior walls were covered with C20 cement render and tile hanging. The original windows had been replaced by modern casement windows. On the northwest side of the farmhouse is a threshing barn a Grade II listed building that dates from the C18 or early-C19 dates. Permission has recently been granted for the conversion of this building to a single dwelling. The site is located in open countryside and public footpath UB22 runs to the east of the site.
- 1.3 This application proposes the reconstruction of the farmhouse some 3 metres from its original position. The reconstructed farmhouse will replicate the original farmhouse in scale, form and materials, and will accommodate living room, kitchen/dining room, entrance hall, gym w.c. and shower room with 5 bedrooms, en-suite bathrooms and a bathroom on the first floor.
- 1.4 Foul drainage is to be disposed of by way of a Klargestar Bio-Disc Sewage treatment plant that will be on the southwest side of the threshing barn.
- 1.5 The proposal is to be accessed off an existing farm track that exits onto Tanhouse Lane and the B4221 at Hill Top.

2. Policies

2.1 National Planning Guidance:

- PPS1 - Delivering Sustainable Development
- PPS5 - Planning for the Historic Environment
- PPS9 - Biodiversity and Geological Conservation

Further information on the subject of this report is available from Mr D Thomas on 01432 261974

2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR5	-	Planning Obligations
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
HBA4	-	Setting of Listed Buildings
ARCH6	-	Recording of Archaeological Remains
NC1	-	Biodiversity and Development
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

3. Planning History

3.1	DCSE2007/2707/F	Conversion of barn to form residential unit. Withdrawn.
3.2	DCSE2007/2713/F	Conversion of barn 2 to form holiday accommodation and conversion of barn 3 to form office accommodation. Withdrawn.
3.3	DCSE2007/2899/S	Hay barn/implement store. Prior approval not required. 4.10.2007.
3.4	DCSE2007/3445/F	Application for temporary siting of mobile home. Refused 1.10.2008.
3.5	DCSE2007/3452/F	Temporary siting of mobile home. Refused 1.10.2008.
3.6	DCSE2008/0320/S	Implement shed for farm machinery. Prior approval not required 4.3.2008.
3.7	DCSE2008/2995/F	Demolition of existing Grade II Listed farmhouse and attached barns and rebuild new farmhouse. Refused 5.2.2009.
3.8	DCSE2008/2991/L	Demolition of existing of Grade II Listed farmhouse and attached barns. Refused 5.2.2009.
3.9	DCSE2008/2993/F	Conversion and alterations of existing barns within the curtilage of a Grade II Listed barn to form farm office and farm workers staff rooms and secure stores/parking. Refused 6.2.2009.
3.10	DCSE2008/2994/L	Conversion and alterations of existing barns within the curtilage of a Grade II Listed barn to form farm office and farm workers staff rooms and secure stores/parking. Refused 6.2.2009.
3.11	DCSE2008/2926/F	Proposed temporary siting of mobile home. Refused 26.1.2009.
3.12	DCSE2008/2951/F	Temporary siting of mobile home. Refused 27.1.2009.

Further information on the subject of this report is available from Mr D Thomas on 01432 261974

- 3.13 DCSE2008/3002/F Conversion of Grade II Listed threshing barn to form residential dwelling. Refused 3.2.2009.
- 3.14 DCSE2008/3003/L Conversion of Grade II Listed threshing barn to form residential dwelling. Refused 3.2.2009.
- 3.15 DCSE2009/0855/F Change of use of land and full planning permission to retain existing 1 mobile home. Retain existing log cabin mobile home and 4 additional log cabin mobile homes. Refused 22.6.2009.
- 3.16 DCSE2008/1568/F Change of use of land and full planning permission to retain existing 1 mobile home. Retain existing log cabin mobile home and 4 additional log cabin mobile homes, 6 touring caravans for nomadic use only. Refused 15.9.2008. Appeal Dismissed.
- 3.17 DMS/103232/F Change of use of land to private gypsy site and traveller caravan site comprising of 4 pitches each containing 1 mobile home and 1 toured and utility block. Application withdrawn.
- 3.18 DMS/110942/F Retention of farm track. Approved 29.6.2011.
- 3.19 DMS/113121/F Conversion of redundant barn to form new residential dwelling. Approved 5.1.2012.
- 3.20 DMS/113123/L Conversion of redundant barn to form new residential dwelling. Approved 5.1.2012.

4. Consultation Summary

Statutory Consultees

- 4.1 Severn Trent Water: No reply received.

Internal Council Advice

- 4.2 Traffic Manager: Has no objection subject to conditions.
- 4.3 Conservation Manager/Historic Buildings Officer: Objects to the proposal to demolish the remaining structure and build a facsimile in a different location commenting that this extinguishes all remnants of its heritage value. The justification that this would provide a context for the listed threshing barn is supported to some extent in English Heritage guidance, but this is concerned with farmyard morphology rather than the detail of replacement buildings: a completely new design on the historic footprint would serve this objective equally well. Subject to other concerns being satisfied, I would be prepared to consider a new dwelling from first principles.
- 4.4 Conservation Manager/Ecologist: Notes the presence of a number of bat species flying in the area during the activity survey, but that there is still no evidence of bats roosting in the building that is the subject of this application. There is evidence of nesting birds in the barn and it is important that alternative nesting sites are provided on the development site.

5. Representations

- 5.1 Upton Bishop Parish Council has no objection.
- 5.2 Representations have been received from:

Mr C Curry, Preservation of Rural Beauty, The Old Vicarage, Upton Bishop.
Mr MP and Mrs EA O`Sullivan, Maytree Cottage, Upton Bishop.

5.3 In summary it said:

- The intent to replace the farmhouse would reinstate, at least in appearance, the historic character of this part of Upton Bishop which was lost with the demise of the original listed farmhouse.
- There is no schedule of materials we assume they will be as before; mix of stone, render and hanging wall tiles and slate roof .
- We assume that from the outside it will look just like the house that was there before.
- As the new building will replica of the former listed building we assume there will be no need to replicate the interior.
- We note the undercroft is to be recreated.
- If the old building had been renovated rather than been lost we assume some of its idiosyncrasies may well have been rationalised – will that be the case when replicated?
- Given that the listed building has been lost forever we would expect that the replica will be constructed in as sustainable a way as possible according to modern building standards.
- The plans do not show the position of bathrooms, kitchen or other services. These should be located in the building in such a way to retain the external replica appearance .
- The septic tank should be located to protect the BAP orchard site, protected dormouse and the daffodil meadow.
- The septic tank should avoid seepage into the stream.
- The landscaping shown on the submitted plan is scant and no indication of boundary treatment.

5.4 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

6. Officer's Appraisal

6.1 Marsh Farm, a former Grade II listed building, is located in open countryside where Policy H7 restricts residential development to certain, specified exceptions. One of these is the replacement of a building with established residential use rights provided it is comparable in size and on the same site.

6.2 Although, the existing farmhouse is in a ruinous condition, the application proposes its reconstruction with the principle benefit resulting from recreating the historic farmyard setting. The existing building has fallen into a state of disrepair since the applicant undertook repair work to the roof of the farmhouse as well as other repairs to external walls. In September 2007 the applicant received notification that the building had been included on the statutory list of buildings of architectural and historic interest. Work on the building stopped at this time. Although, the owner was requested to make good the building as well as protect it from the elements this was not done and the building continued to deteriorate with external and internal walls collapsing. The fact that so much of the building was exposed to the weather since 2007 meant that irreversible damage occurred. During this time the applicant submitted applications to replace the farmhouse. While, it is acknowledged that the building cannot be recognised as a dwelling, there is case law that supports the fact the residential use of the building has not been abandoned. Even though the property has not been occupied since 2007, the planning history of the site shows the applicant had no intention of abandoning the residential use of the site. It was in these circumstances that English Heritage determined that the farmhouse was so severely damaged prior to the date of formal listing in September 2007 that it no longer merited inclusion in the statutory list. The building was de-listed on 17 June 2011.

6.3 Based upon survey information and photographic evidence of the original farmhouse the submitted plans show a good reproduction of the original farmhouse that formed part of the

Further information on the subject of this report is available from Mr D Thomas on 01432 261974

settled landscape. While, this proposal will remove the remaining structure and build a facsimile in a slightly different position, its juxtaposition to the listed threshing barn will give the proposal historic credence as well as reinstate the farm complex. Notwithstanding the comments of the Conservation Manager/Historic Buildings Officer, it is considered that the reconstruction of the farmhouse will re-establish the farm yard that once formed part of this attractive historic landscape contributing to the estate farmland setting which the site is located and its local distinctiveness.

- 6.4 in view of the isolated nature of the site, the proposed development would not impact upon the amenity of nearby residential properties. The main change will be a modest increase of traffic from the site; it is not considered that this would be harmful. Therefore, this proposal satisfies the requirements of Policy DR2 of the Unitary Development Plan
- 6.5 Parking for the occupiers of the dwelling is proposed within the former fold yard to the front of the barn. This is more than adequate to provide the 2 parking spaces required to meet the parking standards. The submitted plan is diagrammatic and does not show details of surfacing or drainage. Consequently, it would be prudent to require these details to be submitted to and approved by condition to ensure the final surface details do not harm the character and setting of this listed building.
- 6.6 Insofar as Ecology is concerned, the Council's Ecologist advises that the updated ecological report by Baker Shepherd Gillespie dated October 2011 notes the presence of a number of bat species flying in the area during the activity survey, but that there is still no evidence of bats roosting in the building that is the subject of this application. There is evidence of nesting birds in the barn and it is important that alternative nesting sites are provided on the development site.
- 6.7 The proposal is to be drained to a Bio-disc sewerage treatment plant that will be on the southwest side of the threshing barn in a position that is some 80metres or so from the BAP orchard and daffodil meadow. As such it is considered the treatment plant will not harm the recognised ecological value of Marsh Farm. A condition is proposed to ensure appropriate control is maintained to the position and specification of the installation.
- 6.8 The proposal is one that relates to a previously developed site that is now in a ruinous condition that detracts from the amenity of the area and the setting of the adjoining listed building. It is considered that a residential development that respects the limitations of the historic farmyard setting would also enhance the landscape around the site when seen from the nearby public footpath UB22. Having regard to the particular circumstances of this site, it is considered that this approach is acceptable and on balance the application is supported.
- 6.9 The applicant has opted out of making contributions as normally required for housing schemes as set out in Policy DR5 and the Planning Obligations SPD. This would though be dependent upon the submission of detailed plans and the commencement of works within 1 year in order to satisfy the terms of the current suspension.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. The development hereby permitted shall be begun before the expiration of one year from the date of this permission.**

Reason: To comply with the provisions of Section 91(1) (b) of the Town and Country Planning Act 1990 (as amended) and to reflect the decision of the local planning authority on 4 March 2009 to suspend (effective from 1 April 2009) the requirements of the Authority's Planning Obligations Supplementary Planning Document

Further information on the subject of this report is available from Mr D Thomas on 01432 261974

(February 2008) in relation to all employment developments falling within Classes B1, B2 and B8 of the Town and Country Planning Use Classes Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, the employment element of any mixed use development and residential developments of five dwellings or less.

2. B01 Development in accordance with the approved plans
3. C01 Samples of external materials
4. D05 Details of external joinery finishes
5. F14 Removal of permitted development rights
6. H09 Driveway gradient
7. H13 Access, turning area and parking
8. H12 Parking and turning - single house (2)
9. G09 Details of Boundary treatments
10. E02 Archaeological survey and recording
11. I18 Scheme of foul drainage disposal
12. The recommendations set out in the ecologist's report dated October 2011 should be followed in relation to the identified protected species (bats and birds) unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a full habitat enhancement scheme and working method statement should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.

Reason: To ensure that 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 and NC7 of the Herefordshire Unitary Development Plan.

Informatives:

1. HN01 Mud on highway
2. HN04 Private apparatus within highway
3. HN05 Works within the highway
4. N11C General
5. N15 Reason(s) for the Grant of PP/LBC/CAC

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

Further information on the subject of this report is available from Mr D Thomas on 01432 261974



MEETING:	PLANNING COMMITTEE
DATE:	1 FEBRUARY 2012
TITLE OF REPORT:	<p>DMS/112643/F - PROPOSED ERECTION OF TWO FAMILY DWELLINGS AT WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN</p> <p>DMS/113213/G – DISCHARGE OF PLANNING OBLIGATION – SH920169PO ERECTION OF ONE BUNGALOW AT WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN</p> <p>For: Messrs Paton per Mr Paul Lodge, Jamieson Associates Architects, 30 Eign Gate, Hereford, HR4 0AB</p>

Date Received: 23 September 2011 **Ward: Backbury** **Grid Ref: 357633,234743**
Expiry Date: 24 November 2011
Local Member: Councillor J Hardwick

INTRODUCTION

The application was deferred by Members at the Planning Committee meeting on 11 January 2012 in order for a site visit to be undertaken. This was carried out on 1 February 2012. In response to comments made by Members, additional information concerning the Root Protection Zones of protected trees has been provided and in view of the desire to have greater understanding of the Section 106 Agreement restricting development on the site, this is now a joint report including the application to discharge the planning obligation on the site. The report is now seeking a determination in respect of both applications

In addition to this, the applicant's agent has provided a response to the objections received and this is set out at paragraph 5.4 below.

1. Site Description and Proposal

- 1.1 The 0.198 hectare site lies between a bungalow known as Westholme and the residential development of Scotch Firs on the northeastern side of the B4224, within the main village of Fownhope. The site is within the village's Conservation Area and the Wye Valley Area of Outstanding Natural Beauty. The site comprises part of the residential curtilage of Westholme and is predominantly laid to lawn with boundary hedgerows of differing heights and two fruit trees. There are two trees adjacent to the existing site access, one being within the application site, the other in front of Westholme. Both are the subject of Tree Preservation Orders. The land levels rise up into the site from the road. The surrounding land is in residential use.

Further information on the subject of this report is available from CL Atkins (Mrs) on 01432 260536

- 1.2 It is proposed to erect two detached dwellings with double garages and a shared access driveway that would link into the existing vehicular access off the B4224. The proposal includes the improvement of the existing access to increase the visibility splay to 90 metres in both directions.
- 1.3 The proposed dwellings would have identical floor plans and a crucifix footprint. At ground floor, in a single storey section to the front of the properties there would be a double garage linked to a study and in the two storey section of the dwellings there would be a living room, open plan dining/kitchen area, snug, hall, utility and cloak room with four bedrooms above with two ensuite facilities, dressing room and a family bathroom.
- 1.4 Amended plans have been received which have relocated the ensuite bathrooms to the rear of the properties, reduced the height of the dwellings from 8.1 metres to 7.5 metres and resited the dwellings further into the site away from the south-eastern boundary with Scotch Firs. The proposed dwellings would be relatively modern in design and externally would be finished in timber boarding with light and 'traffic' grey colour stain and natural slate roofs.
- 1.5 The site has a substantial planning history with applications being refused and dismissed on appeal for residential development of the site. Planning permission was granted in 1992 (SH920169PO) for a dwelling and garage (the property now known as Westholme). This permission was subject to a Section 106 Obligation stating that no further residential development would be constructed on the site.
- 1.6 Alongside the planning application for the 2 new dwellings, a separate application (Ref DMS/11321/G) has been submitted to discharge the requirements of this legal agreement on the basis that it no longer serves a useful purpose. This is because when the Section 106 Obligation was entered into the site lay outside of the Fownhope settlement boundary and therefore was in the open countryside. In respect of the consideration of this separate application there has been a significant change in planning policy, as the site is now within the main village of Fownhope, as defined in the Herefordshire Unitary Development Plan.
- 1.7 The specific clause in the Section 106 Agreement states that *"No further dwelling may be constructed nor mobile home intended for permanent occupation sited upon the property"*

2. Policies

2.1 National Planning Guidance:

PPS1	-	Delivering Sustainable Development
PPS3	-	Housing
PPS5	-	Planning for the Historic Environment
PPS7	-	Sustainable Development in Rural Areas
PPS9	-	Biodiversity and Geological Conservation

ODPM Circular 05/2005 Planning Obligations 18 July 2005

2.2 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations

Further information on the subject of this report is available from CL Atkins (Mrs) on 01432 260536

H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Area
H4	-	Main Villages: Settlement Boundaries
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
H14	-	Re-using Previously Developed Land and Buildings
H15	-	Density
H16	-	Car Parking
LA1	-	Areas of Outstanding Natural Beauty
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
HBA6	-	New Development Within Conservation Areas
HBA9	-	Protection of Open Areas and Green Spaces

3. Planning History

- 3.1 SH861299/PO Residential development for 10 two storey dwellings. Refused 21 January 1987. Appeal dismissed 27 October 1987.
- 3.2 SH880607/PO Residential development for 6 dwellings. Refused 29 June 1988. Appeal dismissed 27 October 1988.
- 3.3 SH891775/PF Two proposed dwellings. Refused 6 October 1989. Appeal dismissed 2 May 1991.
- 3.4 SH920169/O Erection of one bungalow. Approved 20 August 1992 subject to a S106 Agreement restricting further residential development.
- 3.5 SH921165/RM New bungalow and double garage. Approved 22 October 1992.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water: No objections, recommends conditions.

Internal Council advice

- 4.2 Traffic Manager: Recommends conditions. 90 metres visibility is achievable to the north, but will require the removal of a section of hedgerow to the south. Set back of 2.4 metres is required to enable drivers to gain visibility.
- 4.3 Conservation Manager: No objection. The subdivision of the plot is consistent with the surrounding area. The dwellings would be quite prominent due to the sloping nature of the site, but they aspire to a quality of architectural expression which will justify this visibility. The scheme's re-interpretation of suburban norms is refreshing. The site can accommodate two dwellings without a significant landscape impact on the setting of the settlement. The tree survey and landscaping are suitable. With regards to the amended plans, which include the encroachment of Plot 1 under the tree canopy of a protected tree, this is not ideal for such an old tree that is already in decline. An Arboricultural Method Statement should be provided. With regard to comments raised in respect of the potential impact upon the habitat value of the site, the Senior Ecologist advises that in this instance, a working method statement and habitat enhancement scheme would provide appropriate protection for any nature conservation interest on the site.

Further information on the subject of this report is available from CL Atkins (Mrs) on 01432 260536

5. Representations

Representations received in respect of DMS/112643/F

- 5.1 Fownhope Parish Council: Concerned regarding the scale of the dwellings, which would be surrounded by bungalows. Single storey development would be better. There is a restriction on the land preventing further development. Minded to support subject to the suggested amendment and providing there is no restriction preventing development.
- 5.2 Amended plans: scale of development is still unsupported and plot now encroaches into root protection zone, so is not supported. Until Section 106 Agreement has been officially discharged no development can be granted.
- 5.3 Letters of objection have been received from 12 local households; some have sent more than one letter. The main points raised, in summary are:
- The development would be overbearing, overshadowing, would reduce privacy and views.
 - The access is dangerous and increased use would make this worse.
 - Not appropriate for two storey dwellings due to surrounding development being single storey and the site being within the Conservation Area and the Area of Outstanding Natural Beauty.
 - Trees on site are subject to Tree Preservation Orders. One has been reduced in height, so predicted root zone would be inaccurate.
 - Ecological Survey/Environmental Impact Assessment is required.
 - Development would reduce property values in Scotch Firs.
 - Government discourages 'garden grabbing'
 - Land is an important area of open space that has been used by the village for public events historically.
 - Development is for financial gain.
 - Affordable homes and/or bungalows would be preferred.
 - Existing sewerage system does not have the capacity for further development.
 - Other sites in the village are more suitable for the development.
 - Bungalows in Scotch Firs have not been allowed to be extended to provide first floor accommodation by the Council.
 - Permission has been previously refused for residential development of the site.
 - Legal agreement prevents residential development of the site.
- 5.4 Since the consideration of the application on 11 January 2012, the applicant's agent has provided the following comments on each of the bullet points raised above:
- There will be no overlooking or overshadowing as can be seen from drawings – 3900.P10 in particular. Views are not a material planning issue.
 - There are 50 dwellings in Scotch Firs which could mean 100 cars exiting onto the B4224, directly opposite the car park to the village shop. This is often exacerbated by on street parking either side of the car park entrance. The proposed entrance to Westholme will comply with the Council's Traffic Manager's requirements and he has raised no objections.
 - To the immediate south of the site and the B4224, all properties are two storeys in height. On the north side of Scotch Firs, to the rear of the proposed site, all properties are two storeys including one two storey flat roofed property. To the south east of the site, there are a mix of single and two storey properties. The above objection therefore is inaccurate.
 - The radius of the protected root zone is calculated by diameter of tree trunk x 12. Reduction in height therefore is totally irrelevant. An Arboricultural Impact Assessment has been carried out and forms part of this application.
 - No request for Ecological Survey/Environmental Impact Assessment has been made – the site is a private garden!

- Scotch Firs is a 1960's suburban development of little architectural merit. In the circumstances, it is likely that the proposed development would enhance the value of existing properties.
- At present, Westholme sits in 0.6 hectares and after development, would remain in 0.4 hectares. By any standards this still represents a large garden. In addition, the Local Authority has raised no objection in principle.
- The land in question is part of a privately owned garden area and the village has no rights legal or otherwise, over its use.
- Agreed. In any event, financial matters are not a material planning issue.
- Two storey detached properties form the bulk of the historic fabric of the village. Bungalows are essentially a 1960's intrusion and all are excluded from the Conservation Area.
- No objections have been made by either Welsh Water or the Environment Agency.
- This is the only site in the centre of the village with development potential and, more importantly, in the ownership of my clients.
- Irrelevant to this application. Planning history does not necessarily blight future development.
- Policies change.
- This presumably refers to a previous Section 106 Agreement taken out when Westholme was granted permission. At that time, the land was not within the village envelope and as that is not now the case, the Section 106 has no relevance. Application for its removal has been made.
- Scotch Firs is a typical 1960's suburban housing scheme with little or no architectural merit. As such it is no standard bearer for any future development. The proposed development has endeavoured to provide two well designed but modern family homes, using traditional sustainable materials but in a contemporary way. The two buildings have been deliberately broken up into smaller elements to reduce scale and mass and to allow them to nestle into the landscape. Their design aims to provide a minimum of Level 3 of the Code for Sustainable Homes.

5.5 A Design and Access Statement and a Tree Survey and Arboricultural Constraints Report were submitted with the application. In summary these state:

- The site is within the settlement boundary and the principle of development is acceptable.
- The dwellings would be unashamedly modern in appearance whilst retaining a traditional form and composition. They would sit comfortably in their landscape and in the Conservation Area.
- Dwellings have been located on their plots to respect the position of Westholme and the staggered line of development in Scotch Firs.
- Plot 1 has been sited to provide adequate distance to Scotch Firs and to protect the root zone of the protected trees.
- High quality design is proposed, which will blend traditional and contemporary. Reference has been taken from Hope House, within the village.
- Dwellings would achieve Level 3 of the Code for Sustainable Homes, with ground source heat pumps with under floor heating, recycling grey water systems and porous bound gravel to driveways and parking areas. Whole house ventilation systems with heat recovery will be incorporated into the design. Highly insulated timber frame is proposed.
- Natural slates are proposed, which are considered appropriate for this location. Timber boarding stained in shades of grey and slim line aluminum for the glazed link between the garage and study are proposed.
- Native hedgerow, trees and shrubs are proposed within the site and to the boundaries.
- These family homes would be sited in a thriving village and would be sustainable through their design and location.

Representations in respect of DMS/113213/G

- 5.6 Fownhope Parish Council: Object to any move at this stage to rescind the planning obligation on this site. The site forms an important element within Conservation Area and is critical feature of gateway into the village. Planning consent was granted for a bungalow, Westholme in 1992, subject to this Section 106 Agreement and that no development would take place on the land between Westholme and the bungalows in Scotch Firs. The public are entitled to take comfort in this planning obligation. Alteration of the village envelope/policy boundary in the UPD in 2002 is not in itself sufficient reason to discard an obligation entered into freely by the developer and intended to safeguard the visual amenity of the village.
- 5.6 19 letters of objection have been received from local households; some have sent more than one letter, and a 90 signature petition has been received objecting to the removal of the obligation. The main points raised, in summary are:
- Obligation does not have any time constraints or terms or conditions attached indicating it would be changed at any time.
 - Obligation states that “with the object and intent of binding the property into whosever hands the same may come”. The obligation was made on the understanding it was permanent there is therefore no justifiable reason why this obligation would suddenly not be required or have changed in anyway.
 - Application states “site now lies within the village of Fownhope and the section 106 is no longer relevant”. Surely it has always been in Fownhope and in any case the reason for the original agreement on entering the Section 106 obligation is still there?
 - Should any modification be made to the obligation the following should be prevented; construction of anything other than bungalows on the plot; any disturbance to the 3 protected trees mitigated; any disturbance to the slow worms in the boundary hedge be addressed.
 - The site is located in a Conservation Area. Houses would not be conducive to the area which is surrounded by bungalows.
 - One of the three trees, which are protected, would be compromised by moving one of the houses nearer to the road and into the canopy of the tree.
 - The environmental issues as yet have not been addressed – no ecological study.
 - Overload of the sewage plant.
 - Further traffic congestion at the junction of Scotch Firs and the B4224
 - Loss of light and personal privacy
 - Devaluation of properties
 - Earlier reasons for refusing development on the site still apply i.e. AONB, Conservation Area, Highway and Landscape Protection.
 - The proposal will not comply with section 9.4.7 LA1 (Areas of Outstanding Natural Beauty) and does not fall within one of the exceptions listed.
- 5.8 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

6. Officer’s Appraisal

- 6.1 The main considerations in the determination of these applications are the principle of the development, the impact of the scheme on the character and appearance of the Conservation Area and Wye Valley Area of Outstanding Natural Beauty, the affect on the neighbouring properties, highway safety, the affect on protected trees, the capacity of the sewerage system and the extent to which the original Section 106 Agreement continues to serve a planning purpose given the fundamental change in planning policy since 1992. For ease of reference the appraisal and subsequent recommendations are split into 2 sections dealing in turn with the planning application and the discharge of the S106 Agreement.

- 6.2 The site lies within the settlement boundary for Fownhope. As such policy H4 of the Herefordshire Unitary Development Plan (HUDP) applies. This policy states that residential development is acceptable, subject to compliance with other relevant policies of the Plan. The existence of the Section 106 Obligation is noted. The linked application has been submitted to discharge this, because it is contended that it no longer serves a useful purpose as the site is now within the defined main village. The latter application is considered in greater detail later in the Appraisal but for the purposes of determining the application for the 2 new dwellings it is considered that the adopted policies within the HUDP establish that the principle of residential development is acceptable. In respect of a scheme for two dwellings on a site of this size, there is no planning policy requirement for the provision of affordable housing.
- 6.3 Turning to the detail of the scheme, as the site is within the Conservation Area, special attention should be paid to the desirability of preserving or enhancing the character and appearance of the Conservation Area as required by section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990. Policy HBA6 of the HUDP requires development to preserve or enhance the Conservation Area's character and appearance.
- 6.4 The proposed dwellings would be two storey and whilst their proportions would be relatively traditional their external materials would be more modern in appearance. The existing development in the vicinity comprises predominantly single storey dwellings. Those to the immediate east of the site are modest in scale, with larger and slightly more elevated properties to the north and Westholme to the west. It is accepted that the proposed dwellings would differ in appearance and scale to these single storey properties. However due to their orientation in relation to the properties in Scotch Firs and the presence of other two storey development both within the Scotch Firs development and immediately opposite the site, it is not considered that a two storey development would be out of keeping with the mixed residential character of the locality. Furthermore, by virtue of the quality of the design of the dwellings proposed it is considered that due to the prominent position they would occupy, in particular Plot 1, they would contribute positively to the rural street scene. The Conservation Manager supports the proposal in terms of its impact upon the Conservation Area.
- 6.5 The site is within the Wye Valley Area of Outstanding Natural Beauty. Within the context of the site in a developed area and between residential properties it is considered that the erection of two dwellings would not adversely affect the natural beauty and scenic quality of the landscape. The Conservation Manager has no objections in terms of any wider landscape implications. With regards the setting of the settlement it is considered that the site represents an important transition between the open countryside and the more densely developed village. In light of this the siting of the dwellings, set back in the site and retaining mature trees is considered to respect this existing character. A native hedgerow is proposed to be planted to the rear of the improved visibility splay to the south.
- 6.6 Scotch Firs bounds the northern and eastern boundaries of the site. These properties are single storey. Similarly to the application site, levels rise from the south up to the north. Amended plans have been submitted, which have relocated the dwellings further into the site. This has increased the separation distance between plot 1 and 1A, Scotch Firs to 20 metres. The distance between the rear elevation of Plot 2 and numbers 3 and 4 Scotch Firs would be 19.5 metres and 18.5 metres respectively. These distances are taken from rear elevations and not directly facing first floor windows. On the first floor of the rear elevation of the proposed dwellings there would be 6 windows. Of these 4 would serve either an ensuite bathroom or a dressing room, so could be conditioned to be obscurely glazed. On this basis and given the site's context in a main village the separation distances proposed are considered to be acceptable in terms of privacy. Furthermore, due to the distance between the dwellings they would not be unduly overbearing or have an overshadowing affect. This is demonstrated by the submission of a satellite image of the site by the applicant, which clearly

shows that the shadow of the existing trees within the curtilages of numbers 1 and 1A, Scotch Firs at mid afternoon during the summer. By extension of this assessment it is considered that the shadow from the proposed dwellings would be unlikely to fall within the curtilages of the dwellings in Scotch Firs until late afternoon/early evening.

- 6.7 There are no objections to the proposal in highway safety terms. The Traffic Manager has requested improved visibility in a southerly (towards the village) direction. This is achievable through the removal of a section of hedgerow of approximately 5-7 metres. The Conservation Officer has no objection to the removal of this length of hedgerow, as it is not native, provided that a native hedgerow is planted to the rear of the improved visibility splay. In due course this would represent an enhancement to the site and surrounding locality.
- 6.8 The trees adjacent to the access make a significant contribution to the character and appearance of the Conservation Area and the setting of the settlement. The scheme retains the trees and has sought to protect their longevity. The amendments to the scheme, to improve the distance separation between Plot 1 and 1A Scotch Firs have resulted in a corner of the building projecting 2.5 metres into the root protection area of the mature lime tree immediately adjacent to the existing access to the site. This section of building would be single storey only and as such would have limited impacts on the form of the tree. The Conservation Manager has no objection in principle, taking the constraints of the site into account, but advises that an Arboricultural Method Statement is provided. It would be expected that works relating the ground disturbance within the root protection area of the one affected tree would be restricted to hand digging only. The detailed specification for such works would be secured by condition.
- 6.9 A number of objectors have raised concerns regarding the capacity of the existing sewerage system to serve the development. Welsh Water have raised no objections to the proposal, but recommend conditions in respect of the separate drainage from the site of foul and surface water drainage. It should also be noted that the proposal includes recycling grey water systems and porous bound gravel to driveways and parking areas, thus reducing the drainage from the site into the public drainage system compared to older properties.
- 6.10 As the proposal is for residential development the provisions of the Supplementary Planning Document – Planning Obligations are applicable. At present there is a temporary suspension on Section 106 contributions for proposals for developments of five or less dwellings provided that development commences within one year of the grant of permission. The applicants have requested that if planning permission is granted that a one year commencement condition is imposed and as such no financial contributions would be required.

DMS/113213/G

- 6.11 The second application seeks approval for the discharge of an old Section 106 Agreement that was signed in conjunction with the granting of planning permission for the bungalow now known as Westholme (SH920169PO). It is understood that the restriction which prevents the construction of any new dwelling or siting of a permanent residential mobile home was imposed because the previous Local Planning Authority granted permission for the bungalow in open countryside and wanted an additional level of control over the remainder of the site. Since that time, there has been a significant change in planning policy through the adoption of the Herefordshire Unitary Development in March 2007 with the bungalow and its extended curtilage (the application site) now being within the settlement boundary for Fownhope. This means that the “principle” of residential development is accepted with the material planning considerations being considered through the planning application. In this context, the terms of the Section 106 Agreement can no longer reasonably bind the development potential of the site and as such no longer serves a valid planning purpose.

Conclusion

- 6.12 The proposal for the 2 new dwellings is considered to accord with local planning policies in terms of its impact upon the character and appearance of the locality and its relationship to neighbouring properties. Furthermore the associated application for the discharge of the S106 Agreement is supported on the basis that the fundamental shift in policy renders it no longer relevant in planning policy terms.

RECOMMENDATIONS

In respect of DMS/112643/F 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. **C01 Samples of external materials**
4. **F07 Domestic use only of garage**
5. **F17 Obscure glazing to windows**
6. **G11 Landscaping scheme - implementation**
7. **G07 Protection of trees covered by a Tree Preservation Order**
8. **G03 Retention of existing trees/hedgerows**
9. **G12 Hedgerow planting**
10. **H03 Visibility splays**
11. **H09 Driveway gradient**
12. **H13 Access, turning area and parking**
13. **H27 Parking for site operatives**
14. **Foul water and surface water discharges shall be drained separately from the site.**

Reason To protect the integrity of the public sewerage system.

15. **No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the local planning authority.**

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

16. **Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.**

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

17. K5 Habitat Enhancement Scheme (to include working method statement)

Informative:

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

In respect of DMS/11321/G that the Planning Obligation associated with Application No. SH920169PO be discharged for the following reason:

- 1. The local planning authority consider that the provisions of the Section 106 Agreement dated 5 August 1992 to restrict residential development on land adjacent to Westholme, Fownhope, Herefordshire, reference SH920169PO, is no longer required and does not serve a useful planning purpose.**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NOS: DMS/112643/F & DMS/113213/G

SITE ADDRESS : WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN

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