

AGENDA

Planning Committee

Date: **Wednesday 19 December 2012**

Time: **10.00 am**

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

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

For any further information please contact:

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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 MAF Hubbard

Councillor RC Hunt

Councillor Brig P Jones CBE

Councillor JG Lester

Councillor RI Matthews

Councillor FM Norman

Councillor AJW Powers

Councillor GR Swinford

Councillor PJ Watts

AGENDA

		Pages
1.	APOLOGIES FOR ABSENCE To receive apologies for absence.	
2.	NAMED SUBSTITUTES (IF ANY) To any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3.	DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	MINUTES To approve and sign the Minutes of the meeting held on 28 November 2012.	1 - 14
5.	CHAIRMAN'S ANNOUNCEMENTS To receive any announcements from the Chairman.	
6.	APPEALS To be noted.	15 - 18
7.	S121554F - FORMER POMONA WORKS, ATTWOOD LANE, HOLMER, HEREFORD Demolition of existing building and erection of 34 houses and garages together with roads, sewers and associated external works.	19 - 42
8.	S122234F - UNIT 3, SALMON RETAIL PARK, HOLMER ROAD, HEREFORD, HEREFORDSHIRE HR4 9SB Variation of Condition 5 of Planning Permission HC930262PF to allow temporary occupation by Next Retail Ltd.	43 - 52
9.	S122572F - LAND AT THE PARKS, BROCKHAMPTON, HEREFORD, HR1 4SD Proposed new bungalow.	53 - 60
10.	N121564F - LAND AT BURNT HENGOED, BRILLEY, HEREFORDSHIRE A new farm workers dwelling.	61 - 66
11.	N122403O - HOLLOWAY COMMON FARM, HAMPTON CHARLES, TENBURY WELLS, HEREFORDSHIRE, WR15 8PY Site for proposed rural workers dwelling.	67 - 72
12.	DATE OF NEXT MEETING Date of next site inspection: 8 January 2012 Date of next meeting: 9 January 2012	

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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 28 November 2012 at 10.00 am

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

Councillors: PA Andrews, AN Bridges, PJ Edwards, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, RC Hunt, Brig P Jones CBE, JG Lester, RI Matthews, FM Norman, AJW Powers, GR Swinford and PJ Watts

In attendance: Councillors NP Nenadich, PD Price, SJ Robertson and DB Wilcox

94. APOLOGIES FOR ABSENCE

Apologies were received from Councillor DW Greenow.

95. NAMED SUBSTITUTES (IF ANY)

There were no substitute members present at the meeting.

96. DECLARATIONS OF INTEREST

8. S122252/F - 1 HAMPTON PARK ROAD, HEREFORD, HR1 1TQ.
Councillor J Hardwick, Non-Pecuniary, The Councillor knows the applicant.

8. S122252/F - 1 HAMPTON PARK ROAD, HEREFORD, HR1 1TQ.
Mark Robinson, Non-Pecuniary, The Officer knows the applicant. The Officer chose to leave the meeting for the duration of the item.

97. MINUTES

RESOLVED: That the Minutes of the meeting held at 10:00 am on 7 November 2012 be approved as a correct record and signed by the Chairman.

98. CHAIRMAN'S ANNOUNCEMENTS

The Chairman requested that all mobile phones be either turned off or set to silent. He also advised Members to leave the Council Chamber if they did need to receive a phone call.

99. APPEALS

One Member of the Committee asked if the Planning Department had a detailed analysis regarding costs awarded in respect of decisions where Members had determined applications contrary to the Officer's recommendation.

The Planning Committee noted the report.

100. S121798/F - SITE ADJACENT TO 28 SOUTHBANK ROAD, HEREFORD, HR1 2UF

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 Alcock, representing a number of local residents, spoke in objection to the application and Mr Stacey, the applicant's agent, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors DB Wilcox and NP Nenedich, the local ward members, commented on a number of issues, including:

- The key issue in determining the application was whether the proposed dwelling preserved or enhanced the conservation area.
- Although the modern design was praised its location next to a listed building within a conservation area was a concern.
- There had been a slight reduction in the height of the proposed dwelling as a result of discussions with the applicant although this reduction was only minimal.
- There was a strength of feeling from local residents that the application should be refused.

The Committee debated the application and were of the opinion that the key issue in determining the application was the impact that the proposed development would have on the conservation area. They noted that in order to comply with the Unitary Development Plan the development was required to either preserve or enhance the conservation area. The debate focused on this issue, some members were of the opinion that a conventionally designed development would be more suitable in the area whereas other members were enthusiastic about the contemporary design of the proposed dwelling.

Members discussed whether some of the dwellings constructed over the previous 20 years actually preserved the conservation area. It was noted that the row of houses referred to by members during the debate was outside of, but immediately adjacent to, the conservation area.

One of the key issues raised by the Committee during the debate was the proposed colour of the dwelling. The majority of Members who supported the application in principle did have concerns about the white finish proposed in the application. They requested that a more suitable colour of render be used. The Development Manager advised that condition 3 of the officer's recommendation required samples of external materials to be approved, he advised that this condition could also require the colour of the render to be approved.

Members discussed the issue of 'garden grabbing', however it was noted that the principle of development on the site had already been established through the existing planning permission. It was considered that the existing permission would not enhance the conservation area.

Some Members expressed an alternative view and were of the opinion that the proposed development would not enhance the conservation area. It was noted that the area had been designated as a conservation area for a number of years and that it had a distinctive character due to the high status Victorian villas fronting the road. It was also considered that the proposal would significantly detract from the neighbouring listed building. Concern was also expressed regarding the extensive glass finish to the

southern side of the proposed dwelling and the possibility of light emanating from the building.

Councillors Wilcox and Nenadich were given the opportunity to close the debate. They reiterated their opening remarks and made additional comments, including:

- The proposed dwelling was in stark contrast to the neighbouring dwellings.
- Bodenham Road was made a conservation area in the 1970's.
- The application was not for reserved matters, the existing planning permission referred to was a full permission and not outline.
- The key issue was whether the application preserved or enhanced the conservation area.
- 30 people had objected to the application.
- The proposed dwelling would be intrusive on people wishing to sit in their gardens.

RESOLVED

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**
- 4. L01 Foul/surface water drainage**
- 5. L02 No surface water to connect to public system**
- 6. L03 No drainage run-off to public system**
- 7. H13 Access, turning area and parking**
- 8. H27 Parking for site operatives**
- 9. G09 Details of Boundary treatments**
- 10. G04 Protection of trees/hedgerows that are to be retained**
- 11. F14 Removal of permitted development rights**
- 12. F16 No new windows in specified elevation**
- 13. F17 Obscure glazing to windows**
- 14. I21 Scheme of surface water regulation**
- 15. I51 Details of slab levels**
- 16. I16 Restriction of hours during construction**
- 17. The flat roofs of the building hereby approved shall not be used as a roof terrace**

Reasons for Approval

1. The application has been considered against 'saved' Unitary Development Plan policies S1, S2, 27, DR1, DR2, DR3, DR4, H1, H13, H16, 76, T11, LA5, LA6, HBA4, and HBA6, guidance set out in the National Planning Policy Framework and the presence of a 'fall-back' position in the form of the 2004 planning permission.

The local planning authority concludes that the proposal would represent a sustainable residential development on a site that already has the benefit of planning permission for a single dwelling. The design and scale of the proposal would respect the presence and setting of the adjoining Grade II listed building and is considered to preserve the character and appearance of the Bodenham Road Conservation Area. In other respects the proposal would not adversely affect the residential amenity of neighbouring occupiers, would be provided with satisfactory on-site parking that would be served by an access road that is suitable for an additional property.

For these reasons the local planning authority considers the development to comply with the aforementioned Unitary Development Plan policies and guidance set out in the National Planning Policy Framework; paragraph 65 specifically.

101. S122252/F - 1 HAMPTON PARK ROAD, HEREFORD, HR1 1TQ

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, Mrs Marshall, the applicant, spoke in support of her application.

Members discussed the application and welcomed the proposed re-use of the public house for a community usage.

One Member of the Committee asked the applicant if the original name of the public house could be considered when naming the nursery due to its established popularity within the area.

RESOLVED

That planning permission be granted subject to the following conditions:

1. A01 Time limit for commencement (full permission)
2. B01 Development in accordance with the approved plans
3. The maximum number of children to be looked after at the nursery hereby approved shall not, in accordance with an OFSTED registration, exceed 60.

Reason: In the interests of highway safety so as to comply with Policies S6, T11 and DR3 of the Unitary Development Plan.

4. G09 Details of Boundary treatments
5. H13 Access, turning area and parking

6. **H29 Secure covered cycle parking provision**
7. **H30 Travel plans**
8. **Prior to the commencement of development, a full working method statement and habitat scheme for bats should be submitted to and approved in writing by the local planning authority, and the work shall be implemented as approved.**

Reason: In order to ensure the protection of European Protected Species in accordance with Unitary Development Plan policies NC1, NC7, NC8 and NC9, the NERC Act 2006 and the Habitats Directive.

Reason for Approval

1. **The application has been considered with regard to Unitary Development Plan policies S1, S6, DR2, DR3, T6, T7, T11, HBA6, NC1, NC7 and NC8 and guidance set down in the National Planning Policy Framework 2012. The loss of the public house is not considered to prejudice the ability of the local community to meet its day to day needs and weight has been attributed to the proposed introduction of a community facility for which there is an identified need. The local planning authority is also conscious of the employment opportunities that will be created. With an initial limit of 60 children, the proposed parking layout is considered acceptable in accordance with Policies DR3 and T11. The proposed use would not significantly effect existing levels of residential amenity by comparison to the historic use as a public house in accordance with Policy DR2.**

102. S121401/F - SALOU, BELLE BANK AVENUE, HEREFORD, HR4 9RL

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 Philpotts, representing Holmer and Shelwick Parish Council, and Mr Neale, a neighbouring resident, spoke in objection to the application.

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 gave Members an opportunity to make a better judgment in respect of the application.
- The Inspector had previously stated, in respect of a separate application in Belle Bank Avenue, that the properties had a distinctive pattern and were worthy of continuous protection.
- The approval of the application would result in two extremely cramped properties with issues of overlooking.
- Amenity space for both properties will be limited with the issue of overlooking also being a key issue.
- The loss of garden space would also have an adverse effect on biodiversity.
- In June 2011 PPS3 was amended to exclude garden grabbing.

- There would be an increase in traffic issues if the application was approved.

Members discussed the application and had concerns in respect of the possible overdevelopment of the site. They noted that the existing garden was going to be reduced by approximately 70% through the proposed dwelling and also noted the close proximity of the new dwelling to the existing one. It was considered that the proposed application would have a negative impact on the neighbouring properties as well as impacting on the distinctive character of the area. It was however noted that there could be a need to support the family and Members considered that an extension to the existing dwelling may be deemed more acceptable.

Members discussed the key policies of the Unitary Development Plan and were of the opinion that the application should be refused as it was contrary to Policies DR1, DR2 and DR3. Reference was also made to PPS3 although the Committee were advised that this should not be referred to as a reason for refusal as it had been replaced by the National Policy Planning Framework.

In discussing the reasons for refusal Members confirmed that the key reasons for refusal related to scale and mass, the impact on the character of the area, and the impact on the amenity of the neighbouring residents. Members were also of the opinion that there were issues relating to sustainability and agreed that policy H13 of the Unitary Development Plan should also be included in the reasons for refusing the application.

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

- The Parish Council had objected to the application and had expressed the views of the local residents.

RESOLVED

THAT planning permission be refused for the following reason:

The proposed dwelling, by virtue of its size, scale, design and siting would represent an overdevelopment of the site that would be harmful to the character of the area and residential amenities of the existing neighbouring occupiers. As such it would be contrary to policies DR1, DR2 and H13 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework

103. S121554/F - FORMER POMONA WORKS, ATTWOOD LANE, HOLMER, HEREFORD,

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. She also advised that she had recently received notification that the appeal lodged with OFWAT by Crest Nicholson had now been withdrawn and therefore the drainage system would now be adopted.

In accordance with the criteria for public speaking, Mrs Philpotts, representing Holmer and Shelwick Parish Council, spoke in objection to the application.

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 had been designated as B2 employment land and should remain as such.

- There were 300 homes being built at the Furlongs and therefore the protection of employment land was essential.
- There were concerns in respect of landscaping, sewerage, highways, site levels and contaminated land.
- The Section 106 agreement should require a contribution to Holmer School and the Wentworth Park play area.

Members were of the opinion that a site inspection would be beneficial on the grounds of the setting and surroundings.

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

- The site visit was welcomed and would assist in the Committee's determination of the application.

RESOLVED

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

- c 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.**

104. S122606/F - PENTWYN FARM, DORSTONE, HEREFORDSHIRE HR3 6AD

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. She advised that a further letter of objection had been received after the update sheet had been received that had also been copied into the Committee; she added that if Members had any comments as a result of that correspondence she would address them accordingly.

In accordance with the criteria for public speaking, Mr Thomas, representing Dorstone Parish Council, and Mr Cottam, the applicant, spoke in support to the application and Mr Burt, one of the local residents, spoke in objection.

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

- The original turbine was 35 metres high but this had been reduced following discussions with local residents.
- The turbine was well placed on the site to maximise efficiency as well as reducing visual impact.
- There were no significant traffic issues.
- The Parish Council was now in support of the application.

Members noted the concerns of the neighbouring residents that approving the application could result in a precedent being set. However they reminded all parties that it was their responsibility to determine each application on its merits.

The sustainable nature of the application was noted with reference being made to the reduction in the carbon footprint for the village of Dorstone. The applicant was praised for working with the Parish Council and the local community in reducing the size of the turbine to make the application more acceptable. It was noted that there were still concerns from some local residents.

Members referred to other community led wind turbine projects throughout the Country and noted that community engagement was a key factor in addressing concerns to turbines.

There was a concern that the approval of the application could lead to a number of similar applications being submitted in the area. The government's support of wind turbines was also noted.

Councillor PD Price was given the opportunity to close the debate. He reiterated his opening remarks and made additional comments, including:

- The issue of precedent had been addressed and any additional applications would have to be determined on their merits.

RESOLVED

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. The external colour and finish of all parts of the structure hereby approved shall be permanently maintained in accordance with details which have first been submitted to and approved in writing by the local planning authority.**

Reason: To protect the visual amenities of the area and to comply with the requirements of policy DR1 of the Herefordshire Unitary Development Plan.

- 4. In relation to the development hereby permitted, no deliveries of components shall be made to the site unless or until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the local planning authority. The TMP shall include the following in particular:**
 - a. Estimated timescales for start and finish of the turbine installation;**
 - b. Provision for joint site meetings between contractors and officers of the local highways authority before the start and after completion of the delivery and construction period;**
 - c. The numbers, types, size and weights of all vehicles to be used to deliver components;**
 - d. Provision for agreement under section 278 of the Highways Act 1980 for the undertaking of any works required in reparation of any damage to the highway incurred by vehicles accessing the site;**
 - e. Details of the deployment of banksmen, where necessary, along the B 4348 and C1208 roads**
 - f. Means of ensuring all delivery drivers accessing the site are fully informed as to road conditions and their responsibilities along the delivery route**

The TMP shall be implemented in accordance with the approved details.

Reason: In the interests of highway safety, and to conform with the requirements of policy DR3 of the Herefordshire Unitary Development Plan

5. **Before the development hereby permitted begins, a Habitat Enhancement Scheme shall be submitted to and approved in writing by the local planning authority. The Scheme shall include in particular:**
 - a. **Away from the immediate vicinity of the turbine, new planting proposals and a plan to restore identified sparse hedgerows at Pentwyn Farm;**
 - b. **Proposals for additional habitats to attract birds, reptiles, insects and small mammals;**
 - c. **Double stock-proof fencing of some hedgerows to prevent over-grazing;**
 - d. **Measures to reduce shading to ponds, to increase light levels reaching the water;**
 - e. **A management plan to ensure after-care of planting and continuity for habitats created.**

Reason: To improve biodiversity and connectivity for wildlife and restore hedgerow cover, in accordance with the requirements of policies S7, DR4, NC1, NC8 and NC9 of the Herefordshire Unitary Development Plan.

6. **E03 Site observation - archaeology**
7. **I16 Restriction of working hours during construction**
8. **H06 Vehicular access construction**
9. **I06 Restriction on noise levels**
10. **Within six months of the equipment hereby approved becoming redundant, inoperative or permanently unused, the turbine and all associated infrastructure shall be removed and re-used, recycled, all materials recovered, or be finally disposed of to an appropriate licensed waste facility, in that order of preference.**

Reason: To ensure a satisfactory form of development, avoid any eyesore from redundant plant, prevent pollution, and to safeguard the environment when the materials reach the end of their life, in accordance with policies S1, S2, DR1 and CF4 of the Herefordshire Unitary Development Plan.

Reason for Approval

1. **The proposal has been considered having regard to possible impacts on visual amenity (including shadow flicker), landscape, biodiversity, and potential noise nuisance. The principles relating to renewable energy, sustainability and carbon footprint reduction have been taken into account in light of current national policy. With regard to visual amenity in particular, the site is remote with no neighbours within 500 metres of the site. The site is also generally screened or partly screened from public viewpoints by vegetation and the topography. Views of the turbine would primarily be distant and/or partial and would not be considered to dominate the field of view. The need for renewable energy carries weight provided other factors can be mitigated and the site has been chosen and assessed with this in mind. In light of the above, the proposal is considered to accord with, or be capable of compliance with, policies S1, S2, S7, S11, DR1, DR2,**

DR3, DR13, T8, LA2, LA5, NC1 and CF4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework, with particular (but not exclusive) reference to paragraphs 28, 93, 97 and 98.

INFORMATIVES:

- 1. N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
- 2. N11C General**
- 3. HN01 Mud on highway**
- 4. HN21 Extraordinary maintenance**
- 5. Applicant to notify CAA/GAIT DGC on construction**

105. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

The meeting ended at 12.45 pm

CHAIRMAN

PLANNING COMMITTEE

28 November 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.

7 S121798/F - DETACHED NEW 3 BEDROOM HOUSE WITH GARAGE AND DRIVE AT SITE ADJ TO, 28 SOUTHBANK ROAD, HEREFORD, HR1 2UF

For: Dr Jenkins per Mr Tom Mason, Upper Twyford, Hereford, HR2 8AD

ADDITIONAL REPRESENTATIONS

The report has omitted to record the objection received from Mr & Mrs Garbutt at 8 Bodenham Road. The summary of representations incorporates the points raised in that letter.

The Council's Ecologist has confirmed that the proposal will not have any more significant impact upon bats than the extant planning permission.

NO CHANGE TO RECOMMENDATION

8 S122252/F - CHANGE OF USE FROM PUBLIC HOUSE TO A NURSERY SCHOOL, CLASS D1; RECONFIGURATION OF EXISTING FLAT FROM 1-BEDROOM TO 2-BEDROOMS; TOGETHER WITH ASSOCIATED CAR PARKING SPACES AT 1 HAMPTON PARK ROAD, HEREFORD, HEREFORDSHIRE, HR1 1TQ

For: Mrs Marshall, Nursery School, Oak House, Ross Road, Brampton Abbots, Ross-On-Wye, Herefordshire HR9 7JD

ADDITIONAL REPRESENTATIONS

One further letter has been received from Mr R A Gilbert, 1 Quay Close, Hereford. The letter expresses concern at the increased potential for road traffic accidents within the immediate vicinity, citing the existing problems associated with on-street parking of staff vehicles adjoining the veterinary surgery. Concern is also expressed at the short duration of the marketing exercise.

NO CHANGE TO RECOMMENDATION

9 S121401/F- PROPOSED CONSTRUCTION OF DETACHED DORMER BUNGALOW AT SALOU, BELLE BANK AVENUE, HEREFORD, HR4 9RL

For: Mr & Mrs Mifflin per Mr Roy Pipe, 35 Browning Road, Ledbury, Herefordshire, HR8 2GA

OFFICER COMMENTS

A query was raised by the Ward Member in respect of the impact upon the character of the area and the potential for a visual impact on the approach to the city. It is considered that this particular site is one that is visually part of the built form of the city and would not be obtrusive in the street scene or appear out of character. As such it would comply with policy LA3 of the Herefordshire Unitary Development Plan in respect of visual impact on the approach to the city.

NO CHANGE TO RECOMMENDATION

10 S121554/F- DEMOLITION OF EXISTING BUILDING AND ERECTION OF 34 HOUSES AND GARAGES TOGETHER WITH ROADS, SEWERS AND ASSOCIATED EXTERNAL WORKS AT FORMER POMONA WORKS, ATTWOOD LANE, HOLMER, HEREFORD,

For: Ms Rout per Mr Paul Harris, The Stables, Woodbury Lane, Norton, Worcester, WR5 2PT

ADDITIONAL REPRESENTATIONS

- Holmer and Shelwick Parish Council make the following comments in relation to the amended plans:

Holmer and Shelwick Parish Council's objections to the above planning application have not been affected by the additional plans and heads of terms document submitted.

The site has been identified in the UDP as an employment site, and is more suited to industrial use rather than residential due to the nature of the contamination of the land. Due to the contamination it has been proposed that the gardens should be covered with 500 mm of topsoil, which would in turn lift the floor levels, the site has already been built up over the years with various fill material including nickel deposits (the contamination) which raises the ground approx 2 metres and therefore with the extra 500 mm would mean the houses would be 2.5 metres above the natural field level, effectively an extra storey. This would have a devastating effect on the landscape.

It is understood that the demand for houses at the Crest development has been less than anticipated, which supports the parish council's comments in respect of retaining employment land rather than increasing the residential stock.

- One additional letter of representation has been received from Wychways, Attwood Lane that raises the following concerns
 - This letter reiterates concern about the additional traffic, narrow road width, rat running and highway safety issues from additional traffic

- Drainage of the site and adoption of the drainage network
 - Harm to rural character of the area.
- In response to concerns raised about Traffic Generation the Transportation Manager has also updated his comments as follows:

Trip generation comparisons provided by the Area Engineer

In the absence of any specific categories within TRICS database for the most recent previous uses of the site i.e. sand/gravel distribution and scaffolding services, I have reverted to establishing the trip generation for B2 (General Industrial) use on a similar sized site. B1 (Light Industrial) use would have a significantly greater trip generation.

The site area from the application form is 1.1ha. Utilising a developable ground Gross Floor Area to site area ratio of 40% would give a likely permissible footprint of around 4,400 sq m of B1/B2 use.

Using trip generation figures from the TRICS database for similar sized industrial estates, even the lower traffic generation use of B2 (General Industrial) gives rise to the following trip rates per 100 sq m Gross Floor Area.

General Industrial (B2) trip Generation

Morning peak 0800-0900 trip rate	Arrivals 0.40	departures 0.20	
Equivalent trips for 4400 sq. m	Arrivals 18	departures 9	Total 27
 Evening peak 1700-1800 trip rate	Arrivals 0.10	departures 0.32	
Equivalent trips for 4400 sq. m	Arrivals 4	departures 14	Total 18

Residential trip generation (as per submitted Transport Statement)

Morning peak 0800-0900	Arrivals 6,	departures 14	Total 20
Evening peak 1700-1800	Arrivals 14,	departures 9	Total 23

Therefore the likely two way trip generation for the proposed residential development would be lower in the AM peak than B2 employment use over that site area, marginally greater in the PM peak, and overall taken over the two peak hours would give a slight reduction in trips.

There is also the benefit of removal of commercial vehicles from Attwood Lane.

OFFICER COMMENTS

The comments of local residents in respect of traffic generation have been considered in the report and the above data in respect of trip generation is provided to offer Members a comparison in relation to the former use of the use (and its allocation) and to demonstrate that there would not be a significant increase in traffic using the local road network.

NO CHANGE TO RECOMMENDATION

11 S122606/F- SINGLE 50KW WIND TURBINE, WITH A MAXIMUM BLADE TIP HEIGHT OF 25.1M ALONG WITH IMPROVEMENT OF ACCESS TRACK, ELECTRICAL SWITCHGEAR HOUSE WITH ASSOCIATED UNDERGROUND CABLING AND TEMPORARY CRANE HARDSTANDING. AT PENTWYN FARM, DORSTONE, HEREFORD, HEREFORDSHIRE HR3 6AD

For: Mr Cottam per Maxet House, 28 Baldwin Street, Bristol, BS1 1NG

ADDITIONAL REPRESENTATIONS

Ministry of Defence – Defence Infrastructure Organisation

The MoD asks Planning Authorities to consult with it about all planning applications for wind turbines with a height to blade tip in excess of 11m..... we comment on all turbine developments with dimensions greater than this. The MoD has no objection to the proposal. If planning permission is granted we would like to be advised of the date construction starts/ends, the maximum actual height of construction equipment and the latitude and longitude of every turbine. This information will be plotted on flying charts. We must be consulted on any changes.

Head of Environmental Health and Trading Standards – further clarifying comments:

Confirms that noise is considered unlikely to cause problems where the nearest noise-sensitive property is 500 metres away. A condition is recommended to limit noise at any sensitive locations.

Five further representations objecting to the proposal were received, plus two offering 'minor clarifications and corrections' to a previous letter. The majority of the concerns raised have been covered in previous correspondence with particular reference to visual and landscape impact, noise and potential effects on bats and newts. Additional points refer to the development of a future Neighbourhood Plan, and that wind turbines should be concentrated off-shore rather than inland.

One further email received from Ms S Robinson, expressing concerns that a spring supplying an old mill pond at The Cwm might be affected.

OFFICER COMMENTS

This formal Ministry of Defence response confirms previous comments from other MoD departments, and corresponds with those made by the Civil Aviation Authority and National Air Traffic Services.

A noise limitation condition is recommended in the report.

The matters raised by residents are considered within the report. Dorstone Neighbourhood plan is at an early stage, with no policies yet proposed. Groundwater has been considered. Professional advice is that the turbine fixing has minimal risk to groundwater as no deep pilings would be used.

NO CHANGE TO RECOMMENDATION



MEETING:	PLANNING COMMITTEE
DATE:	19 DECEMBER 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. N 121484/F

- The appeal was received on 13 November 2012
- 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 Keith Ellis
- The site is located at Land adjoining Forest Lodge, Dark Lane, Leintwardine, Ludlow, Herefordshire, SY7 0LJ
- The development proposed is the erection of a dormer style dwelling with access
- The appeal is to be heard by Written Representations

Case Officer: Mr C Brace on 01432 261795

Application No. N121409/F

- The appeal was received on 13 November 2012
- 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 Roger Brett
- The site is located at The Oast House, adj. Gwinllan, Vinesend Lane, Cradley, WR13 5NH
- The development proposed is a conversion of redundant Oast House to provide a holiday home
- The appeal is to be heard by Written Representations

Case Officer: Mr N Banning on 01432 383093

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

Application No. N121410/L

- The appeal was received on 13 November 2012
- 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 Roger Brett
- The site is located at The Oast House, adj. Gwinllan, Vinesend Lane, Cradley, WR13 5NH
- The development proposed is the conversion of redundant Oast House to provide a holiday home
- The appeal is to be heard by Written Representations

Case Officer: Mr N Banning on 01432 383093

Application No. S112612/F

- The appeal was received on 16 November 2012
- 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 The Owner and/or Occupier
- The site is located at Land off Attwood Lane, Holmer, Hereford, HR1 1LJ
- The development proposed is a residential development comprising of 29 dwellings, with associated access, carparking, landscaping and open space
- The appeal is to be heard by Hearing

Case Officer: Mr R Pryce on 01432 260288

Application No. N 113545/F

- The appeal was received on 19 November 2012
- 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 N Morris
- The site is located at Land behind 43 Duke Street, Kington, Herefordshire, HR5 3BL
- The development proposed is the proposed construction of 4 houses and garages.
- The appeal is to be heard by Written Representations

Case Officer: Mr A Banks on 01432 383085

Application No. N121519/FH

- The appeal was received on 22 November 2012
- 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 Tony Banks
- The site is located at Primrose Hill, Birchwood Lane, Storridge, Worcester, Herefordshire
- The development proposed is a proposed kitchen extension and replacement garage
- The appeal is to be heard by Written Representations

Case Officer: Mr N Banning on 01432 383093

Application No. S120986/O

- The appeal was received on 3 December 2012
- 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 And Mrs R & J Fennessy
- The site is located at Plot at, 28 Folly Lane, Hereford, HR1 1LY
- The development proposed is a proposed dwelling and access
- The appeal is to be heard by Written Representations

Case Officer: Mr E Thomas on 01432 260479

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

APPEALS DETERMINED

Application No. N113160/F

- The appeal was received on 24 May 2012
- 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 Robert Edwards
- The site is located at Felton Court, Felton, Herefordshire, HR1 3PH
- The application dated 7 November 2011 was refused on 5 January 2012
- The development proposed was the erection of 1 no. 20kw wind turbine with a hub height of 20.6m and blade diameter of 13.1m
- The main issues were:
 - The effect of the proposed wind turbine on the character and appearance of the landscape
 - The impact on the setting of the nearby listed buildings.

Decision: The application was refused under delegated powers on 5 January 2012.
The appeal was allowed on 7 November 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:	19 DECEMBER 2012
TITLE OF REPORT:	S121554/F - DEMOLITION OF EXISTING BUILDING AND ERECTION OF 34 HOUSES AND GARAGES TOGETHER WITH ROADS, SEWERS AND ASSOCIATED EXTERNAL WORKS AT FORMER POMONA WORKS, ATTWOOD LANE, HOLMER, HEREFORD For: Ms Rout per Mr Paul Harris, The Stables, Woodbury Lane, Norton, Worcester, WR5 2PT
WEBSITE LINK:	http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=121554&NoSearch=True

Date Received: 28 May 2012

Ward: Burghill, Holmer and Lyde

Grid Ref: 351082,242346

Expiry Date: 26 September 2012

Local Member: Councillor SJ Robertson

A Planning Committee site visit was undertaken on 18 December 2012.

The report has been updated to include the additional information provided to Members at Committee on 28 November. This includes reference to the implications of the withdrawal of Crest Nicholson's appeal to Ofwat in relation to the adoption of the previously privately maintained new and historic drainage system. At the time of writing, a viability report relating to the draft S106 Heads of Terms is also under consideration and the applicant is seeking to provide further clarification in relation to finished site levels arising out of the need to treat contamination on the site.

These currently unresolved matters will form part of an update for Members at the meeting.

1. Site Description and Proposal

- 1.1 The application site lies to the north of Attwood Lane, Holmer between Holmer Nursing Home and Attwood Court and within the urban settlement boundary of Hereford as defined in the Herefordshire Unitary Development Plan.
- 1.2 This 0.98 hectare site comprises previously developed land with the last uses comprising a gravel distribution company, a car storage use and a scaffolding firm. It is partially designated as Employment Land and partially within an identified established residential area. The boundaries to the north and east of the site abut agricultural land with Holmer Nursing Home to the south together with Wentworth Park housing estate. Attwood Court abuts the eastern boundary.
- 1.3 Planning permission is sought to for the demolition and removal of the remaining commercial buildings and construction 34 dwellings, 12 of which will be affordable together with a small

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

on-site play area. The proposal also includes changes to the highway layout at the access to the site from Attwood Lane.

- 1.4 The 12 affordable dwellings will be located in two clusters, with 6 units being sited to the south east corner in two terraces comprising 3 x 3 bed units 3 x 2 bed units and 6 units (with the same mix) being sited to the south west of the site.
- 1.5 The proposed open market dwellings would provide 2 x 3 bed dwellings with the remainder being 4 bed units. The open market units are a range of house types, each with garages and private amenity space.
- 1.6 The layout which comprises a mix of dwellings from detached, semi-detached and terraced properties, provides for frontage development onto Attwood Lane with the main access into the site being adjacent Holmer Court Nursing Home. A T-junction would be created at this point with traffic having to stop on Attwood Lane before either entering the housing site or continuing south to Roman Road.
- 1.7 The application has been accompanied by a detailed landscape scheme, that includes all hard and soft landscaping, including a detailed planting plan and details of all boundary treatments. The existing conifer forming part of the site's frontage with Attwood Lane would be removed and a new native species hedgerow planted. There would be no pedestrian or vehicular accesses directly from Attwood Lane to the dwellings.
- 1.8 The submission has been amended during the application process to address concerns regarding the layout of dwellings, the road layout and landscape impact. This has included alterations to the height of the dwellings to the north of the site and reorientation of the garages.
- 1.9 The proposal includes a detailed drainage statement that outlines the decision to connect to the Crest Nicholson new foul and storm sewers installed as part of their 300 unit site. This would involve the installation of foul and storm sewer pipes within Attwood Lane to connect the application site and the Crest development site.

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction - Achieving sustainable development
Section 6 - Delivering a wide choice of high quality homes
Section 7 - Requiring Good Design
Section 8 - Promoting healthy communities
Section 11 - Conserving and enhancing the natural environment

2.2 Herefordshire Unitary Development Plan (UDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S4	-	Employment
S6	-	Transport
S7	-	Natural and Historic Heritage
S8	-	Recreation, Sport and Tourism

DRI	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR10	-	Contaminated Land
E5	-	Safeguarding Employment Land and Buildings
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density
H16	-	Car Parking
H19	-	Open Space Requirements
LA2	-	Landscape Character
LA3	-	Setting of Settlements
LA5	-	Protection of Tree, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC8	-	Habitat Creation, Restoration and Enhancement
T6	-	Walking
T7	-	Cycling
T11	-	Parking Provision
RST4	-	Standards for Outdoor Playing and Public Open Space
W11	-	Development and Waste Implications
CF2	-	Foul Drainage

2.3 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Councils website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

2.4 Supplementary Planning Documents

Landscape Character Assessment
 Planning Obligations
 Design
 Biodiversity and Development

2.5 Other Guidance

Strategic Housing Land Availability Assessment
 Annual Monitoring Report
 Urban Fringe Sensitivity Analysis
 Green Infrastructure Study

3. Planning History

- | | | |
|-----|---------------|---|
| 3.1 | SC981092PF | Erection of temporary storage of temporary storage container for a period of twelve months
Approved |
| 3.2 | CW2000/2069/F | Variation of condition 2 of planning permission SC981092PF 16 April 99 for retention of temporary storage shed for twelve months
Approved 06/10/2000 |
| 3.3 | CW2002/1738/F | Change of use to storage yard for retail use (retrospective application).
Withdrawn 31st July 2002. |

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

- 3.4 DCCW2004/0182/F Construction of 32 dwellings and associated works.
Withdrawn 9th September 2004.
- 3.5 DCCW2004/3085/F Construction of 32 dwellings and associated works
Withdrawn
- 3.6 DCCW2005/0207/F Continued use for distribution of sand and aggregates including retail for
two years
Approved 20/04/2005
- 3.7 DCCW2005/2661/F Variation of condition 2 & 3 (hours of working/loading/unloading) to
extend operating time to 7.30am of planning application
CW/2005/0207/F and allow employee arrival from 7.00am
Approved 21/09/2005
- 3.8 DCCW2008/0205/F Residential development comprising 32 dwellings with car parking,
landscaping and associated works
Withdrawn

4. Consultation Summary

Statutory Consultation responses

- 4.1 Welsh Water recommends standard conditions relating to foul and water discharges and request that no development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site, showing how foul water, surface water and land drainage will be dealt with and this has been approved.

Internal Consultation responses

- 4.2 The Conservation Manager (Landscape) makes the following comments:

Comments made on the original submission:

Landscape Description

The site is located on the very north edge of Holmer, to the north of Hereford. It is outside of the urban landscape character area and lies within the Landscape Character Type of Principle Settled Farmlands. This shows the transitional nature of the site in this urban fringe area. In the Urban Fringe Sensitivity Analysis: Hereford and the Market Towns (Jan 2010) it is designated as having a Medium Sensitivity to built development, meaning that key characteristics of the landscape are susceptible to change and/or have value as a landscape resource. That document states that Holmer has an intricate, intimate landscape character. It should be noted that although the immediate land to the north and east will remain agricultural, land to the east of Attwood Lane is currently under construction of a large residential development. The site has been the subjection of several pre-application stages over the course of almost two years.

Landscape Impact

It is a brownfield site, consisting of a main depot building, large hardstanding area and ancillary buildings. In landscape terms development of brownfield sites is preferable to green field development. In this case, however, there will still be a major landscape change through the introduction of intensive housing development that will intrude into the valley side significantly more than the existing industrial buildings.

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

Comments on proposals

The application is supported by a Landscape and Visual Appraisal (LVA), which is welcomed. However it was not reviewed at the pre-application stages. The LVA goes some way to demonstrating that landscape character has influenced the development proposals, but I still have some concerns that should ideally be addressed as part of the planning application, rather than follow later by condition.

- Lack of tree and hedgerow survey in accordance with BS5837:2012. Particularly important as both the LVIA and the D&A statement refer to the importance of the boundary vegetation to integrate the new housing with the surroundings. A survey has been requested numerous times during pre-application stage.
- The landscape strategy and site layout plan are not consistent in showing the trees that will be retained.
- Garage of plot 21 is shown within the canopy of retained trees. The root protection area of trees to be retained should be identified and protected. These ash trees should be retained.
- Off site trees, particularly in private gardens to the west, require root protection areas.
- No landscape scheme has been provided (although the D&A states landscaping is an integral part of the design).
- A sheet of boundary / enclosure details has been provided, but no plan of where these are on site.
- Could a section and detailed plan be provided for plots 27 – 34, along the public footpath. How will this change from existing (is all the existing scrub to be removed and replaced with native hedgerow?). Will a fence be required as well as the hedgerow? What will the section look like between the end of the gardens, the footpath (resurfaced with grass verge?), and the boundary of Holmer Court? This important in retaining public amenity value of the landscape experience along this public footpath.
- It would be useful to see the site layout on the same drawing as the existing topographical survey. I am particularly concerned about the level changes on the banks to the northern boundary.
- How can the new native hedgerow to the north boundary be established on the steep bank? How can it be consistently maintained (eg. If not conveyed to individual plots?). What height is it intended to reach, as it will be on a lower level than the houses and therefore will take a long time to provide any filtering of views from the north.
- The LVIA does not comment on the visual impact of 34 houses, all between 7.7m and 8.8m high, compared to the existing buildings which do not cover the whole site and are only approx. 3m and 5m (with only one up to 11.1m).
- Further details of the northern boundary need to be provided as I am not convinced that the opportunity to enhance this has been met or can actually be delivered (as per the statement in section 5.2 iii, in the LVIA).
- I believe the summary of the LVIA in sections 4.23 and 4.24 miss two key features of the site. A key landscape character feature is that the site itself is at a high point of the surrounding landform (as per section 4.7). A key visual feature is that the existing structures on the site are visible from viewpoints to the north (eg. 2,4 and 9) and therefore the northern boundary should be well designed to integrate with the landscape.

This additional information is requested in order to fully assess the landscape impact of the development against UDP Policies LA2 on landscape character, LA3 on setting of Hereford, LA5 on trees and hedgerows and LA6 on landscape schemes. Landscape details as described above are also important in addressing the NPPF requirements that new housing development should add to the overall quality of the area, establish a strong sense of place, respond to local character and be visually attractive as a result of good architecture and appropriate landscaping. A balance should be struck between innovation, originality and initiative, while also promoting local distinctiveness.

Comments on revised / amended proposals

Additional landscape information has been provided as part of this application. This memo is in response to this and should be read in conjunction with my previous memo (as above).

- The up-to-date tree survey is welcome, it clearly marks root protection areas for trees to be retained and provides a good commentary on boundary vegetation. The plans have been updated to consistently take account of this report and the layout reflects the requirements for protection.
- The soft landscape scheme is welcome and suitable to the site. This shows a commitment to incorporating planting into the site that has many landscape and biodiversity benefits.
- The updated elevations and sections are particularly useful in illustrating the proposals across the site. Together with the annotations this does demonstrate that the proposals can be implemented.
- The northern boundary has been significantly improved through lowering the ridge heights and altering the design of the garages.

I remain of the view that this is a relatively high density scheme for an edge of city location, particularly in relation to the existing residential development on the north edge of Holmer. The boundaries will still present a new, built up edge in views across the open rural valley from the north and east and along the public footpath to the south. The existing brownfield site conditions and employment allocation, however, are not a positive contribution to the landscape character. On balance there is no landscape objection. If suitable, conditions could be added to any approval to provide final details of landscape maintenance and final plot levels prior to commencement of work.

4.3 The Conservation Manager (Ecology) makes the following comments

The site is predominantly hard-standing with a number of buildings associated with its former use; no evidence of protected species was found during recent surveys. I note that there will be some opportunities within the proposed new development to create features for protected and priority species as well as for inclusion of native-species tree and shrub planting.

If this application is to be approved, I recommend the inclusion of conditions.

4.4 The Traffic Manager makes the following comments:

I can confirm that the proposed internal layout and parking provision is now acceptable for the development, subject to slight adjustment to the dwelling on Plot 33 to achieve acceptable visibility for junction of the side road serving plots 25-32 and which is now to be adopted. I understand that this minor alteration is currently being undertaken and my recommendation is based upon that assumption.

The traffic impact of the proposed development has been assessed within the Transport Statement submitted with the application and is considered acceptable.

As regards the proposed highway alterations to Attwood Lane, it is considered that the junction priority change will achieve a traffic calming effect and discouragement to rat-running and therefore is supported and would need to be provided as part of the development. This work can be achieved and will be provided by way of a Section 38/278 agreement in conjunction with the development roads themselves.

A proposed scheme for achievement of a footway along Attwood Lane (shown on KTC Drawing No 0365-005) was submitted to achieve a link from the development to the existing

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

footway to the south and provide pedestrian connectivity for the development. However, in view of the desire to achieve a more widespread traffic calming scheme for the Attwood Lane and Church Way area, it was considered preferable and would give more flexibility to consider this length as part of an overall design for the area and therefore not condition provision of the proposals as shown.

For this reason the off-site highway works proposals have been removed from the application (Architectural and Urban Design letter of 9th October 2012 refers) and provision of a footway scheme will be dealt with by way of a Section 106 contribution, which is considered acceptable.

Therefore my recommendation is for approval subject to conditions and informatives (see recommendation)

In response to concerns raised about Traffic Generation the Transportation Manager has also updated his comments as follows:

Trip generation comparisons provided by the Area Engineer

In the absence of any specific categories within TRICS database for the most recent previous uses of the site i.e. sand/gravel distribution and scaffolding services, I have reverted to establishing the trip generation for B2 (General Industrial) use on a similar sized site. B1 (Light Industrial) use would have a significantly greater trip generation.

The site area from the application form is 1.1ha. Utilising a developable ground Gross Floor Area to site area ratio of 40% would give a likely permissible footprint of around 4,400 sq m of B1/B2 use.

Using trip generation figures from the TRICS database for similar sized industrial estates, even the lower traffic generation use of B2 (General Industrial) gives rise to the following trip rates per 100 sq m Gross Floor Area.

General Industrial (B2) trip Generation

Morning peak 0800-0900 trip rate	Arrivals 0.40	departures 0.20	
Equivalent trips for 4400 sq. m	Arrivals 18	departures 9	Total 27
Evening peak 1700-1800 trip rate	Arrivals 0.10	departures 0.32	
Equivalent trips for 4400 sq. m	Arrivals 4	departures 14	Total 18

Residential trip generation (as per submitted Transport Statement)

Morning peak 0800-0900	Arrivals 6,	departures 14	Total 20
Evening peak 1700-1800	Arrivals 14,	departures 9	Total 23

Therefore the likely two way trip generation for the proposed residential development would be lower in the AM peak than B2 employment use over that site area, marginally greater in the PM peak, and overall taken over the two peak hours would give a slight reduction in trips.

There is also the benefit of removal of commercial vehicles from Attwood Lane.

4.5 Amey (Drainage)

This project is for the redevelopment of a former industrial site for residential purposes. It is not within any Flood Zone, and there are no ordinary watercourses in close proximity, with the nearest Ground Water Protection Zone 2.1 km away.

The site is presently at least 90 % impermeable, so the proposed development, which is to incorporate gardens and open space, will reduce the surface water runoff. Nevertheless, as the proposal is to drain to existing sewers, the applicant should be encouraged to include rainwater harvesting and green roofs etc in the development proposals and so manage the flows.

4.6 The Head of Strategic Plans and Regeneration makes the following comments:

Development Plan Policies

The application site is within the settlement boundary and thus Saved Policy H1 of the Unitary Development Plan (UDP) is relevant. This policy is clear that residential development will be permitted within settlement boundaries where compatible with the development plan. However, approximately 0.49 hectares of the site is protected for employment uses under Saved Policy E5 of the UDP. The proposal is entirely residential in character and is therefore contrary to this policy, notwithstanding that the buildings associated with the previous business have remained vacant for almost 4 years in spite of sustained marketing.

As mentioned previously, the scheme would satisfy the provisions of Saved Policy H9 on affordable housing. This policy is clear that affordable housing at indicative target of 35% will be required on sites which are capable of delivering 15 dwellings or more in Hereford and the market towns.

There are no other directly relevant UDP policies concerning the use of the site and the Local Plan (Core Strategy) has not yet reached the stage where it can be considered as a material planning consideration.

Other Material Considerations

The degree to which the UDP is up-to-date and relevant needs to be considered. As part of the evidence base for the emerging Core Strategy a study of employment land requirements has been undertaken, updated in 2010 and published on the Council's website. However, the planning report submitted alongside this application correctly confirms that the application site does not feature in that study and so it is difficult to determine whether the site remains an important part of the County's employment land supply.

Accordingly, the continued protection of the site, through the application of planning policies, from non-employment uses, needs to be considered within the context of national policy set out in the National Planning Policy Framework (NPPF). Paragraph 22 of the NPPF is clear that local planning authorities should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. The applicant's agent has argued that the application site is not a viable employment site and

would not have a realistic chance of being used for employment given any economic recovery in the years ahead.

The latest Annual Monitoring Report (AMR), published in June 2012, reveals that there are 101.66 hectares of employment land currently available in Herefordshire, meeting the target of 100 hectares prescribed by Policy S4 of the UDP. This means that there is sufficient employment land available to meet the economic objectives of the development plan, but in any event, the impact of the application proposal on the County's employment land supply would be negligible given the relatively small size of the employment allocation. In addition, the application site would provide the right conditions for the proposed use. There would,

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

therefore, be reasonable justification to override the development plan in this case and consequently an approval of the scheme would be supported on planning policy grounds.

It is also worth noting that both the AMR and the Strategic Housing Land Review (SHLAA) allude to the fact that Herefordshire Council does not have a 5 year supply of deliverable housing sites. This means that the Council's policies on the supply of housing are in conflict with the NPPF - para 49 of the NPPF is clear that housing supply policies will be usurped by the Framework where they are in conflict with national policy.

Where the relevant UDP housing supply policies are out-of-date permission should be granted in accordance with the presumption in favour of sustainable development, unless any adverse impact of doing so would significantly and demonstrably outweigh benefits, when assessed against the policies in the NPPF taken as a whole, or if specific policies in the framework indicate that development should be restricted.

4.7 The Housing Manager makes the following comments:

Comments on the original submission:

The application meets the requirements for 35% of units to be affordable and for these to be built to the HCA's Design and Quality Standards, Lifetime Homes Standards and level 3 of the Code for Sustainable Homes.

The tenure mix does not meet requirements as the application indicates the provision of social rented units only whereas the development brief indicated 9 units for social rent and 3 for intermediate tenure.

In addition, there are nine units located together in the south eastern corner of the site. When considering the design of developments that incorporate affordable housing, the affordable housing should be well integrated with the market housing and should be tenure neutral.

Comments on amended plans:

I would advise that the location of the affordable units is acceptable

4.8 The Parks and Countryside Manager comments as follows:

On-Site Play Provision: On site play provision is supported given the location of the development and accessibility issues to existing play provision in the vicinity. It has therefore been designed to complement the play equipment being provided on the other development sites in Atwood Land and caters for the younger age group children. Play areas for younger children should be located close to residential areas within safe access thresholds.

Play Area Design: The Play Area Layout Option A covers the required activity zone area of 168 sq m for a development of this size and contains equipment previously suggested, but the Parks Development Manager has requested that the layout is refined, to combine cradle and junior swings in an acceptable layout. It is noted that although the key refers to E, F and G as cradle and junior swings, G is not shown on the plan. The revised plan shows a 3 seat frame, 2.4 m high (one seat to be a cradle seat) installed along the northern edge of the Activity Zone currently shown as F (junior swing x 2). The remaining 4 items (A, B, C and D) will all fit into the remaining space, bearing in mind that Springers only need 1 clear all round. The bin could be located immediately inside the gate. As all the items are close together continuous wetpour surfacing over the whole activity zone is the preferred option and can easily be deepened where necessary to accommodate the relevant Critical Fall Heights. 1m high bowtop fencing with a self-closing gate 1.2 m wide would be the minimum acceptable fencing standard.

Sport England Calculation: It is noted that the draft heads of terms refer to a Section106 contribution of £18,522 towards provision of sports and recreation facilities including Aylestone Park as per the requirement in the SPD on Planning Obligations. This is the previously agreed figure base on Sport England's facility calculator modelling.

4.9 The Public Rights of Way Manager makes the following comments:

No objection but the proposed development will be in very close proximity to public footpath 08A. If development works are perceived to be likely to endanger members of the public or will inconvenience path users in any way then a temporary closure order must be applied for from the Public Rights of Way Manager, at least 6 weeks in advance of work starting.

The applicants should ensure that their contractors are aware of the line of the public right of way and that the right of way must remain at its historic width and suffer no encroachment or obstruction during the works or at any time after completion. This means that vehicles, materials, debris etc. must not be stored on the line of the footpath.

It is an offence under Section 131A of the Highways Act 1980 to disturb the surface of a public footpath so as to render it inconvenient for the exercise of the public right of way. A plan is attached to show the legal alignment of the public footpath / bridleway recorded on the current definitive map.

4.10 The Environmental Health Officer (Contaminated Land) makes the following comments:

Comments on original submission

I have reviewed our records and would advise that, although supported by two ground investigation reports the information would be considered insufficient at this stage.

In more detail I would advise that:

1. Concerns regarding the proposed remediation of the site have been raised previously. The consultants acting on behalf of the developer have suggested using a capping/cover system on the site. High levels of nickel have been identified with a proposal to mitigate the risk through capping/cover system. However, determination of thickness of capping has been made using a methodology considered appropriate for marginally contaminated soils only and may not be considered suitable in this instance.

2. The remediation scheme would need to be protective over the lifetime of the development/property and also consider circumstances where occupiers may want to build extensions, ponds and the like. In these circumstances it is likely that contaminated soils will come to the surface. The developer/consultant should consider a number of feasible remediation options and evaluate them in terms of effectiveness, durability and long term maintenance issues etc. as outlined in CLR 11. As such, more detail is required regarding suitable remediation options.

3. The submitted reports are dated 2003 and 2007 and as such will need to be reviewed with more recent guidance in mind (for example, BS10175 which was updated in 2011 and the withdrawal of CLR 7 in 2008 with its associated soil guideline values referenced in the reports).

4. As the application includes the demolition of existing structures on the site, I would advise that these will require investigation and assessment in due course.

In conclusion, I would consider that insufficient information has been submitted to date. Further information should be provided by the applicant to demonstrate the risks to future residents can be reasonably mitigated to a satisfactory level and that the reports have been reviewed with more recent guidance in mind.

In response to additional information

I would recommend that, as the developer has demonstrated a commitment to addressing the outstanding contamination issues at the site (letter from Lioncourt Homes dated 5 October 2012) a condition should be appended to any planning approval to ensure the site is suitable for use.

For reference, an example of a suitable condition can be found below:

1. 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.

2. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the 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.

5. Representations

5.1 Holmer and Shelwick Parish Council make the following comments:

A large proportion of this site is allocated as an employment site within the UDP and the parish would like to see this protected to maintain sustainability as this is one of the few employment sites in the parish.

The Developers have had a lock out agreement with the site owner via the Estate Agent not to consider any potential commercial tenants who have shown an interest in the site.

During the Community led Plan process this site had been identified for use as a Doctors' surgery, Health Centre and Community facility. There are none of these facilities within the parish and to promote sustainability this site should be promoted.

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

This site has not been identified by the Authority to be included within the Strategic Housing Allowance Assessment.

The house designs that have been proposed do not sit within the rural setting and are considered boring. The characteristics of Attwood Lane are rural dwellings set behind brick walls and this has been ignored within the proposal.

It is indicated within the proposal that drainage would be via the Crest development which still has not got an adopted sewer. Crest Development have appealed to Ofwat not to adopt the sewers in the area and if the Local Authority are mindful to approve this application the Developers should be restricted not to commence until the sewers are adopted

Comments on amended plans:

Holmer and Shelwick Parish Council's objections to the above planning application have not been affected by the additional plans and heads of terms document submitted.

The site has been identified in the UDP as an employment site, and is more suited to industrial use rather than residential due to the nature of the contamination of the land. Due to the contamination it has been proposed that the gardens should be covered with 500 mm of topsoil, which would in turn lift the floor levels, the site has already been built up over the years with various fill material including nickel deposits (the contamination) which raises the ground approx 2 metres and therefore with the extra 500 mm would mean the houses would be 2.5 metres above the natural field level, effectively an extra storey. This would have a devastating effect on the landscape.

It is understood that the demand for houses at the Crest development has been less than anticipated, which supports the parish council's comments in respect of retaining employment land rather than increasing the residential stock.

5.2 Letters of objection have been received from:

- Julia Dalton, 17 Lytham Drive
- Kenneth Conner, 15 Turnberry Drive
- Pauline Jenkins, Court Orchard, Attwood Lane
- Jonathan Collier, Attwood Croft Attwood Lane
- Sara Connor, Wychways, Attwood Lane
- Hemming Family, Attwood Court, Attwood Lane
- C K Trencham, 2 Turnberry Avenue
- E Jenkins, 9 Wentworth Park
- Mr Garrett, 4 Belfry Close

These letters can be summarised as follows:

- Ongoing problems with drainage in the area that have not yet been resolved;
- Outstanding OfWAT appeal that means that drainage in the area has not been adopted by Welsh Water;
- Insufficient capacity on the drainage network;
- Too many new dwellings being built in one area;
- Attwood Lane is a rat run between Roman Road and A49 with high speed and high volumes of traffic. Additional traffic will add to this.
- Attwood Lane is in a poor state of repair
- Loss of industrial land – where are all the people going to work?
- Change in character of the area. Density of the development is too high

- Overlooking and loss of privacy from dwellings overlooking Attwood Court
- Impact upon wildlife

5.3 The consultation period in relation to the amended plans expires on the 20th November 2012 and any additional representations will be reported to the Planning Committee via the updates.

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

www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx

Internet access is available at the Council's Customer Service Centres:-

www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp

6. Officer's Appraisal

6.1 The key consideration in the determination of the application are as follows:

- 1) The Principle of Development
- 2) Loss of Employment Land
- 3) Landscape Impact
- 4) Layout and Design
- 5) Highway issues
- 6) Drainage Infrastructure
- 7) Other matters
- 8) Conclusion

The Principle of Development

6.2 The application site lies within the defined settlement boundary and thus Saved Policy H1 of the Unitary Development Plan (UDP) is relevant. This policy is clear that residential development will be permitted within settlement boundaries where compatible with the development plan.

Loss of Employment Land

6.3 It is acknowledged that approximately 0.49 hectares of the site is protected for employment uses under Saved Policy E5 of the UDP but also that the site has not been used for some time for this purpose. The Head of Strategic Plans and Regeneration has considered this issue in detail and concludes that whilst the residential development of the larger part of the application site is contrary to the current development plan, this is an appropriate location for housing. Furthermore it is considered that the loss of 0.49 hectares of employment land would not be to the detriment of the County's overall supply of employment land. This stance on the loss of employment land is reinforced by the evidence base underlying the Core Strategy, as the 2010 study of employment land requirements provides no basis for emerging policy to maintain the application site's protected status.

Landscape Impact

6.4 The site is located on the very northern edge of Holmer, to the north of Hereford and is, as identified in the Conservation Manager's comments an important transitional site between the urban and rural edge of Hereford. The application site is previously developed land, and the existing large industrial buildings and associated structures together with the unmaintained landscape boundaries are not attractive features. The development of this site represents an opportunity to improve the visual amenity of the locality in general. Notwithstanding this the introduction of dwellings in this location will have a visual impact and this needs to be considered having regard to policies LA2 and LA3 of the UDP. The scheme has been

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amended and improved upon during the course of the application, with additional information in respect of site levels and boundary treatments being clarified. The dwellings adjacent to the northern boundary of the site have been reduced significantly in height and garages reoriented and reduced in height to improve their visual impact and to ensure that appropriate planting can be undertaken within the application site. This is particularly important when taking into account the significant difference in levels from the site to the agricultural land beyond.

- 6.5 The development is considered, in landscape terms, to be a high density scheme for an edge of city location and the boundaries will still present a new, built up edge in views across the open rural valley from the north and east and along the public footpath to the south. The proposed landscaping will take time to establish, and conditions are recommended in respect of the implementation and management of these to ensure its long term retention. This impact and mitigation needs to be weighed against the existing brownfield site conditions and employment allocation which are not considered to make a positive contribution to the landscape character or wider area. The Conservation Manager (Landscape) has considered the revised scheme and details and although acknowledging that the development will have an impact, confirms that there is no landscape objection to this proposal overall, subject to the imposition of appropriate conditions. Having regard to this, the proposal would represent a form of development that would comply with the requirements of policies LA2, LA3, LA5 and LA6 of the Unitary Development Plan.

Layout and Design

- 6.6 The proposed scheme has been amended twice as part of this process in order to address concerns raised in respect of landscape impact, highway design and layout and the siting of the affordable dwellings within the development. The site is predominantly 4 bed detached family homes, located at the entrance to the site and to the north, with the three and two bed units being located to the east and west. The dwellings represent a mix of house types, utilising a variation of materials such as render and brick and roofing materials, the precise details of which would be secured by condition. Dwellings are all two storey. The dwellings to the north have been reduced in height, along with their garages, to minimise impact. The site layout introduces dwellings that front Attwood Lane, with landscaped boundaries to help retain the transition from the more urbanised part of the Lane towards the west and the more rural area.
- 6.7 The road layout is a mix of formal traditional highway and more informal road surfacing, with trees and frontage planting to provide interest within the public spaces. Garden sizes are considered to be commensurate with the size of dwellings with parking provided within the curtilage of nearly all dwellings, thus avoiding courtyard parking. The play area equipped with formal play equipment is sited to the northern boundary of the site, providing relief in the built form of this aspect of the development. The play area is accessible via the footways and the position of the dwellings nearby provide natural surveillance over it in line with best practice.
- 6.8 Unitary Development Plan policies DR1 and H13 along with section 7 of the NPPF emphasise the importance of good design both in terms of the architecture of the buildings, the function of public and private spaces and integration with the wider environment. Paragraph 60 of the NPPF highlights that planning authorities should not stifle innovation, originality or initiative in design and having regard to the requirements of these policies, the proposed amended layout and house designs are considered to be acceptable.

Highways Issues

- 6.9 The application submission was accompanied by a detailed transport assessment that identifies and addresses the sustainable location of the site. It also details the reasoning behind the traffic calming proposals that formed part of the initial scheme. These have subsequently been removed at our request, with a financial contribution being sort toward the

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provision of a footway only. It is considered that a footway from the site to meet with the existing footway that joins Roman Road is a necessary part of the development of this site, and that this is achievable, albeit with some constraints. Issues relating to traffic calming and alterations to Attwood Lane are being progressed with the Planning Obligations Manager and Highways, in consultation with the Ward member and Parish Council alongside other appropriate contributions that were received from the Crest Nicholson site at The Furlongs. It was agreed that this would be a more appropriate mechanism for dealing with these proposals and that a comprehensive approach is needed.

- 6.10 The concerns of local residents about 'rat running' are acknowledged, and it is evident that this does occur through the figures and survey produced. Nonetheless the Traffic Assessment demonstrates that Attwood Lane is capable of accommodating additional traffic from this development and there is no objection to this in principle. The site is "previously developed" with lawful uses that generated significant traffic movements, that would have included lorries and vans rather than domestic vehicles and this is a particularly relevant material consideration in the determination of this application. The comments of local residents in respect of traffic generation have been considered and the above additional data in respect of trip generation details a comparison in relation to the former use of the use (and its allocation) and demonstrates that there would not be a significant increase in traffic using the local road network. The proposal would comply with the requirements of policy DR3 of the UDP.
- 6.11 The design and layout of the development has included parking for the development at a near maximum provision, with two off road spaces, plus a garage for each of the four bed dwellings, and two spaces per unit for the three and two bed units. These garages are above standard size, ensuring space within for cycle storage (3m x 6.1m). As such this would meet with parking standards for the site in accordance with the requirements of policy H16 of the Unitary Development Plan.

Drainage infrastructure

- 6.12 The application included a drainage strategy that outlined the options for the developer and concludes that after negotiation with Crest Nicholson, the most appropriate drainage solution for this site would be a connection of both foul and storm drainage into the Crest Nicholson infrastructure associated with their 300 house development (known as The Furlongs) This is then pumped to the adopted pumping station on Roman Road which forms part of the adopted drainage network falling under the jurisdiction of Welsh Water. The new drainage network is also subject to a Section 104 Adoption Agreement with Welsh Water which is a contractual agreement for the new drainage infrastructure to be adopted. Technical information was provided as part of the Crest Nicholson applications on the adjoining sites. This demonstrated that the new network including the pumping station have adequate capacity to accommodate the development. The applicant also acknowledges that the key deciding factor to this decision were due to necessary technical and design considerations that had already been taken into account by the Crest design, that the solution was available for implementation and the amount of disruption within Attwood Lane was minimised. In refusing a recent application the Council has acknowledged that the lack of an adopted sewage system renders further residential development unacceptable. Notwithstanding this, it remains the case that Welsh Water raises no objection subject to conditions, including those requiring that no surface water is discharged to the public drainage system and that the detailed drainage scheme is agreed prior to the commencement of development.
- 6.13 This links to a key issue that is raised in representations by local residents. This concerns the adoption of the historic drainage network serving the nearby residential estate constructed in the 1990's and until very recently was maintained by Crest Nicholson. Whilst it was previously the case that the new drainage network connected to an unadopted section via a short length of pipe the position has now fundamentally changed since the responsibility for maintaining the system is now vested in Welsh Water following the withdrawal of Crest Nicholson's appeal

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to Ofwat. It therefore remains the case that to refuse the application on the basis of either inadequate drainage capacity and/or the lack of adopted network would be difficult to defend if challenged.

Other matters

Affordable Housing

6.15 The application makes provision for 35% of the dwellings to be affordable housing. The position of these dwellings has now been agreed with the Strategic Housing Officer. Of those Affordable Housing units, at least 6 shall be made available for rent with the remainder being available for either rent of intermediate tenure occupation. This tenure will be agreed via the Section 106 Agreement as would the local connection tenancy. Accordingly the proposal would comply with the requirements of policy H9 of the Unitary Development Plan.

6.16 Section 106 Agreement

Attached to this report is the latest and updated Section 106 Draft Heads of Terms. This provides details of the contributions payable towards the provision of new, and enhancement of existing community infrastructure in line with the adopted Planning Obligations Supplementary Document. This includes education, sustainable transport, off site play and sport and library contributions. The applicants have, at this stage, registered their concern about the viability of the site and have submitted a viability report which may need to be verified independently by the District Auditor is under consideration by the Planning Obligations Manager. The outcome of this, including an update in relation to a stated preference for financial contributions towards Holmer Primary School will be reported to Committee.

Biodiversity

6.17 An ecological survey has been completed concludes that there was no evidence of protected species found during recent surveys. The survey recommends enhancements, including planting to be undertaken. A condition is recommended that would ensure that these are undertaken and that the proposal would comply with the requirements of policies NC1 and NC8 of the Unitary Development Plan and guidance contained within chapter 11 of the NPPF.

Open Space Provision

6.18 In line with the requirements of policy H19 of the UDP an on-site equipped play area has been provided. Details of this equipment are to be finalised by condition. This policy also requires older children informal play space. An off site contribution for this element has been negotiated, and is detailed in the comments form the Parks and Countryside Manager above and within the Heads of Terms appended to this report.

Residential Amenity

6.19 The site has attracted a number of objections, one of which relates to the impact and loss of amenity to Attwood Court. This is the property to the west of the application site. This site is in an elevated position, and there are is a significant landscape boundary to the front portion of the site that is not within the site boundary and that would continue to provide a significant screen between units 7 to 12 and Attwood Court. The dwellings to the rear of the site have been orientated in such a way that they avoid overlooking and loss of amenity. A landscape boundary is proposed, with close board fence, the majority of trees are in the ownership and control of Attwood Court, and care will need to be taken during construction to protect these (identified in the planting plan). Officers are satisfied that the proposed development would not adversely impact upon the amenities that Attwood Court or any other nearby residents enjoy, and would note that a residential use is likely to be a much more neighbourly use that the

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existing industrial use. As such the proposal would comply with the requirements of policies DR2 and H13 of the Unitary Development Plan. To protect amenity during construction, a working hours condition is also recommended.

Contaminated Land

- 6.20 The site has been identified as having significant contamination as evidenced by the comments from the Environmental Health Manager above. In response to this, the applicant has submitted details committing to reviewing and updating the reports submitted with the application in line with current guidelines including asbestos screening. A tailored remediation strategy would then be developed and submitted that may require a cover layer system. This remedial solution is intended to be flexible so as to adapt to findings within the site and allow for relocation or removal from the site as necessary. The Environmental Health Manager is agreeable to this approach and recommends conditions be imposed. As levels across the site may change to address these issues, a condition requiring slab levels is proposed. As such, officers are satisfied that with the appropriate conditions, the contamination can be addressed and that the proposal would, therefore comply with policy DR10 of the Unitary Development Plan.

Housing Land Supply and the National Planning Policy Framework

- 6.21 The Council has acknowledged that it is unable to demonstrate a 5 year supply of deliverable housing land. Paragraph 17 of the NPPF encourages the effective use and development of brownfield sites, that are located in sustainable locations, in preference to greenfield sites. The development of this site would support the Councils requirement to deliver housing growth in accordance with the NPPF requirements.

Conclusion

- 6.22 The proposed development has been carefully considered in respect of the saved policies of the UDP and in respect of the guidance contained within the NPPF. Whilst the site is partly allocated as an employment site, officers are satisfied that there is no reasonable prospect of this site coming forward for that purpose, and that, given the predominantly residential context of the locality, it would be a suited to and arguably more appropriate for residential development. Also relevant to this is the Councils current lack of housing land which is specific requirement of the National Planning Policy Framework.
- 6.23 The detailed design and layout of the proposed scheme, coupled with the inclusion of planting and landscaping proposals and having regard to the existing deleterious condition of the site would result in a built form that would be acceptable in respect of its landscape impact and its relationship with the neighbouring properties. Matters relating to highway safety have been carefully considered and no objection is raised subject to ensuring the provision of a footway by way of a financial contribution. As such, the proposal is considered to be acceptable subject to the imposition of conditions and a Section 106 agreement and is therefore recommended for approval.

RECOMMENDATION

That subject to final clarification in relation to the acceptability of the proposed S106 Obligation terms, officers named in the scheme of Delegation to Officers be authorised to grant planning permission subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**

3. **B07 Section 106 Agreement**
4. **C01 Samples of external materials**
5. **K4 Nature Conservation - Implementation**
6. **G11 Landscaping scheme - implementation**
7. **G15 Landscape maintenance arrangements**
8. **G18 Provision of play area/amenity area**
9. **G19 Details of play equipment**
10. **H11 Parking - estate development (more than one house)**
11. **I50 Measures to deal with soil contamination**
12. **I55 Site Waste Management**
13. **I51 Details of slab levels**
14. **L01 Foul/surface water drainage**
15. **L02 No surface water to connect to public system**
16. **L03 No drainage run-off to public system**
17. **L04 Comprehensive & Integrated draining of site**
18. **F14 Removal of permitted development rights**
19. **I16 Restriction of hours during construction**
20. **H27 Parking for site operatives**
21. **M09 Land affected by contamination**
22. **H11 Parking estate development**
23. **H13 Access, turning area and parking**
24. **H18 On Site roads – submission of details**
25. **H21 Wheel Washing**
26. **H26 Access Location (from A4103 only)**

Informatives

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy**

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Framework.

- 2. HN10 No drainage discharge to highway**
- 3. HN08 Section 38 Agreement and Drainage details**
- 4. HN07 Section 278 Agreement**
- 5. HN04 Private Apparatus within the highway**
- 6. HN1 Mud on the highway**
- 7. HN28 Highways design guide**
- 8. HN13 Protection of visibility splays on private land**
- 9. HN05 Works within the highway**

Reason for Approval

- 1. The application site lies within the urban settlement of Hereford City, within which residential development is supported by policy H1 of the UDP. Whilst the site is allocated as an employment site, the Local Planning Authority is satisfied that there is no reasonable prospect of this site coming forward for that purpose, and that, given the predominantly residential context this would be a suitable site for residential development. As such the proposal would comply with the requirements of policy H1 and the guidance contained within the NPPF.**

The detailed design and layout of the proposed scheme, coupled with the inclusion of planting and landscaping proposals would represent a form of development that would be acceptable in respect of landscape impact, design and layout in accordance with policies DR1, H13, LA2, LA3 and LA6 of the UDP.

The developments relationship with neighbouring properties has been considered and subject to ensuring that landscaping and boundary treatments are undertaken, the proposal is considered to be acceptable in accordance with the requirements of policies DR2 and H13 of the UDP.

The proposed development would not adversely impact upon the local highway network in terms of capacity or highway safety. The site lies in a location that is considered to be sustainable, with good access to alternative means of transport and the proposal makes provision of a new footway to serve the development and provide connectivity with Roman Road. As such the proposal is considered to comply with the requirements of policy DR3 of the UDP.

It is considered that the proposed development, subject to a condition, can be served by an acceptable and adopted drainage system in accordance with policy DR4 and CF2 of the UDP.

Provision has been made, through a Section 106 agreement or the appropriate contributions having regard to the requirements of policy DR5 and the SPD – Planning Obligations. The appropriate affordable housing provision and play space provision has also been provided and secured by way of the Section 106 agreement in accordance with Policies H9, H19 and DR5 of the UDP.

HEADS OF TERMS

PROPOSED PLANNING OBLIGATION AGREEMENT

Section 106 Town and Country Planning Act 1990

Planning Application S121554/F

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1st April 2008. All contributions in respect of the residential development are assessed on open market units only.

Demolition of existing building and erection of 34 dwellings (22 x open market dwellings and 12 x affordable dwellings) and garages together with roads, sewers and associated external works on land off Attwood Lane, Holmer Park, Hereford (Lioncourt Homes)

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£109,915.00** to provide enhanced educational infrastructure at North Hereford City Early Years, Broadlands Primary School, St Xavier Primary School, Hereford City Youth Service with 1% allocated for Special Education Needs. The sum shall be paid on or before the commencement of the development (or in accordance with a phasing strategy to be agreed), and may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£73,960** to provide a sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development (or in accordance with a phasing strategy to be agreed), 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:
 - 2.1. Traffic calming and improved signage
 - 2.2. Localised highway improvements including a footpath from Attwood Lane to Roman Road
 - 2.3. Contribution to Safe Routes for Schools
 - 2.4. Public and community transport facilities, including improved bus service
3. The developer covenants with Herefordshire Council to pay Herefordshire Council a sum to be agreed to provide localised highway improvements to include a footpath along Attwood Lane from the development site to the Roman Road, which sum shall be paid on or before the commencement of the development (or in accordance with a phasing strategy to be agreed), and may be pooled with other contributions if appropriate.

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4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum **£8,576** off site contribution to Older Children's Play Area (or connection to) and **£18,522** for sports (contribution based around the requirements of policy H19 and RST4 of the UDP and Sport England Sports Facilities Calculator).
5. The money shall be used by Herefordshire Council for priorities identified in the Indoor Sports Facilities Strategy, the emerging Play Facilities Strategy and emerging Playing Pitch Strategy including but not limited to the provision of new open space, play, sport and recreational facilities including new green routes/infrastructure in Hereford City principally at Aylestone Park. The sums shall be paid on or before the commencement of development (or in accordance with a phasing strategy to be agreed), and may be pooled with other contributions if appropriate.
6. The developer covenants with Herefordshire Council to pay Herefordshire Council a 15 year commuted sum for the future maintenance of the on-site open space and play facilities assessed against the tariff applicable at the time of adoption.
7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£5216.00** towards the provision of enhanced Library facilities. The sum shall be paid on or before the commencement of the development (or in accordance with a phasing strategy to be agreed), and may be pooled with other contributions if appropriate.
8. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£2760.00** towards the provision of new or the enhancement of existing waste and recycling facilities in Hereford City if appropriate provision/facilities are not provided on site. The sum shall be paid on or before the commencement of the development (or in accordance with a phasing strategy to be agreed), and may be pooled with other contributions if appropriate.
9. The developer covenants with Herefordshire Council that twelve (12) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework 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 (6) shall be made available for rent with the remainder being available for either rent of intermediate tenure occupation. For the avoidance of doubt, the term intermediate tenure shall not include equity loans or affordable rent.
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 at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency)

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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 11 & 12 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 whom has:-
- 13.1. a local connection with the parish of Hereford City; or
 - 13.2. in the event of there being no person with a local connection to any of the above parish any other person ordinarily resident within the administrative area of the 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 11.1 above.
14. For the purposes of sub-paragraph 11.1 or 11.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
- 14.1. is or in the past was normally resident there; or
 - 14.2. is employed there; or
 - 14.3. has a family association there; or
 - 14.4. a proven need to give support to or receive support from family members; or
 - 14.5. 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 such 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

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

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 sums 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.

31 October 2012

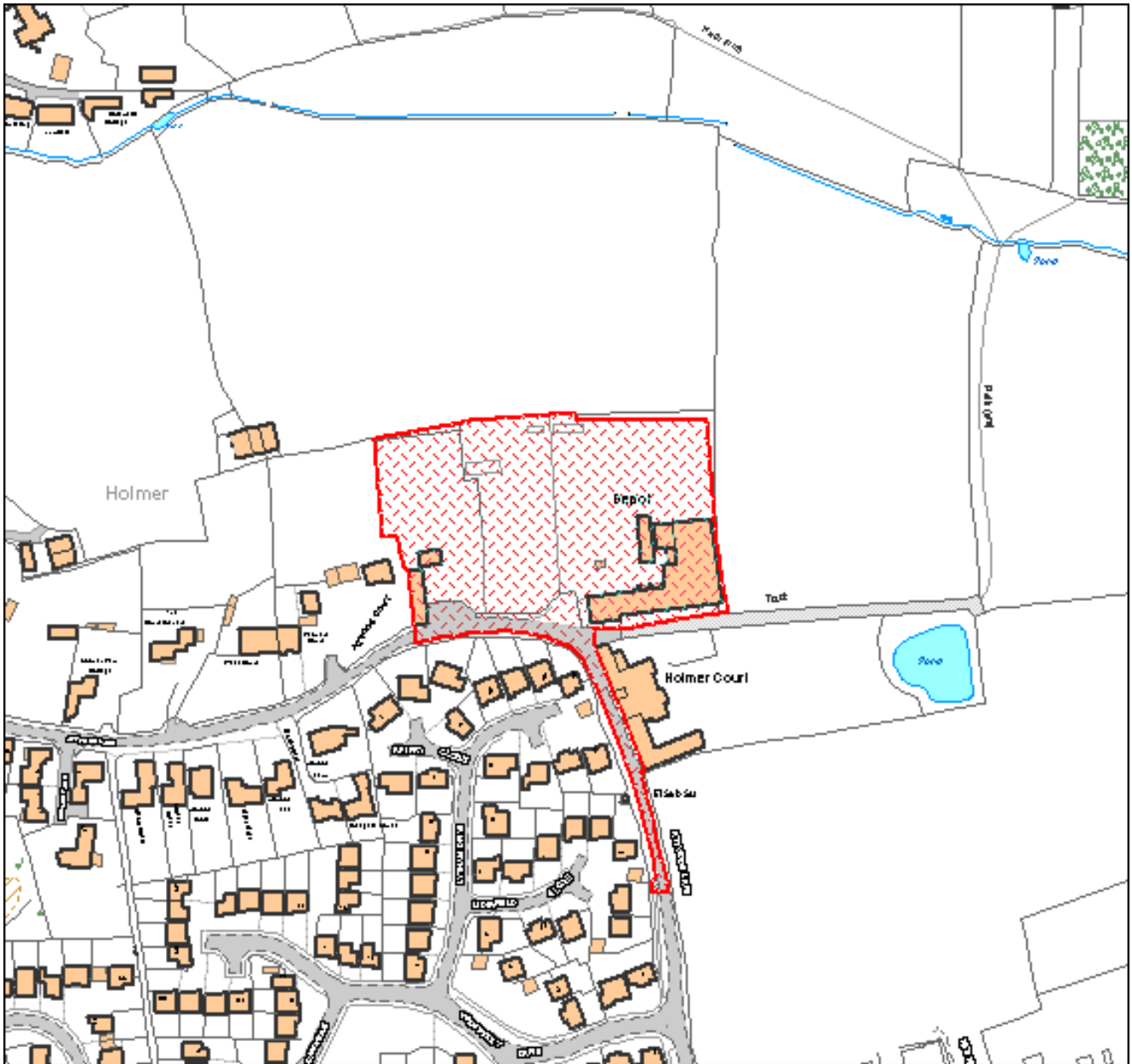
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: S/121554/F

SITE ADDRESS : FORMER POMONA WORKS, ATTWOOD LANE, HOLMER, HEREFORD

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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781



MEETING:	PLANNING COMMITTEE
DATE:	19 DECEMBER 2012
TITLE OF REPORT:	<p>S122234/F - VARIATION OF CONDITION 5 OF PLANNING PERMISSION HC930262PF, TO ALLOW TEMPORARY OCCUPATION BY NEXT RETAIL LTD AT UNIT 3, SALMON RETAIL PARK, HOLMER ROAD, HEREFORD, HEREFORDSHIRE HR4 9SB</p> <p>For: Next Group Plc per Roger Tym & Partners, 3 Museum Square, Leicester, LE1 6UF</p>
WEBSITE LINK:	http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122234&NoSearch=True

Date Received: 8 August 2012

Ward: Three Elms

Grid Ref: 350669,241372

Expiry Date: 3 October 2012

Local Members: Councillors PA Andrews, EMK Chave and C Nicholls

1. Site Description and Proposal

- 1.1 Planning permission is sought for the variation of condition 5 of planning permission HC93/0262PF/E to allow temporary occupation of Unit 3, Salmon Retail Park, Holmer Road, Hereford by Next. Next proposes that its occupation of the premises would cease once their intended new premises on the former cattle market is available. It is anticipated that trading from the new premises will commence in 2014. The application is thus intended to allow Next to continue trading in Hereford during the period between the vacation of the existing store in Maylord Orchards and the opening of the new one.
- 1.2 The application site is located immediately east of the A49. Unit 3 is one of three retail units forming part of Salmon Retail Park, which itself forms part of a larger out-of-centre bulky goods retail area extending along Holmer Road and including B&Q, Comet, Halfords, Maplin, Hobbycraft and Dunelm.
- 1.3 The unit has part brick, part box profile sheet elevations and is orientated towards the A49. Access is gained via an unclassified road that runs parallel with the A49 and serves a customer parking area to the front (west) that is shared with the other two units forming part of the park. Service delivery access lies to the rear.
- 1.4 The unit extends to 1,114sq.m. gross (ground floor), with a further 544sq.m trading floor space at mezzanine level. It was formerly occupied by Dunelm. The two adjoining units are 'Dreams' Beds and 'B&M Homestores'.
- 1.5 Condition 5 of planning permission HC/930262/PF/E restricts the categories and range of goods that can be sold from the units on Salmon Retail Park. The condition acts to restrict the retail offer to non-food bulky goods comparison retailing. This application seeks to vary the condition on a temporary basis to enable Next to trade from the unit on a temporary basis.

Further information on the subject of this report is available from Mr Andrew Ashcroft on 01432 383098

- 1.6 The application is accompanied by a S.106 Agreement that confirms the intention to vacate the unit as soon as trading is possible from the new unit on the former cattle market site. The application confirms that other prospective town centre sites, including the former Chadds Department Store, existing Peacock's store and the unoccupied unit adjoining Wickes DIY on Widemarsh Street, have been assessed.

2. Policies

2.1 National Planning Policy Framework:

2.2 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S2	-	Development Requirements
TCR1	-	Central Shopping and Commercial Areas
TCR2	-	Vitality and Viability
TCR9	-	Large Scale Retail and Leisure Development Outside Central Shopping and Commercial Areas
TCR20	-	Eign Gate Regeneration Area
DR3	-	Movement

- 2.3 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Councils website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

3. Planning History

- 3.1 HC93/0262/PFE - Site for the erection of 3 no. retail stores with associated parking and access. Approved subject to condition 5, which restricted the nature of goods sold
- 3.2 CW100741/F - Variation of condition 5 of HC93/0262/PFE. This application related to the 'B&M Homestore'. The application was approved subject to the re-imposition of the original condition, alongside a second condition permitting the sale of specific non-bulky goods over no more than 150sq.m of the total net floor space.

4. Consultation Summary

Statutory Consultations

- 4.1 None required.

Internal Council Advice

- 4.2 Traffic Manager: No objection
- 4.3 Environmental Health Manager: No objection

5. Representations

- 5.1 Hereford City Council: No objections provided it is a temporary permission.
- 5.2 Hereford Futures: Objection.

The development plan sets out a very clear retail hierarchy focused upon the central shopping and commercial area of Hereford, with capacity for growth being directed towards the Eign Gate Regeneration Area (EGRA). The retail redevelopment on the old livestock market is

underway and should be ready for occupation in Spring 2014. In this context it is vital that the established and well-founded planning control on out-of-centre locations is strictly maintained, to both retain a strong focus on the city centre, and maintain investor confidence in the EGRA. The application, if approved, would permit comparison shopping (fashion) which should be focused in the city centre.

There is no assessment of the impact of Next's withdrawal from a city centre location.

The temporary relocation sought is not on a like for like basis. The 938m2 net sales space represents a 90% increase by comparison to their existing city centre site.

Notwithstanding the applicant's temporary aspirations, such a decision would risk creating a precedent in respect of other retailers seeking to trade from this property following their vacation in 2014 and/or at other locations outside the central area.

- 5.3 The consultation responses can be viewed on the Council's website by using the following link:-
www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx

Internet access is available at the Council's Customer Service Centres:-
www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp

6. Officer's Appraisal

- 6.1 The application raises a complex set of issues in relation to the short-term future of Next in Hereford, the implementation of the Old Livestock Market development and the implementation of retail planning policy.
- 6.2 As Committee members will be aware detailed contractual arrangements are now in place between Stanhope plc and a variety of future tenants for the development of the Old Livestock Market site. Next will occupy Units 11 and 12 of the new development – the contract between Next and Stanhope provides that Next will take a lease of and take possession of the new store on a date to be notified by Stanhope. Subject to delivery by Stanhope, it is anticipated that the store will be open by mid 2014.
- 6.3 Next currently occupy premises in the Maylord Centre. For a different set of contractual arrangements the Company is required to vacate these premises. On the basis of these two sets of circumstances the application proposes a short-term solution for the company in Hereford. This information is set out by way of context: Members are reminded that commercial and contract arrangements between organisations are not material planning consideration and as such should be given no weight in the determination of the current application. In particular Next as a company is required by its own contract with Stanhope to occupy Units 11 and 12 in the Old Livestock Market at an appropriate point in the future irrespective of the outcome of the application.
- 6.4 The application site is a modern retail unit in Salmon Park off the Holmer Road. It is currently vacant, and was formerly occupied by Dunelm Mill (and who have now moved to larger premises to the north in Spur retail park, also off Holmer Road). The Salmon Park site allows the sale of bulky, out of centre type goods, but restricts the sale of traditional city centre goods (including fashion). It is on this basis that Next need to submit this application.
- 6.5 Your officers consider that the application falls to be considered having regard to the following key issues:
1. The principle of the development/adopted retail planning policy.

2. The opportunities that exist for Next to find temporary accommodation in other locations within and around the city centre retailing core.
3. The economic issues associated with the on-going operation of a Next store in Hereford.

Principle of development

- 6.6 The application site lies approximately 1km to the north of Hereford City Centre. It is not within the city centre retail core area as identified in the Unitary Development Plan. Similarly the site cannot reasonably be described as falling within an edge of city centre location. It is located within an established out of city centre retail park catering (through a restrictive planning condition) for bulky and electrical goods. On this basis the application is contrary to the provisions both of the National Planning Policy Framework and the adopted Unitary Development Plan.
- 6.7 This conclusion on policy terms is agreed by all concerned. In mitigation Next have proposed a package via a Section 106 Agreement that seeks to recognise the very particular circumstances in which the company finds itself. The Agreement sets out to ensure that the application site is only occupied by Next Group plc and on a temporary basis until the Old Livestock Market unit is available for occupation. In summary this package would include:
- The relaxation of the restrictive retail planning condition on the unit until the earlier of either the expiry of any temporary planning permission or Next's occupation of Units 11 and 12 in the Old Livestock Market scheme.
 - Thereafter the retail planning condition on HC93/0262/PFE would re-apply to the property.
 - The agreement would also involve the owners of the retail park and the current lessor of the unit (to provide clarity to the commercial market and to identify the very special circumstances relating to the Next position).

Next has also indicated that it would be willing to have a condition attached to any planning permission restricting occupancy to its own use.

The opportunities that exist for Next to find temporary accommodation in other locations within and around the city centre retailing core

- 6.8 Your officers have asked Next to consider a range of alternative sites within the City Centre which might be available and as an alternative to considering out of centre destinations. This analysis has been submitted with the application.
- 6.9 Next and its agent have considered a series of alternative sites. Their starting point chosen for this assessment has been units of an equivalent size to the current units in the Maylord Centre (sales area 493sqm/total area 644sqm). On this basis the majority of units in Hereford do not provide this degree of floorspace – the historic nature of the city centre results in most stores being significantly smaller.
- 6.10 The company has dismissed the Peacocks units in Eign Gate (when its future was uncertain) and the former Chadds department store for a variety of reasons including its limited ground floor coverage, the extensive upgrading that would be required to the building itself and that the associated expenses would be disproportionate to the limited time of occupation proposed.
- 6.11 Next has also considered a vacant unit (Unit C) at the Brook Retail Park off Commercial Road. This unit benefits from unrestricted A1 use. The unit is in an area of large format retail activity and which includes stores operated by Lidl, Blockbuster and Pets at Home. Next has

discounted this unit on the basis that its insufficient size would result in the same operational difficulties experienced at its current store.

- 6.12 The Committee will come to its own conclusions on the rigour of this analysis of alternative locations. In doing so members will need to analyse whether Next's commercial desire to operate from premises of a particular size is reasonable, and link this to the commercial balance that Next will need to be strike between finding alternative premises and ensuring that the costs of temporary works are not disproportionate to the relatively short period of time proposed for occupancy.

Economic Issues

- 6.13 Next is one of the major retail outlets in Hereford, and is a major attractor in its own right. On this basis it has been seen as a key anchor unit in the forthcoming Old Livestock Market development.
- 6.14 The current store employs 39 people (32 part-time and 7 full-time) within the local area. The proposed temporary location at Salmon Park would employ 62 people (53 part-time and 12 full-time). The company advise that there would be a further increase on these numbers with its occupancy of the Old Livestock Market unit in 2014. The Committee will give the weight to these economic matters as they see fit in the circumstances of this case. The key element of the economic argument in relation to the current proposal is the retention of the existing 39 jobs that would otherwise be put at risk if Next were unable to find temporary accommodation between its vacation of its current unit and its move into the Old Livestock Market site.

Conclusion

- 6.15 This application raises several issues and which pull in different directions. On the one hand the application site is clearly in out of city centre location, and a policy based refusal would be an appropriate way forward. The city has benefited from a robust retail policy over many years, and this policy has indeed attracted support from the Inspector on other sites in Holmer Road.
- 6.16 On the other hand the application sets out a very specific set of circumstances in relation to Next's proposals for its continued operation in the city as it moves premises from its current location to Units 11 and 12 in the Old Livestock Market in due course. If the Committee is minded to approve the application the existing 39 jobs in the company would be safeguarded, and the city would continue to benefit from local accessibility to Next's retail offer (albeit in an out of centre location).
- 6.17 Next argue that there are no alternative sites that perform better in sequential terms that the application site. Members will come to their own conclusions on the matter. However it is clear that there are major issues in finding suitable alternative premises of an appropriate and equivalent size to the current premises and where the cost of repair/refurbishment would not be either unreasonable or disproportionate to the temporary period concerned.
- 6.18 On balance your officers recommend that temporary planning permission is granted for the proposal. Particular issues that have influenced this recommendation include the economic benefits of Next operating in a continuous way in the City, the economic benefits of safeguarding the existing jobs at the company and the difficulties in sourcing alternative premises either in the city centre or in edge of centre locations. Additionally the granting of a temporary permission would reflect the very special circumstances of the case, and should be seen as being within the wider context of Next's eventual occupation of a bespoke unit in the Old Livestock Market.

- 6.19 The recommendation for the granting of a temporary planning permission would need to be associated with a very restrictive set of conditions and a Section 106 Agreement. A summary of the proposed agreement is set out as an appendix to this report. A condition is proposed restricting the temporary planning permission until the end of August 2014. On the basis of the anticipated building programme for the Old Livestock Market site, Next will have vacated the application site before this date (and as required by the Section 106 Agreement). A further condition is also proposed making the permission personal to Next. Whilst this approach is unusual, it is appropriate to do so in the circumstances of the case. Finally a condition is also proposed requiring the temporary permission to be implemented within six months of the granting of planning permission.

RECOMMENDATION

Subject to the satisfactory completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms appended to this report, planning permission be granted subject to the following conditions.

1. A01 Time limit for commencement (six calendar months)

Reason: As required to be imposed by Section 91 of the Town and Country Planning Act 1990 and to reflect the particular circumstances of the application.

2. This permission shall expire on 29 August 2014

Reason: To reflect the particular circumstances of the application and to safeguard the vitality and viability of Hereford City Centre in accordance with Policies TCR1 and TCR2 of the Herefordshire Unitary Development Plan.

3. The planning permission shall enure for the benefit of the applicant, Next Group plc only and shall not enure for the benefit of the land. The use shall also enure only so long as the applicant, Next Retail Limited, occupies the premises, or up to and including the date indicated in Condition 2 of this permission, whichever is the sooner. At the point at which Next Retail Limited vacate the premises the sale of goods from Unit 3 will be as dictated by Condition 5 of planning permission HC/930262/PFE.

Reason: The nature of the development is such that it is only considered acceptable in this location having regard to the applicant's special circumstances in order to protect Hereford's Central Shopping and Commercial Areas in accordance with Policies TCR1 and TCR2 of the Herefordshire Unitary Development Plan.

Reasons for Approval

- 1. The planning permission reflects the very special circumstances faced by the applicant, Next Retail Limited. The company is unable to continue to trade from its current premises in the Maylord Centre up to the point at which it will be able to move into the Old Livestock Market development.**
- 2. The company has carried out a search of other potential temporary premises. None of these are acceptable for a variety of size and refurbishment costs that would be disproportionate to the proposed period of occupancy.**
- 3. The associated planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 will provide the appropriate control to ensure that Next vacate the application premises at the sooner or either the expiry of the temporary**

planning permission or its occupancy of Units 11 and 12 of the Old Livestock Market development.

4. Subject to the tight controls set out in the proposed conditions and the Section 106 Agreement the Councils considers that the circumstances of the application and the material planning considerations involved as sufficient to outweigh the normal application of national and local retail planning policies.

Informative:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

Heads of Terms
Proposed Planning Obligation Agreement

Obligation of the Landowner, the Tenant and the Applicant

1. Obligation to cease selling specified goods within Class A1 and permit sale of goods authorised by the 1993 Permission only

1.1 The Landowner, the Tenant and the Applicant covenant with the Council that following the earlier of:

1.1.1 the date of expiry of the Planning Permission; and

1.1.2 the date of first occupation by the Applicant for trading to the public of the Next Old Livestock Market Unit

they shall not permit the following types of goods within Class A1 to be sold from the Site:

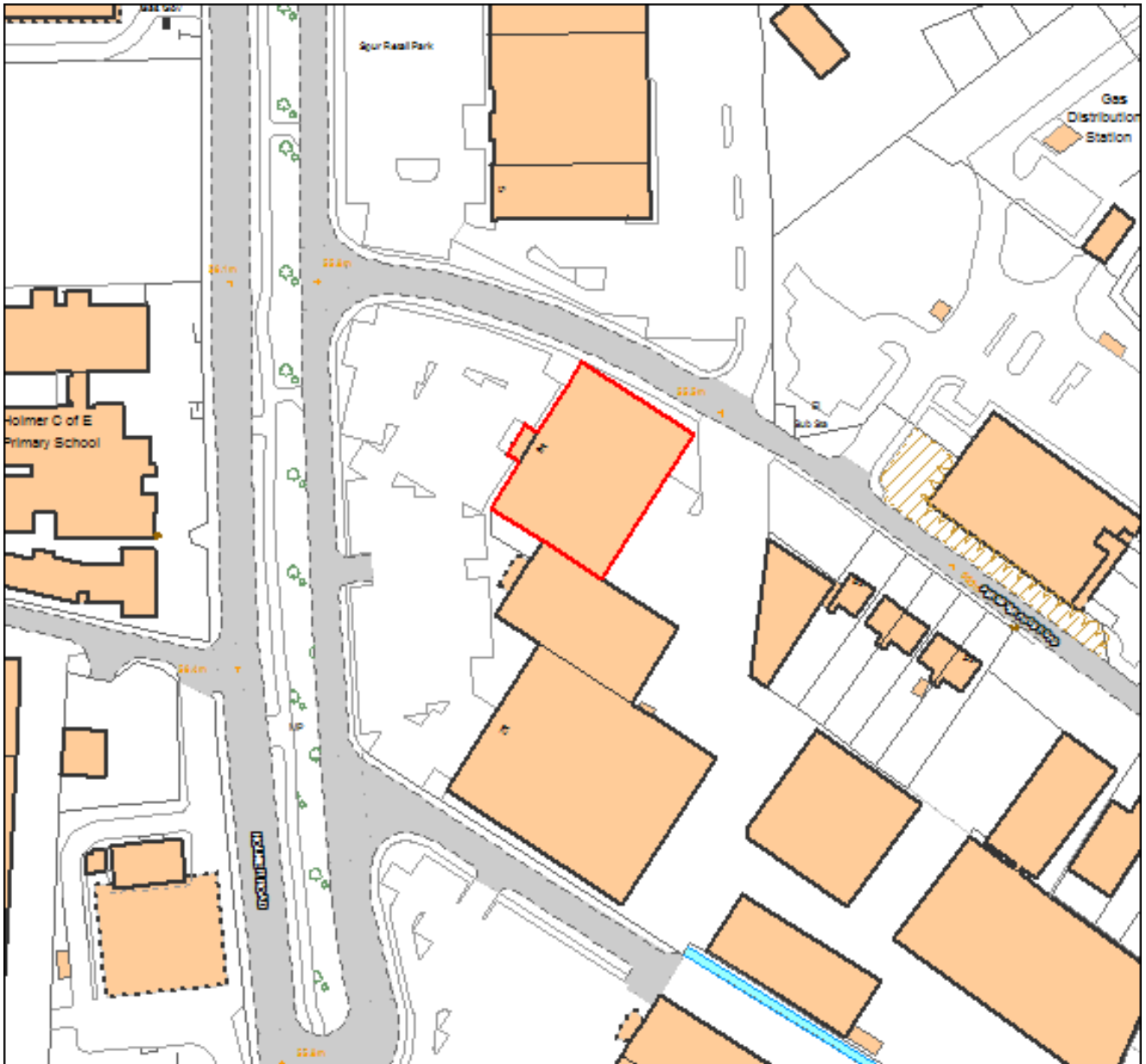
- Clothing and footwear
- Cutlery, crockery and glassware
- Sports goods equipment and clothing
- Jewellery, clocks and watches and fancy goods
- Cosmetics and toiletries

1.2 The Landowner, the Tenant and the Applicant covenant with the Council that following the earlier of:

1.2.1 the date of expiry of the Planning Permission; and

1.2.1 the date of first occupation by the Applicant for trading to the public of the Next Old Livestock Market Unit

they shall permit only the types of goods within Class A1 authorised by the 1993 Permission to be sold from the Site.



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APPLICATION NO: S/122234/F

SITE ADDRESS : UNIT 3, SALMON RETAIL PARK, HOLMER ROAD, HERFORD, HERFORDSHIRE, HR4 9SB

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MEETING:	PLANNING COMMITTEE
DATE:	19 DECEMBER 2012
TITLE OF REPORT:	S122572/F - PROPOSED NEW BUNGALOW AT LAND AT THE PARKS, BROCKHAMPTON, HEREFORD, HR1 4SD For: Mr & Mrs Hope per Mr Nigel Teale, Bramble Farm, Naunton, Upton Upon Severn, Worcestershire, WR8 0PZ
WEBSITE LINK:	http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122572&NoSearch=True

Date Received: 14 September 2012 **Ward: Old Gore** **Grid Ref: 359565,232219**
Expiry Date: 16 November 2012
Local Member: Councillor BA Durkin

1. Site Description and Proposal

- 1.1 The application site is located in open countryside and outside of, and a significant distance from, any designated main village or smaller settlement identified under Unitary Development Plan policies H4 or H6. The nearest designated settlement is Fownhope, some 5.1 km (3.2 miles) away. This location is within the Wye Valley Area of Outstanding Natural Beauty. The site comprises the residential curtilage associated with the existing dwellings known as The Parks Cottages. In this area, which is open in nature, the development pattern is isolated and sporadic and comprises individual dwellings, the notable exception being Brockhampton Court, a substantial residential care home. Access is achieved from the C1272 via a track which serves four existing residential properties and agricultural land. This lane also forms part of a Public Right of Way.
- 1.2 The proposal is for the erection of a single storey dwelling and provision of associated curtilage to meet the personal needs of the applicant's. The dwelling measures 14.9 x 10.4 metres in plan with an integrated car port measuring an additional 4.0 x 6.5 metres located on the east elevation. The maximum ridge height is 5.3 metres and the proposal has an eaves height of 2.7 metres.

2. Policies

2.1 National Planning Policy Framework (NPPF)

- The presumption in favour of sustainable development – Resistance to residential development within AONB's – para 14
- Core planning principles – Design quality – para 17
- Delivering a wide choice of high quality homes – Sustainable rural development – Chapter 6 paras 49, 55
- Requiring good design – quality, context and local character and distinctiveness – Chapter 7 paras 58, 60, 61, 64
- Conserving and enhancing the natural environment – protected landscapes – paras 109, 115

Further information on the subject of this report is available from Mr C Brace on 01432 261947

- Determining applications – determination in accordance with the approved plan unless material conditions indicate otherwise – para 196

2.2 Herefordshire Unitary Development Plan (HUDP):

S1	-	Sustainable development
S2	-	Development requirements
DR1	-	Design
DR2	-	Land use and activity
DR3	-	Movement
H4	-	Main villages
H6	-	Smaller settlements
H7	-	Housing in the countryside outside settlements
H10	-	Rural exception housing
H13	-	Sustainable residential design
T8	-	Road hierarchy
LA1	-	Areas of Outstanding Natural Beauty
LA2	-	Landscape character and area least resilient to change

2.3 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Councils website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

3. Planning History

3.1 None

4. Consultation Summary

Internal Council advice

4.1 The Transportation Manager makes no objection.

4.2 The Council's Senior Landscape Officer requires that the dwelling is built of stone in order to properly reflect the local character, and that boundary treatments are appropriate to this rural and sensitive location.

4.3 The Council's PROW Officer has no objection.

5. Representations

5.1 Brockhampton Parish Council supports the proposal and although acknowledging it is contrary to policy sets out the following grounds of support and their considered opinion for an exception in this case –

- The application is made by a family who have resided in the parish their whole lives and have contributed significantly on a community level
- The applicant's needs can not be met through adaptation of their existing home
- No suitable properties exist in the parish to meet their personal needs
- The proposal is modest in scale
- The proposal would not adversely affect the locality

5.2 Eight letters of support have been received from local residents, most of which take the form of character references for the applicant. Comments regarding planning matters are summarised as –

Further information on the subject of this report is available from Mr C Brace on 01432 261947

- The proposal provides essential space and facilities allowing a family to remain together
- The proposal will not impact upon third parties
- The applicant's existing accommodation can not be converted to meet their essential requirements

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

www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx

Internet access is available at the Council's Customer Service Centres:-

www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp

6. Officer's Appraisal

- 6.1 The most significant local plan policy applicable to this application is H10 which allows for individual affordable houses and requires that these are within or adjoining an established rural settlement. This policy applies to settlements which are not specifically designated in policies H4 – Main Villages, or H6 – Smaller Settlements and which have some facilities. It is expressly stated that *'it is not the intention of the policy to allow isolated new housing in the countryside'*.
- 6.2 The application site and its environs are divorced from, and have no physical connecting relationship, with any settlement whether designated or not. The immediate locality is not considered to be capable of being described as an established rural settlement in its own right, and is simply in terms of development pattern, a small number of isolated and sporadic dwellings located, in the main, with a road frontage. There are no facilities or services in close proximity of the site.
- 6.3 Given this, the proposal is not considered to represent a sustainable form of development and in terms of location criteria is contrary to local plan policy.
- 6.4 The NPPF puts sustainable development at its core and recognises three dimensions to this. The environmental dimension outlines how development and decision making should contribute to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.
- 6.5 Furthermore the NPPF clearly states that there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. The granting of planning permission should occur unless specific policies in the Framework indicate development should be restricted.
- 6.6 To promote sustainable development in rural areas, the NPPF advises that housing should be located where it will enhance or maintain the vitality of rural communities which includes supporting existing local services. As already outlined the site is not located in a sustainable location, it not being part of an existing settlement and having no services or facilities readily available. In addition Footnote 4 paragraph 14 of the NPPF confirms that sites within Areas of Outstanding Natural Beauty fall outside those areas where the presumption in favour of development applies and indeed is a location where development should be restricted or resisted. As such the proposal is contrary to the core principles of the NPPF.

Need

6.7 The application is advanced on the basis of the specific personal need of the applicants. Evidence to support this claim has been provided from appropriate professionals and is accepted to be genuine. It is also accepted the applicants' existing dwelling can not be altered or adapted to meet their needs. Notwithstanding that, neither the local plan or the NPPF makes provision for permitting individual dwellings on the basis of a personal need that is not related to an established business and it's functional need. Furthermore the application does not fulfil any of the requirements or criteria of local plan policy H10, being outside of any established rural settlement.

Sustainability

6.8 The proposal would introduce a dwelling in an isolated open countryside location, undermining the key aims of local plan policies S1, S3, DR1, DR2, and H7. The occupiers of the proposal would be dependent on using a private vehicle to access any services or facilities.

6.9 To offset this clear conflict a number of sustainable techniques regarding energy and resource efficiency, and construction are incorporated within the built form. The dwelling would meet and exceed existing Building Regulations Standards, incorporates rain water harvesting, and is built using Structurally Insulated Panels (SIPS). This method of construction provides the following benefits –

- Low U-values – 0.19W/m².K in walls and 0.18W/m² in the roof with no additional insulation mean the system exceeds current Building Regulations and can also be expected to meet u-values set for the next level of changes as the government pushes for zero carbon by 2016.
- Limited Cold Bridging – Due to the continuity of the rigid insulation the Kingspan TEK system provides enhanced thermal reliability when compared with more traditional forms of construction.
- Air tightness – The TEK system is ideal for the construction of an air-tight building envelope. With the proprietary system providing an effective air seal, results achieved from blower door tests are 0.08 air changes per hour at normal air pressures or 0.91m³/hr/m² air changes at 50Pa. (current part L recommendations are 10m³/hr/m²)
- Solid and strong - 5x times stronger than timber frame and nearly double that of a standard masonry house.

Landscape and Visual Impact

6.10 The proposal would itself have a detrimental impact on the character and appearance of the open countryside through its very presence. Individually and cumulatively such proposals dilute the intrinsic character of the open countryside. The subdivision of the existing garden plot results in an arbitrary shape which can be considered detrimental to the existing development pattern and existing character and appearance hereabouts. Given this application is located within a designated protected landscape area – the Wye Valley Area of Outstanding Natural Beauty, this is an issue to which significant weight should be attached.

Design

611 To mitigate the landscape impact concern, attention has been paid to the design and detailing of the proposal. The design form proposed echoes a traditional simple single storey rectangular plan agricultural building. This modest sized and 'simple' type of building is not uncommon throughout the Area of Outstanding Natural Beauty, being found in isolated positions and in relation to other buildings. The use of stone in the construction and facing on the principle elevation is appropriate to the location and indeed rural Herefordshire. The rear section is formed from a timber clad section which introduces the notion of a building evolved and extended over time. Clearly using this material on part of the building also helps reduce build costs.

- 6.12 Design detailing emphasising and reinforcing the ‘agricultural barn’ aesthetic utilised here includes two ‘cart entrance’ features with brick arch detailing. This also has the added benefit of providing a large natural light source to functional rooms. The use of ‘arrow slit’ openings further replicates agricultural building features whilst providing light to rooms.
- 6.13 Given the location and orientation of the proposal, set in the north east corner of the Parks Cottages curtilage, the local topography with the highway at a significantly lower level than the application site and the existing retained natural screening, domestic paraphernalia associated with the adjoining existing dwellings, there will only be limited glimpsed views from the C1272, a principle route into and out of this rural area. Users of the adjoining public right of way will view the principle elevation partly screened by the existing garage block and domestic curtilage of the existing adjoining properties.
- 6.14 Overall the design, detailing, siting and approach utilised is considered to be of sufficient quality, respecting the local context and sensitive nature of the location. As set out above, the proposal is considered to respond adequately to the established local character and reflects the identity of its surroundings. It is advanced that the proposal represents a design solution whereas a ‘standard’ or ‘typical’ bungalow design would be wholly unacceptable having regards to this location and context which requires a more considered approach.
- 6.15 The proposal has an appropriate level of private amenity, and also does not result in undue impact upon the amenity and privacy of the existing adjoining residential land uses. Third Party rights of access to an adjoining agricultural field are not compromised.
- 6.16 Along with satisfying the design requirements of the National Planning Policy Framework, the proposal satisfies the design standards criteria of local plan policies S2, DR1 and H13.

Further mitigation

- 6.17 The applicants` have agreed to a Section 106 Agreement being placed upon the dwelling ensuring it would remain as an affordable dwelling in perpetuity and be available to any persons meeting the adopted local needs criteria. Whilst not overcoming the in principle objection to the proposal, it can be considered an attempt to provide mitigation against the clear policy objection by virtue that there would be some social benefit to the community beyond that of the applicants. The Draft Heads of Terms for the Agreement is attached to this report.

Conclusion

- 6.18 Notwithstanding the personal needs outlined, the mitigation included within the submission and the acceptable design solution proposed, the application is contrary to national and local planning policies, representing unjustified housing development in an unsustainable open countryside location, which is within an Area of Outstanding Natural Beauty.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1. The application represents an unjustified development in an unsustainable open countryside location which is also within an Area of Outstanding Natural Beauty. The proposal is therefore unacceptable in principle and the visual harm associated with the proposed dwelling is not outweighed by the personal circumstances of the applicant and accordingly the proposal is considered contrary to Herefordshire Unitary Development Plan Policies S1, S2, H7, H10, and LA2 and the National Planning Policy Framework.**

Informative:

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

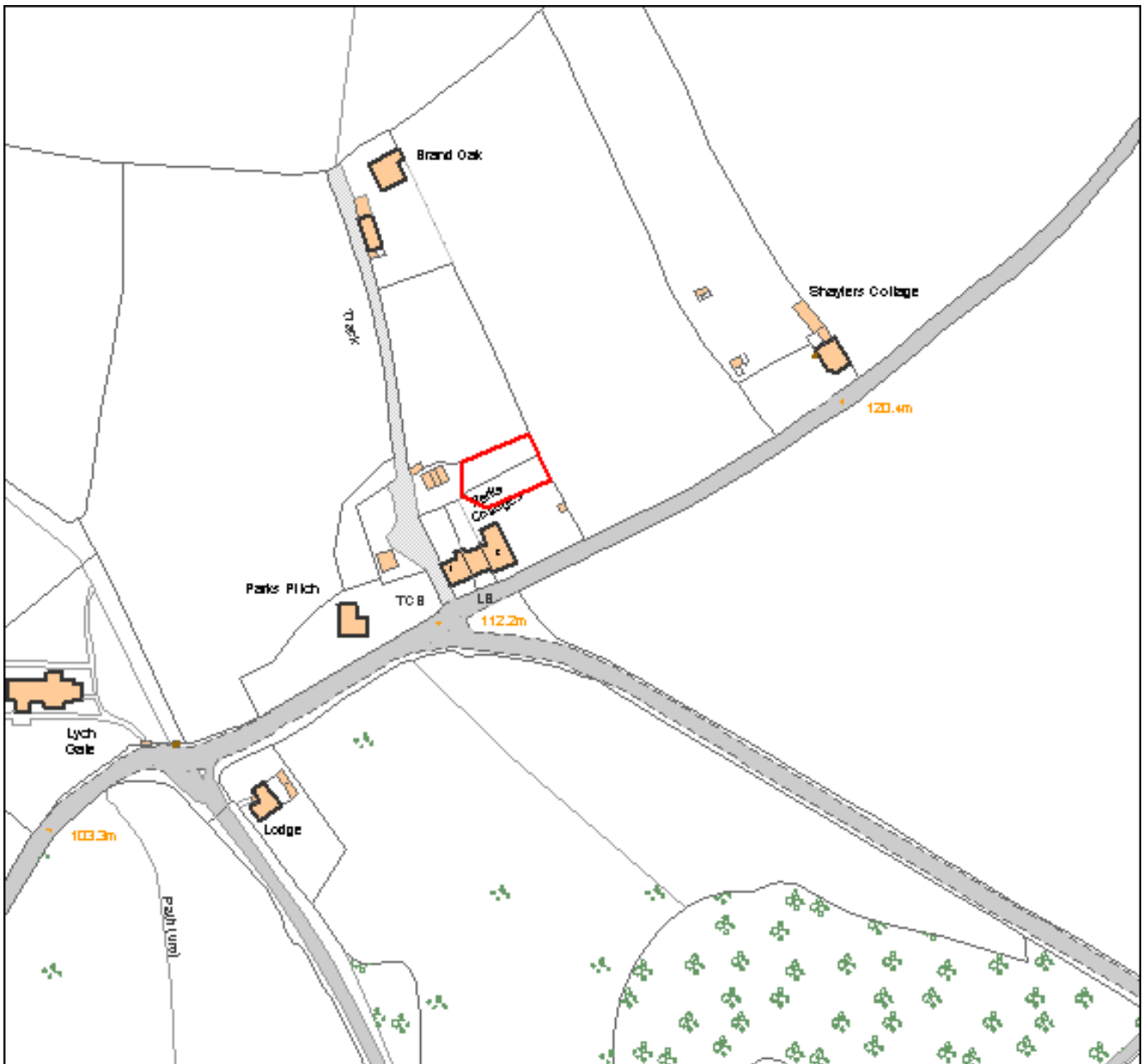
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: S/122572/F

SITE ADDRESS : LAND AT THE PARKS, BROCKHAMPTON, HEREFORD, HR1 4SD

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MEETING:	PLANNING COMMITTEE
DATE:	19 DECEMBER 2012
TITLE OF REPORT:	N121564/F - A NEW FARM WORKERS DWELLING AT LAND AT BURNT HENGOED, BRILLEY, HEREFORDSHIRE For: Mr & Mrs Lloyd per Mr Ben Corbett, Lion Court, Broad Street, Leominster, Herefordshire, HR6 8BS
WEBSITE LINK:	http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=121564&NoSearch=True

Date Received: 29 May 2012

Ward: Castle

Grid Ref: 326559,252019

Expiry Date: 19 September 2012

Local Member: Councillor JW Hope MBE

1. Site Description and Proposal

- 1.1 The site is located in the open countryside, in an isolated position and forms part of an agricultural holding known as 'Burnt Hengoed', Brilley, Herefordshire.
- 1.2 The application site consists of part of a grassland field which abuts the access road leading to the farmstead itself. Alongside the application site's eastern boundary is a detached single-storey dwelling known as 'Hengoed bungalow', this also forms part of the farm holding.
- 1.3 Application proposes construction of a single-storey detached dwelling with floor space of approx. 130 square metres, (measured externally).
- 1.4 An agricultural appraisal has been submitted in support of the application demonstrating the need for an additional worker on the holding.

2. Policies

2.1 Herefordshire Unitary Development Plan

- S1 - Sustainable developemnt
- S2 - Development requirements
- DR1 - Design
- DR2 - Land use and activity
- DR3 - Movement
- DR4 - Environment
- DR5 - Planning obligations
- H7 - Housing in the countryside outside settlements
- H8 - Agricultural and forestry dwellings and dwellings associated with rural businesses
- E13 - Agricultural and forestry development
- E15 - Protection of greenfield land
- LA2 - Landscape character and areas least resilient to change
- NC1 - Biodiversity and development

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

2.2 The National Planning Policy Framework

2.3 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Councils website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

3. Planning History

3.1 91/0552/0 – Site for an agricultural workers dwelling. Withdrawn on February 7th 1992.

3.2 77/0460RM – Site for erection of agricultural bungalow – Approved 13th September 1977.

3.3 76/0542/0 – Site for erection of agricultural bungalow. – Approved 6th December 1976.

4. Consultation Summary

4.1 The Transportation Manager raises no objections.

4.2 The Landscape Manager has responded to the application stating:

The landscape character type is ancient timbered farmlands. This is a sensitive landscape that should be conserved as it has one of the oldest field patterns in the county. The settlement pattern is of sparsely scattered farmsteads and wayside dwellings. Burnt Hengoed farm is typical of this. Hengoed bungalow, however, is not - it is not locally distinctive and is situated halfway along a local lane, rather than close the farm or the main road.

The selected site next to the existing bungalow provides some context of built development. The proposed building shown on the revised submission, drawing no. BH.1D is of a similar scale and design to the existing bungalow, therefore creating a direct relationship between the two. Retention of the existing lane side hedgerow is welcomed, as is the proposal for tree planting to the rear and side - these should ideally be native species.

This proposal will do little to enhance or conserve the landscape character of the area. If there is a proven need for a new dwelling and no other opportunities are available, then given the context of the existing bungalow, it will not have a significant negative impact on the wider surroundings.

4.3 The County Land Agent has responded to the application raising concerns as follows:

The present position is that there are 2 dwellings on the holding; no account can be taken of the person living in one of them, being semi-retired.

The labour test is almost met and is border line for a pass, therefore it is accepted that it is just met. The financial test is not passed in any of the 3 years.

With regard to the need, there are only 40 calving's a year and the lambing which takes no longer than 2 months, therefore the need for a further person to be on site full-time is not met, in our opinion therefore it would be convenient but not essential.

5. Representations

5.1 Huntington Parish Council raises no objections, indicating the proposal will hopefully help to retain employment in the Parish. The response states they strongly agree/recommend that an agricultural tie is put on the farmhouse as well as the proposed bungalow.

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

- 5.2 The consultation responses can be viewed on the Council's website by using the following link:-
www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx

Internet access is available at the Council's Customer Service Centres:-
www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp

6. Officer's Appraisal

- 6.1 The key issue in relationship to this application is whether there is an essential need for a third dwelling on the holding.
- 6.2 Policy H8: Agricultural and forestry dwellings and dwellings associated with rural businesses in the Herefordshire Unitary Development Plan states that dwellings will only be permitted where it can be demonstrated that a long term genuine need exists for the dwelling as an essential part of a financially viable business.
- 6.3 The National Planning Policy Framework clearly puts great emphasises on 'sustainable development, indicating that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work. (par. 55).
- 6.4 The farming business subject to this application is a typical upland livestock rearing family farm where the applicants Mr. & Mrs. Lloyd live in the farmhouse and Mrs. Lloyd, senior, lives in an agricultural occupancy restricted bungalow on the farm in compliance with the occupancy planning restriction placed upon it.
- 6.5 The farming business is managed and operated by Mr. & Mrs. Lloyd who reside in the farmhouse, the farming business mainly comprises of up to 40 head of sucker cows and heifers producing calves that are reared for beef production and approx. 400 breeding ewes that produce lambs, also for the meat trade.
- 6.6 It is considered that the only essential need to be on site in relationship to this business refers to the beef production, where up to 40 head of cows and heifers calve during a period of approx. 10 months of the year producing calves for the beef trade. The sheep enterprise produces lambs, which are born on the holding during a period of approx 2 months of the year and therefore any welfare issues of concern in relationship to ewes lambing can be catered for (if considered necessary), through use of temporary accommodation which is classed as permitted development.
- 6.7 Although it is recognised adequate animal welfare is of paramount importance, the holding clearly has a staff of two full-time persons residing on site, and given the nature of the business this is considered sufficient in relationship to essential need to be on site 24 hours a day. It is noted that the farm appraisal submitted in support of the application, in section 2.4 indicates that '*there is a need for a minimum of two people to be permanently housed on site to manage the calving of in excess of 40 suckler cows throughout the year and the lambing of 400 ewes*'. Therefore it is considered that if the holding requires any additional staff in order to successfully operate the business, this person(s) do not need to reside on site but could live in the surrounding community.
- 6.8 Whilst it is fully acknowledged that the farming enterprise concerned is financially viable, with adequate cash reserves in order to cover the costs of the construction of a third dwelling on the holding, the financial accounts submitted in support of the application, that cover three of the last four financial years do not indicate a sufficient average operating profit in order to

support a third dwelling on the holding. Therefore the proposal is not considered sustainable from an operating profit perspective.

Other material considerations

6.9 The siting of the proposed dwelling is considered acceptable in relationship to the farmstead itself, being within close proximity and walking distance of the farmyard and adjacent to the second dwelling on the holding, that is subject to an agricultural occupancy restriction. The scale, design and size of the proposed dwelling, (approx. 130 square metres), is also considered acceptable.

Conclusion

6.10 The farming business subject to this application has not demonstrated sufficient essential need for a third worker to be housed on site. Whilst it is acknowledged that the occupant of the second dwelling on the holding fully complies with the agricultural occupancy restriction placed upon it, insufficient essential need has been demonstrated in order to allow a third dwelling on the holding. Further still the operating profit of the business, for the three financial years in accordance with the accounts submitted in support of the application do not indicate a sufficient operating profit, on which basis to allow a further dwelling on the holding. Therefore the proposal is not considered a sustainable form of development in the open countryside, where policies strictly control the nature of residential development.

RECOMMENDATION

That planning permission be refused for the following reason:

Insufficient essential on site need has been demonstrated to a business that is not considered financially sustainable in order to allow a third dwelling on the holding. Therefore the proposed development is considered contrary to Policies S1, H7 and H8 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

Informative:

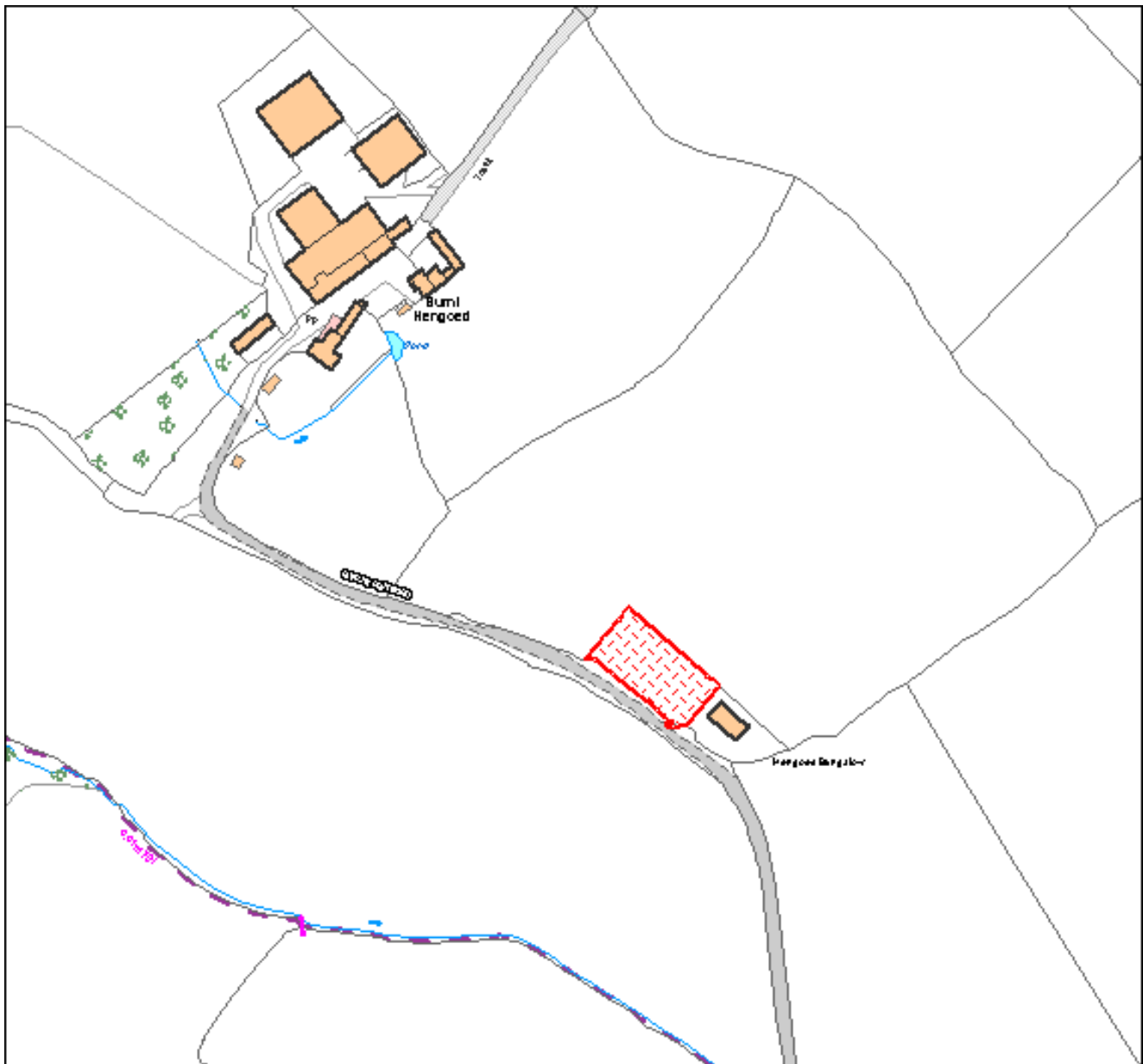
The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: N/121564/F

SITE ADDRESS: LAND AT BURNT HENGOED, BRILLEY, HEREFORDSHIRE

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MEETING:	PLANNING COMMITTEE
DATE:	19 DECEMBER 2012
TITLE OF REPORT:	<p>N122403/O - SITE FOR PROPOSED RURAL WORKERS DWELLING AT HOLLOWAY COMMON FARM, HAMPTON CHARLES, TENBURY WELLS, HEREFORDSHIRE, WR15 8PY</p> <p>For: Mr & Mrs Bemand per Wall James Chappell, 15-23 Hagley Road, Stourbridge, West Midlands, DY8 1QW</p>
WEBSITE LINK:	http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122403&NoSearch=True

Date Received: 28 August 2012 **Ward: Hampton Court** **Grid Ref: 360058,260920**
Expiry Date: 5 November 2012
Local Members: Councillor JW Millar

1. Site Description and Proposal

- 1.1 Holloway Common Farm is located 300m to the east of the C2088, a minor highway in Hampton Charles. The application site is to the south of the farm drive and has an area of 0.03ha. The farmhouse and buildings are located further on along the drive. The site is surrounded by agricultural land to the north, east and south, there is however a residential property to the west which is not in the applicants ownership. The farmhouse is also not in the applicants' ownership, although the buildings are.
- 1.2 This application seeks outline permission for a new permanent dwelling for an essential rural worker. As the application is in outline the appearance, scale and layout are all left for further consideration.
- 1.3 The dwelling is in connection with Bemand Contracts Ltd which operates from the farm buildings. The business was started in 1973 and was originally know as P.G & B. Bemand. In 2005 however the applicant, Mr Tom Bemand, and his father became equal shareholders and the business was changed to Bemand Contracts Limited. According to the design and access statement submitted in support of the application, the business combines agriculture (arable farming) and agricultural contracting, with plant hire and ground works. A dwelling is required in order to provide efficient out of hours service and immediate access to plant and machinery in times of emergency, such as reconnecting water serveries and snow clearing. The dwelling is to be occupied by the applicant, Mr Bemand and his family.
- 1.4 The applicants do not own the existing dwelling on the farm, which is lived in by Mr Bemand's brother. Mr Bemand currently lives in a house in Tenbury which he owns. In the design and access statement it is stated that the need to live on site relates to the long and anti-social hours for call out and living on site would provide a better level of service having swift access on site to the required machinery and so reduce impact of emergencies on those affected by allowing a quicker response time. It is outlined in the supporting statement that between 12 November 2011 and 6 June 2012, the business was called upon once for snow clearance. Other callouts in this period included burst water mains in Ombersley and at McCartneys livestock markets in Ludlow and Worcester.

Further information on the subject of this report is available from Ms R Jenman on 01432 261961

1.5 The intention is to build a dwelling over 2 floors with a maximum habitable floor space of 150m².

2. Policies

2.1 National Planning Policy Framework 2012 (NPPF)

The NPPF was published in March 2012 and established a clear presumption in favour of sustainable development unless other material considerations indicate otherwise.

Paragraph 12 states that the NPPF does not change the statutory status of the development plan as the starting point for decision making. It advises that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

Paragraph 55 states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.

2.2 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable development
S2	-	Development requirements
DR1	-	Design
DR2	-	Land use and activity
H7	-	Housing in the countryside outside of settlements
H8	-	Agricultural and forestry dwellings and dwellings associated with rural businesses
LA2	-	Landscape character and area least resilient to change
NC1	-	Biodiversity and development
NC5	-	European and nationally protected species
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

2.3 Conservation of Habitats and Species Regulations 2010

2.4 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Councils website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspx>

3. Planning History

3.1 N120850/O – Rural workers dwelling. Refused 29th May 2012

4. Consultation Summary

Statutory Consultees

4.1 None

Internal Council Advice

Traffic Manager

- 4.2 Has no objection to the granting of planning permission as there are no highway Implication

Conservation Manger (Landscape)

- 4.3 Considered the proposed dwelling would be highly visible from the public highway and would be seen as an isolated dwelling in the landscape. It would be more preferable for any new building to be grouped with the existing farm complex. However overall there is no landscape objection to the principle of a new dwelling however if approved a landscaping scheme should form part of a reserved matters application and an assessment of the cumulative impact of the whole farm development, together with proposals for enhancement across the wider landscaping.

Conservation Manger (Ecology)

- 4.4 Advises that the ecological assessment provided in support of the application is a basic assessment of the site and there will need to be a great crested newt survey to assess nearby ponds that could be affected by the development and a habitat protection and enhancement scheme submitted. No objection otherwise.

Environmental Health Officer

- 4.5 Site is identified as an unknown filled ground. If approved a condition is recommended requiring an assessment of the site should be undertaken by a suitably competent person.

County Land Agent

- 4.6 Raises no objection.

5. Representations

- 5.1 Hampton Charles Parish Council – see no reason why the application should not go ahead. 'Need to support our local families who have lived in the parish for many years'.
- 5.2 Five Letter of support have been received from local neighbours and land and estate agents.

In summary the points raised are as follow:

1. Bemand Contracts' Limited provide a quick response within normal working hours, living on site would enable them to provide a quick response around the clock.
2. On hand to clear the local roads in flooding and snow
3. Benefit the whole parish having the family living on site

- 5.3 The consultation responses can be viewed on the Council's website by using the following link:-
www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx

Internet access is available at the Council's Customer Service Centres:-
www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp

6. Officer's Appraisal

- 6.1 The main issue to be considered is whether the principle of a new dwelling in this location would accord with local and national policy relating to the provision of rural workers dwellings

in the countryside. I consider this to be whether there is an essential need for the applicant to live at or near his place of work.

- 6.2 The National Planning Policy Framework advises in paragraph 55 that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. Saved policy H7 in the Herefordshire Unitary Development Plan (March 2007) provides that permission will be granted for an agricultural worker's dwelling providing the development is clearly necessary in connection with agricultural or forestry and cannot be located in a settlement and complies with policy H8. The policy also permits proposals which are a necessary accompaniment to the establishment or growth of a rural enterprise. Policy H8 which deals specifically for agricultural and forestry dwellings and dwellings associated with rural businesses, requires all proposals to demonstrate that a long term genuine need exists for the dwelling as an essential part of a financially viable business, and that such a need cannot be met in existing accommodation.
- 6.3 The NPPF aims to encourage, through its presumption in favour of sustainable development and support for a prosperous rural economy, rural enterprises, Nevertheless, it is necessary to establish whether the needs of the enterprise require someone to live on site, rather than an existing dwelling nearby, and that there is a functional need for a dwelling on the land.
- 6.4 The proposed dwelling is to be occupied by the applicant and his family . The applicant is in a partnership with his father. The planning statement states that 'a dwelling is required in order for a full time worker to permanently reside on the site in order to provide efficient out of hours service and immediate access to plant and machinery in times of emergency, such as reconnecting water services and snow clearing'. Tom Bemand and his father are equal shareholders of the business 'Bemand Contracts Limited', and both are employed on a full time basis with 4 other full time employees. The business also employs additional seasonal extra labour when required. A qualified secretary is also employed 4-8 hours a week.
- 6.5 The applicant currently lives around 5 miles to the north of the application site in Tenbury Wells, where he has lived since February 2007. The HUDP states that it is essential to scrutinise applications in order to identify speculative proposals that attempt to abuse the concessions that the planning system makes for new occupational dwellings in the countryside. It needs to be considered if it could be as convenient and more sustainable for workers to live in nearby towns and villages, or existing dwellings, so as to avoid new and potentially obtrusive development in the countryside. The fundamental basis of Policy H8 is the importance to establish that the enterprise requires one or more people engaged in it to live nearby. There is no doubt that the business provides a valued and much appreciated service to locals and business and has done so for some time. Bemand's Contracts Limited are a long-established drainage and construction enterprise. Its buildings are all located to the east of the application site on Holloway Common Farm, and it would appear that the business has always operated from the site. This being the case, it needs to be considered why a functional need now exists for permanent accommodation to serve the business.
- 6.6 It is clear from the information contained within the appraisal that the nature of the business can require some tasks to be done outside normal working hours, i.e. Snow Clearing, faulty water supply to livestock. However, it is not this simple fact alone that should be used to determine the requirement for additional accommodation, but whether there is both a functional and financial need for on-site supervision. Much emphasis has been put on the fact Mr Bemand has to drive to the site to obtain spare parts or appropriate machinery before responding to call outs. However paragraph 5.4.68 in the HUDP makes it clear that where proposals are advanced in association with non-agricultural businesses it should also be established that the business could not exist without close and continual supervision.

6.7 The financial accounts submitted in support of the application show that the business has been viable since 2007. Furthermore a number of the letters from existing customers make reference to the quick response time and service they already receive. It is clear therefore that to date the business has been operating successfully and become well-established without a dwelling on the site. There does not appear however, to be any special characteristics of the business which make it essential that it be carried out on this particular site in the open countryside.

6.8 In accordance with Policy H8, the applicant has failed to demonstrate that there is a functional need for a permanent residential accommodation on the land. The majority of the tasks referred to in the functional need analysis are carried out during normal working hours and not on the site. The tasks which are carried out of hours are also more than likely to be carried out off site, and are not considered to be on a regular basis. The evidence provided in support of the application does not demonstrate that there is a requirement for the applicant to live on the land and that a 24 hour presence is an essential requirement for the day to day running of the business. I consider that the special circumstances envisaged in paragraph 55 of the NPPF justifying an isolated new dwelling in the countryside do not exist.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The applicant has failed to demonstrate that there is a functional need for a permanent residential accommodation on the land, contrary to the requirements of policy H8 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework. The proposal therefore constitutes the provision of a new dwelling in the open countryside without any exceptional justification or special circumstance and is therefore also considered to be contrary to Policies H7 and H8 of the Herefordshire Unitary Development Plan and advice contained within Chapter 6, and specifically paragraph 55 of the National Planning Policy Framework.**

Informative:

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

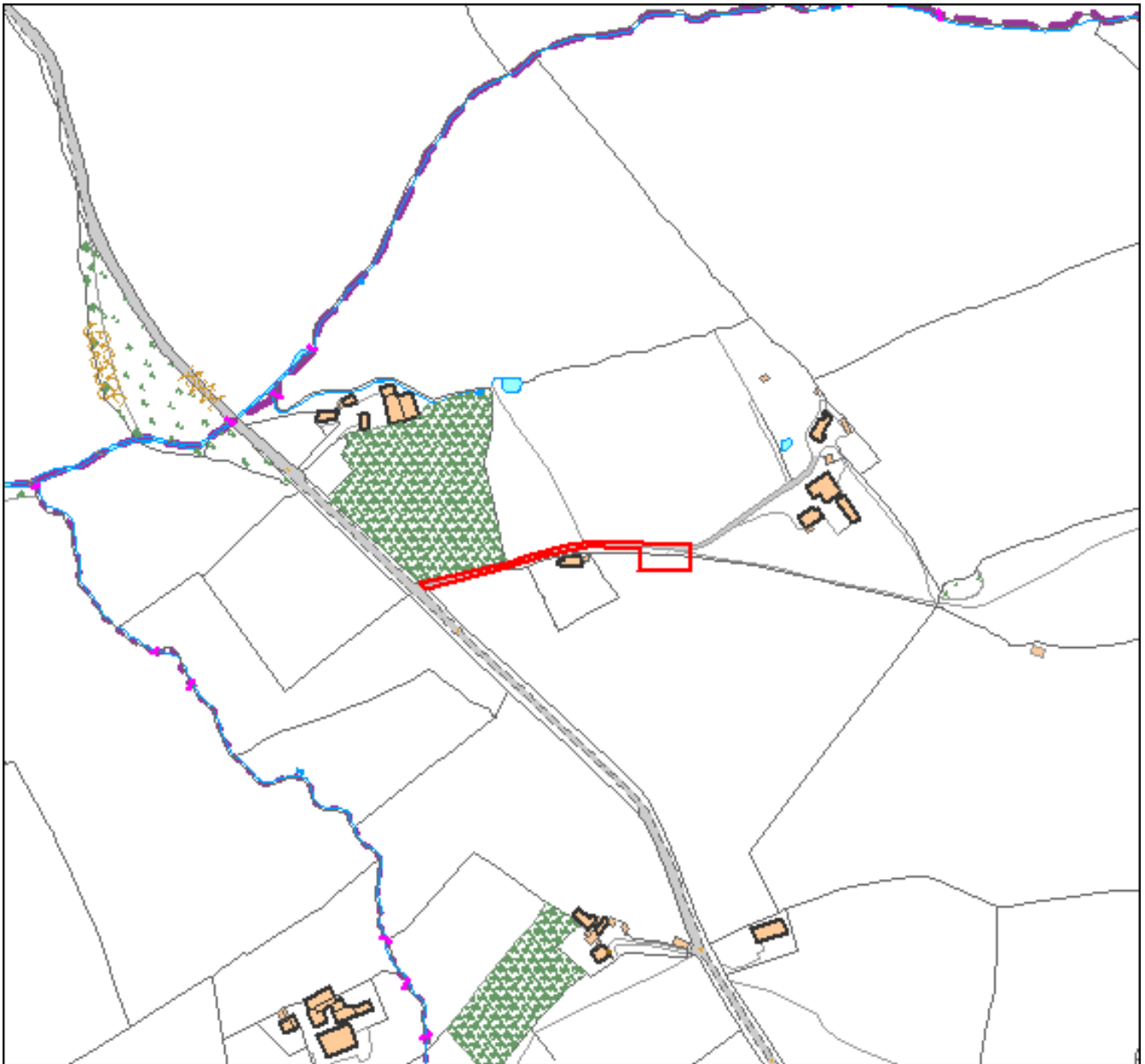
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: N/122403/O

SITE ADDRESS: HOLLOWAY COMMON FARM, HAMPTON CHARLES, TENBURY WELLS,
HEREFORDSHIRE, WR15 8PY

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Further information on the subject of this report is available from Ms R Jenman on 01432 261961