

# AGENDA

## Planning Committee

Date: **Wednesday 30 January 2013**

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Time: **10.00 am**

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

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

For any further information please contact:

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

# **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.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
2.	<b>NAMED SUBSTITUTES (IF ANY)</b> To any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	<b>MINUTES</b> To approve and sign the Minutes of the meeting held on 9 January 2013.	1 - 20
5.	<b>CHAIRMAN'S ANNOUNCEMENTS</b> To receive any announcements from the Chairman.	
6.	<b>APPEALS</b> To be noted.	21 - 24
7.	<b>N123067/F - LAND AT THE COACH HOUSE, OLD CHURCH ROAD, COLWALL, MALVERN</b> Erection of two storey dwellinghouse.	25 - 42
8.	<b>S122604/O - LAND REAR OF WHITE HOUSE DRIVE, KINGSTONE, HEREFORD</b> Outline application for 35 unit housing scheme with associated access.	43 - 60
9.	<b>DATE OF NEXT MEETING</b> Date of next site inspection: 19 February 2013 Date of next meeting: 20 February 2013	



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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 9 January 2013 at 10.00 am**

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

Councillors: PA Andrews, AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, RC Hunt, JA Hyde, FM Norman, AJW Powers, R Preece, GR Swinford and PJ Watts

**In attendance:** Councillors AM Atkinson, RB Hamilton and P Sinclair-Knipe

**118. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Brig. P Jones CBE, JG Lester and RI Matthews.

**119. NAMED SUBSTITUTES (IF ANY)**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors JA Hyde and R Preece attended the meeting as substitute members for Councillors JG Lester and RI Matthews.

**120. DECLARATIONS OF INTEREST**

7. S121357/N - LITTLE PENGETHLEY FARM, PETERSTOW, ROSS-ON-WYE, HR9 6NB.  
Councillor DW Greenow, Non-Pecuniary, The Councillor knows the applicant.

7. S121357/N - LITTLE PENGETHLEY FARM, PETERSTOW, ROSS-ON-WYE, HR9 6NB.  
Councillor J Hardwick, Non-Pecuniary, The Councillor knows the applicant.

10. S122498/F - CHEVENHALL, WALFORD ROAD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5PQ.

Councillor JA Hyde, Non-Pecuniary, The Councillor lives nearby.

10. S122498/F - CHEVENHALL, WALFORD ROAD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5PQ.

Councillor PGH Cutter, Disclosable Pecuniary, The Councillor is a trustee of the neighbouring convent; on the advisory group of the neighbouring St. Joseph's Primary School; and a trustee of the Cricket Club of which the applicant is involved.

11. S122724/FH - 9 & 10 BAKERS OAK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5RP.  
Councillor PGH Cutter, Non-Disclosable Pecuniary, The applicant is the Councillor's son.

**121. MINUTES**

A member of the Committee noted that the paragraph of the constitution referred to in minute number 113 was incorrect. It was noted that this was due to a recent amendment to the constitution. The same member also sought clarification as to whether the Leader of the Council had declared an interest in respect of minute number 113. The Democratic Services Officer confirmed that no declaration of interest had been made.

**RESOLVED: That the Minutes of the meetings held on 7 November 2012 and 19 December 2012 be approved as correct records and signed by the Chairman.**

**122. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman advised the Committee that Duncan Thomas, a Senior Planning Officer within the Planning Department, was due to retire shortly. He added that Mr Thomas had been with Herefordshire County Council since its inception in 1998 and had been employed in local government for a total of 43 years. The Committee wished him a happy retirement and thanked him for the help and advice he had given them over the years.

The Chairman also advised the Committee that an appeal in respect of 127 houses at Porthouse Farm, Bromyard had recently been dismissed.

**123. APPEALS**

The Planning Committee noted the report.

**124. S121357/N - LITTLE PENGETHLEY FARM, PETERSTOW, ROSS-ON-WYE, HR9 6NB**

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 drew Members' attention to an error in the update sheet under sub heading 'para 6.15' and advised that the second sentence should refer to accidents up to 2005 and not accidents since 2005.

In accordance with the criteria for public speaking, Mr Lyons, representing a number of the local residents, spoke in objection to the application and Mr Williams, the applicant's agent, spoke in support. Mr Davis, Chairman of Hentland, Ballingham and Bolstone Group Parish Council also addressed the Committee; he raised some concerns in respect of the application but was broadly in support of it.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor RB Hamilton, one of the local ward members, commented on a number of issues, including:

- The local residents had raised a number of concerns in respect of the application, these included:
  - The accuracy of the report had been questioned.
  - The application should be refused in line with the Locality Act as the majority of local residents opposed it.
  - There were concerns over the time taken to bring the application to Committee.
  - Why could the Anaerobic Digester not go on the applicant's other site.
  - Some objectors felt that the applicant had misled the Committee in respect of the plot size.
  - It was also considered that the traffic data provided was inaccurate and misleading.
  - It was also believed that the swale was added to the application at a later date to ensure that the application was initially treated as a smaller site.
  - Concern was raised that although the proposed Anaerobic Digester was just under 500kw it would be increased in the future.



- There was concern that the report had been written in a way to mislead the Committee.
  - The qualifications of some of the professional consultees had also been questioned.
  - Concern had been raised in respect of some of the measurements contained within the report.
  - Some of the local residents felt that the AD plant should not be within 1000 metres of a residential dwelling.
  - The issue of flooding had also been raised by local residents.
  - The vehicular movements contained within the report were disputed.
  - The figures in respect of accidents on the A49 were also disputed.
  - Odour from the AD plant was an issue that had also been raised.
  - Health concerns had been raised with particular reference made to a local resident who suffered with asthma.
  - The lack of a site management plan had also been raised.
  - The Environment Agency had confirmed that even if planning permission was granted a licence may not be granted for the operation.
- Councillor Hamilton then took the opportunity to share his own views with the Committee, he advised that:
    - He had listened to all sides and considered that the application had been brought forward in a genuine way.
    - Local people should not be condemned for taking an interest in local planning issues.
    - The applicant made a significant contribution to the local economy and was a major local employer.
    - There were sound business reasons for the application.
    - The applicant could have done more to discuss matter with the locals and address their concerns.
    - It was in the applicant's interest to ensure the plant ran smoothly.
    - The application needed to be considered on its merits with due consideration given to the concerns raised in respect of health.
    - The key concern related to traffic management.
    - Improvements were needed to the St. Owen's Cross crossroads, these improvements would be sought.
    - Finally the local member advised that he had no objection to the application subject to the concerns being addressed.

Councillor JA Hyde, the other local ward member, added:

- Her main concern was regarding the access to the site from the B4521, however she was satisfied that this had been addressed.
- The applicant had advised that journeys from the site would now be reduced as a result of the proposed application.
- The Council was currently looking into a reduction in the speed limit for St. Owen's Cross.

In response to a question from a Member of the Committee, the Principal Planning Officer confirmed that the Highways Agency had not ruled out accessing the site from the A49 but they had issued a holding direction requesting a re-assessment of the access if it were to be used. The applicant had therefore decided not to proceed with this access.

In response to a further question, the Principal Planning Officer advised that she was not aware of any boreholes within 250 metres of the site. She added that the applicant owned most of the land within this area and he had stated that there were none on his land.

A Member of the Committee opened the debate by speaking in support of the application. He also made reference to the issues raised in respect of possible boreholes in the proximity of the site and advised Member that due to the depth of the hole, some 60 to 70 metres, the water would be drawn from up to three miles away. He noted the concerns raised in respect of accidents at the crossroads but noted that none of the accidents referred to had occurred as a result of farm vehicles, he therefore considered that refusing the application on grounds of highway safety would not be defensible. In summing up he advised the Committee that he had visited an Anaerobic Digester recently which had produced no odour and could not be heard until within 5 metres of the sealed digester unit. Finally he noted the support of the nearby Sellack Parish Council and requested that the application be approved in accordance with the case officer's recommendation.

Members continued to discuss the application. The issue of flooding was raised but it was considered that any flood concerns would be mitigated through the provision of a sustainable urban drainage solution comprising of drainage leading into a swale which would hold the water during heavy periods of rainfall.

The issue of collating data in respect of Anaerobic Digester plants was also raised by a Member of the Committee. It was considered that this may be a beneficial exercise to ensure that there were sufficient plants throughout the county providing adequate cover.

The Committee also raised the possibility of requesting a Section 106 agreement to ensure suitable improvements were made to the nearby crossroads. However the Development Manager (Hereford and Southern Localities) advised that this would not be reasonable as no additional traffic on the crossroads could be attributed to the proposed application. Members were however reassured by the inclusion of a traffic management plan which addressed their concerns.

The Committee continued to debate the application with the majority of Members speaking in support of it. They noted the concerns in respect of health that had been raised by the neighbouring residents however they considered that these concerns had been addressed in the Officer's report and additional update sheet. They discussed Anaerobic Digester plants in general with the majority of the Committee of the opinion that if operated responsibly there would be little impact on the neighbouring residents and that more plants would be installed throughout the County over the coming years.

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

- The local residents' concerns in respect of traffic were valid.
- The footpath referred to should be diverted.
- There were no valid planning reasons to refuse the application.
- The accidents referred to by the objectors could not be linked to the farm enterprise.

## **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 development 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. **Within four months of any new hard surface being constructed in connection with the development hereby permitted, the proposed Sustainable Urban Drainage Solution (SUDS) shall be constructed and implemented in accordance with the submitted 'Flood Risk Assessment and Surface Water Drainage Strategy' and the following plans, all received on 13 September 2012:**
  - **GRE0010/PE-RE10/SuDS 01; SuDS Design 21/8/12**
  - **GRE0010/PE-RE10/SuDS 02: SuDS Cross Section 21/8/12**
  - **GRE0010/PE-RE10/SP 03: AD Plan Cross Section 21/8/12****The provision of the proposed retention basin (swale) shall be incorporated into biodiversity enhancement measures as outlined in the scheme required under condition 6 below, with reference to Biodiversity Action Plan priority species and habitats.**

**Reason: To provide satisfactory surface water management and drainage, minimise flood risk, and improve biodiversity in accordance with policies S1, S2, DR1, DR4, NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan.**

5. **Before the development hereby permitted begins, a Traffic Management Plan (TMP) shall be submitted to and approved in writing by the local planning authority. The TMP shall include the following in particular:**
  - a. **Management methodology for vehicles and deliveries during construction of the plant, including working hours and routes to be used;**
  - b. **Management methodology for vehicles and movements during operation of the plant, including working hours and routes to be used;**
  - c. **An assessment of the existing access to the B4521 having regard to the anticipated additional use and details of any visibility improvements considered necessary;**
  - d. **Details of the numbers, types, size and weights of all vehicles to be used in connection with the anaerobic digester;**
  - e. **Means of ensuring all delivery drivers accessing the site are fully informed as to road conditions and their responsibilities along the delivery route;**
  - f. **Assurances that the TMP shall remain in use throughout the life of the plant;**
  - g. **Confirmation that no materials shall be brought to and/or treated in the anaerobic digester hereby permitted unless they have been produced within the applicant's landholding.**

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

**Reason:** To minimise the impact of vehicles in the interests of highway safety and the potential for traffic intensification in the area, and to conform with the requirements of policy DR3 of the Herefordshire Unitary Development Plan.

6. Before the development hereby permitted begins, a Landscaping and Habitat Enhancement Scheme for the site and access road shall be submitted to and approved in writing by the local planning authority. The Scheme shall include in particular:

**Soft landscaping:**

- a. A plan to scale 1:500 or 1:1000 showing the layout of proposed tree, hedge and seeding areas;
- b. A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant establishment;
- c. Details of specific proposals to provide or enhance wildlife habitats, including an outline of the priority species the scheme is intended to attract, having particular regard for the adopted Biodiversity Action Plan, the improvement of hedgerows and field margins, and enabling wildlife to take advantage of the retention basin (swale) as part of the SUDS provision;
- d. A management plan to ensure after-care of planting and continuity for habitats, for a specified period of at least five years;

**Hard landscaping:**

- e. A plan to show the position, design and materials of all site enclosures including bunding, fences etc;
- f. Details of hard surfacing materials;

The scheme shall be implemented as approved and maintained for the agreed period. During this time, any trees or plants which are removed, die, or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the after-care period.

**Reason:** To improve biodiversity and connectivity for wildlife and improve hedgerow, field margin and wetland habitats, in accordance with the requirements of policies S1, S2, S7, DR1, DR4, NC1, NC6, NC7, NC8, NC9 and CF4 of the Herefordshire Unitary Development Plan.

7. E01 Site investigation - archaeology
8. I16 Restriction of hours during construction
9. F02 Restriction on hours of delivery
10. The development hereby permitted shall not be brought into use unless or until the submitted scheme of noise mitigation and control outlined in report reference R11.1203/DRK (Noise Vibration Consultants Ltd, 23 February 2012) has been implemented in full, having particular regard for sections 7 and 8 of that report. The scheme shall continue to be

implemented for the life of the development, subject to any review or amendments as may be deemed necessary in due course.

**Reason:** In order to protect the amenity of the occupiers of nearby properties and to comply with policies DR13 and CF4 of the Herefordshire Unitary Development Plan.

11. The development hereby permitted shall not be brought into use unless or until a comprehensive Odour and Environmental Management Plan as set out in paragraphs 5.4, 5.4.1 and 5.4.2 of the submitted Supporting Statement (edited 11 October 2012), has been submitted to and approved in writing by the local planning authority. In addition, the Plan shall include the following in particular:

- a) The appointment of a named qualified and responsible person to oversee implementation of the plan;
- b) Operational contingencies for dealing with any abnormal events (e.g. fire, flood, spillage);
- c) Production of a working manual for staff, covering all site operations including feedstock handling, digestate handling, gas management and emergency procedures;
- d) Provision of a site diary to be kept on site in which day-to-day observations and actions are recorded, including any complaints and responses. The diary shall be made available for inspection by the local authority on request at reasonable times.

The scheme shall be implemented as approved, and shall continue to be implemented for the life of the development, subject to any review or amendments as may be deemed necessary in due course.

**Reason:** In order to protect the amenity of the occupiers of nearby properties, to prevent pollution and to comply with policies S2, DR1, DR4, DR9, DR13 and CF4 of the Herefordshire Unitary Development Plan.

12. Within six months of the equipment hereby approved becoming redundant, inoperative or permanently unused, the anaerobic digester 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.

13. In connection with the development hereby permitted, no poultry litter or manure or waste shall be carried on the public highway unless it is held within a sealed or securely sheeted vehicle.

**Reason:** In the interests of road safety and the amenity of the locality, and to comply with the requirements of policies S2, DR3, DR4, DR9 and T8 of the Herefordshire Unitary Development Plan.

- 14. I27 Interception of surface water run off
- 15. I32 Details of floodlighting/external lighting
- 16. I30 Restriction on storage of organic wastes or silage

## **Reason for Approval**

- 1. The proposal has been considered having particular regard to possible adverse effects from vehicle movements, noise, odour and flood risk, along with potential impacts on landscape, visual amenity and health. The principles relating to renewable energy, sustainability and carbon footprint reduction have been taken into account in light of current national policy. Anaerobic digestion is a sustainable renewable energy option for farm effluent that would otherwise be waste. Furthermore, the final residue is a valuable fertiliser from which proportions of the polluting and odorous elements have been removed by the process. Its use on land is regarded as a benefit. The need for renewable energy carries weight provided other factors can be mitigated; the site and the proposal have been assessed with this in mind. Operation of the plant would be regulated by an Environmental Permit issued by the Environment Agency, rather than through the planning system. In light of the above, the proposal is considered to accord with, or be capable of compliance with, policies S1, S2, S6, S7, S11, DR1, DR2, DR3, DR4, DR9, DR13, DR14, T6, T8, LA2, LA6, NC1, NC6, NC8, NC9, ARCH1, ARCH6 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 98, 186, 187, 196 and 197. The local planning authority has engaged in pro-active and positive negotiation with the applicant, in identifying matters of concern, obtaining further details and clarification as required, and considering proposals offered to address points raised by respondents. As a result, the local planning authority has been able to grant planning permission for acceptable development subject to conditions, in favour of sustainable development as defined in the National Planning Policy framework.**

## **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 Framework.**
- 2. N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
- 3. N11C General**
- 4. HN01 Mud on highway**
- 5. The applicant is advised to contact the case officer when preparing the details required in addressing the above conditions, to enable liaison with and advice from other departments prior to submission.**



**125. S122820/CD - LAND AT FIR TREE LANE, ROTHERWAS, HEREFORDSHIRE**

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

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor P Sinclair-Knipe, the local ward member, commented on a number of issues, including:

- Lower Bullingham Parish Council had raised no objections to the application.
- Dinedor Parish Council had raised a number of concerns but these had now all been addressed.
- The Modern Records Office currently housed 17500 boxes, 10000 volumes and 3000 maps.
- The centre had to move to a new location, alternatively it could move outside of the County.
- The relocation would act as a catalyst for the enterprise zone and demonstrate that the enterprise zone was not just aimed at weekday uses.

The Committee opened the debate by focusing on the sustainable nature of the development. The Committee noted that that the proposed building was built to 'Passivhaus' standards and was an exemplar of energy efficient, sustainable design which would create an excellent environment for users.

Some concern was expressed in respect of the proposed location of the building. A number of Members were of the opinion that it would be better located within the city centre thus making it more accessible to users. Concern was also expressed regarding the Council allowing the records office to relocate to the Rotherwas Enterprise Zone at a time when other businesses within the city had not been permitted to do so.

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

- The Modern Records Office was for the whole County to use and would be more accessible than its current Harold Street location.

**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. L01 Foul/surface water drainage**
- 4. L02 No surface water to connect to public system**
- 5. L03 No drainage run-off to public system**
- 6. G11 Landscaping scheme – implementation**
- 7. The recommendations set out in the ecologist's report dated May 2012 should be followed. Prior to commencement of the development, a full working method statement and habitat enhancement scheme should be**

submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.

**Reason:** To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan

8. M06 Finished floor levels
9. H13 Access, turning area and parking
10. H21 Wheel washing
11. H27 Parking for site operatives
12. H29 Secure covered cycle parking provision
13. Prior to the first occupation of the development, a Flood Evacuation Management Plan shall be submitted to and approved in writing by the local planning authority. The plan shall include full details of proposed awareness training and procedure for evacuation of persons and property (including vehicles), training of staff; and method and procedures for timed evacuation. It shall also include a commitment to retain and update the plan and include a timescale for revision of the plan.

**Reason:** To minimise danger to people in the flood risk area in accordance with Policy DR7 of the Herefordshire Unitary Development Plan and guidance contained within the PPS 25 Practice Guide.

#### **Reasons for Approval**

1. The application has been considered having regard to Unitary Development Plan policies S1, S2, DR1, DR2, DR3, DR4, DR7, DR10, E1, E5, E8, T6, T7, LA5, LA6, NC1, NC5 and CF5. Guidance laid out in the National Planning Policy Framework 2012 has also been considered, alongside the Rotherwas Futures Drainage and Flood Management Strategy 2009.

The local planning authority concludes that the proposed archive store complies with Unitary Development Plan Policies E1 and E5 in that the primary uses within the building fall within classes B1 and B8 of the Use Classes Order 2012 (As amended). Weight has also been apportioned to the need for the facility and the site's suitability when assessed against other potential sites.

The building is an exemplar of energy efficient design that has the potential to raise the standard of design locally in accordance with the National Planning Policy Framework's aspirations and Unitary Development Plan policies S1 and DR1. Parking provision and accessibility is in accordance with Policy DR3 and the use would have no impact upon the amenity of neighbouring properties, including the former fireman's quarters to the north-west.

#### **INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against adopted



**planning policy and 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.**

## **2. N11C General**

### **126. S122644/F - MARSH FARM, UPTON BISHOP, ROSS-ON-WYE, HR9 7UP**

The Senior 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, Ms Inston, the applicant's agent, spoke in support of the application.

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

- The application related solely to the retention of one mobile home on the site, all other matter were now resolved.
- The mobile home had been refused planning permission in 2008.
- Mr Dinsdale did not own the site when the permission had been refused.
- The removal of the mobile home was the final piece of enforcement action required as part of the Planning Inspector's decision.
- The Planning Inspector had recognised the importance of the Orchard in making her decision.
- The retention of the mobile home would have an impact on the orchard and the biodiversity on the site.
- The proposed location of the mobile home was a concern.
- Work had already been commenced on the site.
- The Inspector's decision should be binding on the Council and should be enforced.
- There was no objection to a mobile home on the site as long as it was located outside of the enforcement area.
- The application should be refused and enforcement action should be commenced.

The Committee opened the debate by discussing the enforcement notice in respect of the mobile home on the site. It was noted that the enforcement notice issued in September 2011 was yet to be complied with. Members voiced their concerns that the proposed two year permission could result in further enforcement issue on the site. Therefore it was proposed that the application be refused and the officers ensure that the enforcement notice on the site was complied with.

Members continued to discuss the application and felt that there was no proven functional need for the mobile home on the site. It was further noted that a single mobile home would not provide sufficient housing for all of the workers on the site due to the extensive works required.

The Committee did note that the applicant was not responsible for the unauthorised development on the site, however he was aware of the enforcement issues when he purchased the land.

Members continues to discuss the application and noted that the site visit undertaken the previous day had highlighted that the mobile home could be seen from the public highway as well as from the garden of a neighbouring resident. It was also considered that the proposed site was not appropriate due to the ecological issues previously raised by the local ward member.

Members noted that the Planning Inspector had made a decision in respect of the site and that this decision should be complied with and enforced by the Council.

The Development Manager (Hereford and Southern Localities) advised Members that their decision should not be based on the previous enforcement history of the site. He did however note that the Committee had raised issues relating to the lack of a functional need for the mobile home; the potential impact on the habitat of protected species'; and visual impact as the mobile home was visible from the public footpath.

In response to a question regarding the enforcement notice, the Development Manager (Hereford and Southern Localities) advised the Committee that the enforcement notice related to a number of additional caravans, some of which were within the orchard itself. He added that the mobile home being considered today was sited on hardstanding and therefore the Committee were considering a different issue to the one determined by the Inspector. He added that the lack of a functional need together with the associated visual impact would be defensible however refusal on the grounds of the impact upon biodiversity would not.

One Member of the Committee also noted that he considered the application to be contrary to Unitary Development Plan Policy H7 as the development would result in housing within the open countryside.

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

- The Committee were right not to base their decision on the previous enforcement history of the site.

## **RESOLVED**

**THAT planning permission be refused for the following reasons:**

- 1. There is a lack of a functional need for the mobile home**
- 2. On grounds of visual impact as the mobile home is visible from the public footpath.**

### **127. S122498/F - CHEVENHALL, WALFORD ROAD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5PQ**

The Vice-Chairman was in the Chair for the following item.

The Senior 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 Warwick, the applicant, spoke in support of his application.

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

- The local ward members had asked for the application to come before the Committee.
- The landscaping condition imposed by the committee previously was not wanted by either party.

The Senior Planning Officer confirmed that the Committee had requested a landscaping condition previously and that this could not be removed unless an appropriate application was received.

Councillor Atkinson was given the opportunity to close the debate but chose to make no further statement.

## **RESOLVED**

**That planning permission be granted subject to the following conditions:**

1. **C01 Time limit for commencement (full permission)(1 year)**
2. **B01 Development in accordance with the approved plans**
3. **Within 3 months of the date of this permission details of the proposed parking for, and the delineation of the boundary treatment of the dwelling hereby permitted and Chevenhall shall be submitted to the local planning authority for approval in writing. The submitted details shall show the consolidation of the parking spaces, drainage and demarcation of the spaces identifying the dwellings to which the parking spaces relate and the parking spaces shall be retained and kept for the parking of vehicles at all times.**

**Reason: To ensure adequate off street parking arrangements remain at all times and that appropriate levels of amenity are provided for both properties so as to comply with policies DR2, DR3, H13 and H16 of the Herefordshire Unitary Development Plan.**

4. **F16 No new windows in specified elevation**
5. **F14 Removal of permitted development rights**

## **Reason for Approval**

1. **In reaching this decision the local planning authority has had particular regard to effect of the proposal upon the residential amenities of the neighbouring property and it was concluded that there would be no adverse impact having particular regard to the character of the area, the limited size of the unit and the presence of screen fencing and planting. Furthermore the independent occupation of the building would have no discernible impact upon the character of the Ross-on-Wye Conservation Area and the Wye Valley Area of Outstanding Natural Beauty and subject to conditional approval would be provided with an acceptable curtilage and off-road parking. The proposal was considered to accord with Policies S2, S7, DR1, DR2, DR3, H13, H16, HBA6 and LA1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.**

## **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, including any 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.**

### **128. S122724/FH - 9 & 10 BAKERS OAK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5RP**

The Vice-Chairman was in the Chair for the following item.

The Senior 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.

The Committee noted that the application was only before them as it had been submitted by a close relative of a Councillor.

## **RESOLVED**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. I16 Restriction of hours during construction**

## **Reason for Approval**

- 1. The application represents an extension of acceptable size, scale and form in keeping with and subservient to the original dwellings resulting in no adverse impact upon adjoining residential amenity or the character and appearance of an Area of Outstanding Natural Beauty. Furthermore the proposal is considered to satisfy Herefordshire Unitary Development Plan policies DR1, DR2, H18 and LA1 and the requirements of the National Planning Policy Framework**

## **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, including any 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.**

### **129. N123247/FH - MEADOW END, LITTLE COWARNE, BROMYARD, HR7 4RG**

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.

The Committee noted that the application was only before them as it had been submitted by a close relative of an officer of the Council.

## **RESOLVED**

**Subject to no further objections raising additional material planning considerations by the end of the consultation period , the officers named in the scheme of delegation be authorised to approve the application subject to the following conditions and any additional conditions considered necessary by officers:**

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **The length of the single satellite dish hereby permitted shall not exceed 100 centimetres.**

**Reason: To protect the visual amenities of the area, to ensure the development complies with the requirements of Policies DR1 and H18 of the Herefordshire Unitary Development Plan and is in line with guidance provided within the National Planning Policy Framework.**

### **Reason for Approval**

1. **The application to install a satellite dish on the south elevation of Meadow End is not considered to have an undue detrimental impact upon the character and appearance of the landscape nor is it considered to be of detriment to the amenity or privacy of neighbouring dwellings. As a consequence, the application accords with polices DR1, H13, H18 & LA2 of the Herefordshire Unitary Development Plan and is in line with the guidance provided within the National Planning Policy Framework.**

### **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, including any 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.**

## **130. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

## **APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES**

The meeting ended at 12.37 pm

**CHAIRMAN**



# PLANNING COMMITTEE

9 January 2013

## 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.**

**S121357/N - CONSTRUCTION OF A 499KW AGRICULTURAL ANAEROBIC DIGESTION AND ANCILLARY DEVELOPMENT TO PRODUCE RENEWABLE ENERGY FROM ONSITE GENERATED WASTES AND ENERGY CROPS. AT LITTLE PENGETHLEY FARM, PETERSTOW, ROSS-ON-WYE, HR9 6NB**

**For: Mr Green per Mr Robert Edwards, 4205 Park Approach, Thorpe Park, Leeds, LS15 8GB**

### ADDITIONAL REPRESENTATIONS

The Primary Care Trust (PCT) was consulted as to any health risks from the proposal. The PCT in turn referred the case to the Health Protection Agency (HPA) for specialist advice. The HPA is not a consultee on planning proposals, but it is open to the PCT to request assistance and confirmation, as was done in this instance.

In response to further queries being raised by an objector, officers requested the following bodies to reaffirm and clarify their professional views on this matter, with particular reference to a young local resident having severe respiratory health problems:

- Primary Care Trust,
- Health Protection Agency,
- Environment Agency
- Head of Environmental Health and Trading Standards.

Specialist advice has confirmed that there is no risk to 'vulnerable receptors' beyond 250 metres from any source of bio-aerosols. The Environment Agency has confirmed its national 'Position Statement', and has pointed out that this proposal does not in any case fall into a high risk category. The Agency would not normally require any additional work within the 250 metre zone for an AD plant of this type. The vulnerable resident lives 350 metres from the site. None of the professional bodies has voiced any concerns with regard to the proposal.

An emailed letter has been sent on 7 January 2013 to all Members of the Committee by Mr W Lyons on behalf of a number of local residents. The letter is critical of the committee report put before Members, and is appended with a number of specific criticisms relating to certain paragraphs. In particular these relate to traffic, proximity of the site to residential properties, drainage, and the health concerns which have been elaborated upon above.

## OFFICER COMMENTS

For clarification to Members of the Committee, most bio-aerosol research relates to the open-air storage of animal litter and manure, and to composting operations. These have a potential to generate wind-blown bio-aerosols. However, an anaerobic digester is a sealed operation with no emissions. Mixing of feedstock is automatic, undertaken in a closed vessel. Movement of materials within the site is therefore the only possible generator of bio-aerosols. The applicant has confirmed that poultry litter would not be stockpiled on site. Any risk from the proposal is therefore very low even within 250 metres. The 250-metre zone is set by the Environment Agency as the point within which a detailed assessment and mitigation may be required for higher risk proposals, but the Agency has confirmed this does not apply for this type of development or in this case. In any event, the distance is not prohibitive or an exclusion zone.

The health of the young person is clearly of serious concern and has been considered very carefully; officers have spoken at length with scientific staff at the Health Protection Agency on 4 January 2013, giving full details of the proposed development. All appropriate consultations have been made, and no adverse comments have been received. The consultees have been fully informed of the specific relevant circumstances. Officers have no reason to doubt the expressed views of all of these professional bodies, which coincide with national position statements from government agencies.

## OFFICER COMMENTS

The emailed letter reflects the views expressed in the letters of objection received and does not raise any new objections. These views have been considered carefully; the delay in determining this application has partly been due to such careful consideration and the additional information which officers have sought to obtain. The points raised do not affect the recommendation, but the following clarification on certain technical issues is given in order to assist Members:

**Para 1.4:** There is no categorical '1 hectare threshold requiring an EIA'. Judgement as to whether or not EIA is necessary depends upon the likelihood of significant adverse environmental effects. The proposal is included in Schedule 2 of the EIA Regulations 2011 as the site exceeds 0.5 hectare. However this does not mean that EIA is mandatory, and numerous other factors play a part. The Screening Opinion was formulated in accordance with the Regulations. According to the plans submitted, the operational area for the AD plant is just less than 0.5 hectares; the entire site including crop clamp is just less than 1.2 hectares. The references to 'SR2010 No 16 and No 17' relate to Environmental Permit applications, not planning requirements. The distances quoted do not apply in this case.

**Para 6.15:** The Transportation Manager has been asked to clarify the published accident figures for St Owen's Cross. The figures given in the letter, in particular the claim that there have been 10 deaths at the crossroads since 2005 are not borne out. There is no doubt that St Owen's Cross is an accident cluster spot, but the accident figures given for the actual crossroads indicate 4 serious and 3 slight in the last 5 years, with 15 serious and 48 slight since 1979. Most accidents are reported as due to driver error, not giving way, or not looking. Any further clarification received will be reported to Members verbally.

**Para 6.23:** The proposed surface water drainage arrangements entail a single shallow seasonal swale or detention basin, on adjoining land to the east of the proposal site which is owned by the applicant. It would not be a reservoir or permanent waterbody. The stated purpose would be to accommodate calculated run-off from the new hard-standing on the site, and to prevent surface water flooding, including that understood to already occur at properties such as Ashen Coppice to the south-east. These arrangements could not affect any borehole or private water supply. The swale is regarded as beneficial.

**Para 6.28:** Officers offer full respect and concern for anyone's health concerns, and have taken the points raised very seriously, consulting widely and at length on any possible risks. Confirmations of responses, and second opinions, have been obtained from all concerned. It remains a point of fact that the site would be more than 250 metres from the person's home, and no evidence has been found that suggest the presence of this plant could aggravate her condition. This topic is clarified above.

## NO CHANGE TO RECOMMENDATION



**S122820/CD - NEW ARCHIVE AND RECORDS CENTRE FOR HEREFORDSHIRE COUNCIL. INCLUDING REPOSITORIES, CONSERVATION ROOMS, STAFF OFFICES, EDUCATION SPACES, SEARCH ROOM AND EXHIBITION SPACE TO ENABLE MEMBERS OF THE PUBLIC TO VIEW ARTEFACTS. AT LAND AT FIR TREE LANE, ROTHERWAS, HEREFORDSHIRE,**

**For: Mrs Lane per Mr Mark Barry, Upper Twyford, Twyford, Hereford**

#### **ADDITIONAL REPRESENTATIONS**

County Archaeologist - The site was subject to archaeological field evaluation in 2008/09 (Rotherwas Futures) and was found to have been affected by previous demolitions. As a consequence, no deposits of archaeological significance were found to be present.

#### **CHANGE TO RECOMMENDATION**

A condition to deal with any unexpected contamination should be added to the recommendation.

**S122644/F - RETENTION OF EXISTING MOBILE HOME (WITH TEMPORARY USE FOR 2 YEARS) AS ACCOMMODATION ANCILLARY TO OCCUPATION OF DWELLINGS PERMITTED BY APPROVALS DMS/113120/F & DMS/113121/F. AT MARSH FARM, UPTON BISHOP, ROSS-ON-WYE, HR9 7UP**

**For: Mr Dinsdale per The Design Studio, 6 Sansome Walk, Worcester**

#### **ADDITIONAL REPRESENTATIONS**

The applicant has confirmed title of land ownership with Land Registry.

Further representation received from Alan & Sandra Major, The Manor House, Upton Bishop:

We would like to raise our continuing objection to the application for planning on the Marsh Farm site- which we had thought had now been conclusively dealt with at a planning appeal. So we are dismayed that there is further delay of enforcement. We understand from looking at this that the current application is once again within an orchard which is not appropriate for development for reasons which have now been well rehearsed. It has already been through an expensive appeal process and is subject to enforcement which should now be carried out. So far as we are aware, there is no existing accommodation. We don't know who would use the cabin, what for and under what conditions. The applicant lives in a house as we understand it and could be within commuting distance for development purposes. If on-site accommodation is needed the cabin could be moved to a new location outside the enforcement site. This should not be a problem since there is an access track being the main entrance to Marsh Farm. It is hard surfaced and was used to bring all the large log cabins covered by the Enforcement Notice onto the orchard. Location nearer the replacement farmhouse building site would make it part of that development with all the building materials, scaffolding etc. so that the cabin would not have wider visual impact. In the current location it is spoiling a protected orchard and leading to disturbance and possible further damage to protected species. These issues are a more important feature to consider than creation of a new concrete base. The Council has obligations to protect the orchard site from development. There has been a breach of the Enforcement Notice for 6 months now. The application must therefore be refused in the light of this and the planning appeal decision as it flies in the face of that process.

#### **NO CHANGE TO RECOMMENDATION**



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>30 JANUARY 2013</b>
<b>TITLE OF REPORT:</b>	<b>APPEALS</b>

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**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 DETERMINED**

### **Application No. N113184/F**

- The appeal was received on 5 July 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 the owner and/or occupier
- The site is located at Chapel Cottage, Main Street, Wellington, Herefordshire, HR4 8AX
- The application dated 2 November 2011 was refused on 3 January 2012
- The development proposed was a replacement dwelling.
- The main issues were:
  - Whether the proposal would preserve or enhance the character or appearance of the Wellington Conservation Area;
  - The effect of the proposal on the living conditions of the occupiers of the proposed dwelling, with particular regard to privacy;
  - The implications of the proposal on bats, a protected species, and;
  - The effect of the proposed parking arrangements on Highway Safety.

### **Decision:**

The application was refused, under delegated powers, on 3 January 2012.

The appeal was dismissed on 10 December 2012.

An application for the award of costs, made by the Council against the appellant, was granted.

**Case Officer: Mr C Brace on 01432 261947**

### **Application No. S120740/F**

- The appeal was received on 18 October 2012
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions
- The appeal was brought by Mr F Airey
- The site is located at Walwyn Court, Much Marcle, Herefordshire, HR8 2LY
- The application dated 13 March 2012 was approved on 9 May 2012 and planning permission was granted subject to conditions.
- The development proposed was a revised proposal to demolish an existing outbuilding and replace with annex accommodation, garage and boiler room
- The main issues were:
  - Whether the occupation of the annex as a separate dwelling would be contrary to the policies for control of development in Much Marcle;
  - Whether occupation of the annex and Walwyn Court as separate dwellings would result in an unacceptable loss in amenity for their occupiers; and
  - Whether the use of the access by traffic generated by the occupation of the annex and Walwyn Court would result in an unacceptable reduction in Highway Safety.

#### **Decision:**

The application was approved with conditions, under delegated powers, on 9 May 2012.  
The appeal was dismissed on 3 January 2013.

**Case Officer: Mr D Thomas on 01432 261974**

### **Application No. S121246/F**

- The appeal was received on 30 August 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 F Airey
- The site is located at Wallwyn Court, Much Marcle, Ledbury, Herefordshire, HR8 2LY
- The application was refused on 20 June 2012
- Removal of Condition 4 of Planning Permission DMS112013/F to allow house and barn to be treated as separately owned units.
- The main issues were:
  - Whether the occupation of the annex as a separate dwelling would be contrary to the policies for control of development in Much Marcle;
  - Whether occupation of the annex and Walwyn Court as separate dwellings would result in an unacceptable loss in amenity for their occupiers; and
  - Whether the use of the access by traffic generated by the occupation of the annex and Walwyn Court would result in an unacceptable reduction in Highway Safety.

#### **Decision:**

The application was refused, under delegated powers, on 20 June 2012.  
The appeal was dismissed on 3 January 2013.

**Case Officer: Mr D Thomas on 01432 261974**

### **Application No. N11899/O**

- The appeal was received on 2 July 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 Ms Nikki Harrison
- The site is located at Porthouse Farm, Tenbury Road, Bromyard, Herefordshire
- The application dated, was refused on 4 April 2012
- The development proposed was An outline application for the erection of up to 127 dwellings, comprising 83 open market and 44 affordable units, wither all matters except access reserved for future determination
- The main issue is whether the implementation and maintenance of noise attenuation measures can be secured; and in the event that they could be secured whether future residents of the proposed development would be affected by an unacceptable level of night time noise nuisance arising from the movement of stillages in the open yard of the adjoining Polytec site.

NB: Although the appeal was originally to take place under the Written Representations procedure, the Inspector, on an accompanied site visit which took place on 17 October 2012, decided that the issue of Noise would best be dealt with by way of a separate Hearing. The Hearing took place on 4 December 2012.

#### **Decision:**

The application was refused, contrary to Officer recommendation, on 4 April 2012.

The appeal was dismissed on 3 January 2013.

An application for the award of costs (Partial), made by the appellant against the Council, was allowed.

**Case Officer: Mr R Close on 01432 261803**

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





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>30 JANUARY 2013</b>
<b>TITLE OF REPORT:</b>	<b>N123067/F - ERECTION OF TWO STOREY DWELLINGHOUSE AT LAND AT THE COACH HOUSE, OLD CHURCH ROAD, COLWALL, MALVERN</b>  <b>For: Mr Beard per Architype, Upper Twyford, Twyford, Hereford, Herefordshire HR2 8AD</b>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123067&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123067&amp;NoSearch=True</a>

**Date Received: 30 October 2012**    **Ward: Hope End**

**Grid Ref: 375350,242937**

**Expiry Date: 10 January 2013**

Local Members: Councillors CNH Attwood and AW Johnson

## 1. Site Description and Proposal

- 1.1 The application site is located on to the north of Old Church Road and west of the Mathon Road within the Parish of Colwall. The site which has an area of some 0.28 hectares forms part of the current garden area of a dwellinghouse known as 'The Coach House'. Vehicular access to the site is via an existing driveway from Old Church Road. The site is set back in excess of 65 metres from the public highway.
- 1.2 Whilst the site appears flat there is a subtle difference in ground level with the land sloping gradually downwards from north to south by some 4 metres. . Across the site at its northern end a stream runs. It crosses the site in an east to west direction. There is currently a culvert within this stream allowing a crossing. The site forms part of a garden with mature trees. There are significant trees upon the site most of which are concentrated around its boundaries.
- 1.3 The aforementioned 'The Coach House' is located to the west of the application site. To the east is a bungalow known as 'Acrefield', to the north is a two storey property known as 'Whitegates' and to the south-west is the original substantial Victorian house known as 'Burleigh' to which 'The Coach House' (now a dwellinghouse) was associated. None of these buildings are nationally listed as being of architectural or historic merit, although it is considered that 'Burleigh' is of local interest. The application site was formerly a field that was incorporated into a garden and therefore lies outside the original Victorian garden boundary of 'Burleigh'.
- 1.4 The site lies within the Colwall Stone / Upper Colwall Conservation Area and the Malvern Hills Area of Outstanding Natural Beauty.
- 1.5 The proposal is to erect a two-storey dwellinghouse. It is intended that the applicant and his wife, who currently reside in 'The Old Coach House' would move into the property. The proposed house has been designed for the specific functional needs of the applicant and his wife, who suffers from a potentially chronic auto immune condition which is proving difficult to treat, and to achieve high sustainability credentials (i.e. minimising energy use).

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

- 1.6 The proposed house three bed roomed house would be sited to the north of the site, at a low point, parallel with the northern boundary and some 9 metres from that boundary. The house would be 21.5 to 32 metres from the eastern boundary. The set back from Old Church Road would be approximately 100 metres.
- 1.7 The house at ground floor level would have a width of 11.9 metres and a depth ranging from 13.3 metres to 17.3 metres. The first floor would be set back from the front elevation of the ground floor by some 5 metres. The ground floor roof not accommodating the first floor would provide a terrace and a "green roof". Attached to the eastern elevation at ground floor level is a car port.
- 1.8 The house is in essence a contemporary box. Its shape has been developed to a sophisticated level using sloping walls. Its overall height would be 7 metres. The main front façade has substantial glazing whilst the rear (northern) elevation has no openings (i.e. windows or doors) proposed. The side / flank elevations have limited windows.
- 1.9 The materials are of interest with the main two storey element having European chestnut cladding (diagonal open boarding) to the sides and a standing seam metal (i.e. zinc) roof and rear elevation. The frontage projection and car port would be rendered.
- 1.10 It is proposed to replace the existing culvert with a clear span bridge. This would provide the vehicular access route off the existing driveway. The driveway would have a permeable surface.
- 1.11 There would be a minor diversion of an existing swale to the rear of the proposed dwellinghouse.
- 1.12 Of the numerous trees upon the site only two ornamental silver birches would be removed. A submitted arboricultural assessment grades these trees as being of low quality. A detailed landscaping scheme has been submitted which enhances screening along the northern boundary.
- 1.13 The intention is that the building would be constructed such that it would meet Passivhaus standards in terms of its sustainability credentials.

## 2. Policies

### 2.1 Central Government advice:

National Planning Policy Framework (March 2012)

### 2.2 Herefordshire Unitary Development Plan 2007:

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and Historic Environment
DR1	-	Design
DR2	-	Land & Use and Activity
DR3	-	Movement
DR8	-	Culverting
DR14	-	Lighting
H7	-	Housing in the Countryside Outside Settlements



- LA1 - Areas of Outstanding Natural Beauty
- LA5 - Protection of Trees, Woodlands and Hedgerows
- LA6 - Landscaping Schemes
- NC1 - Biodiversity and Development
- NC6 - Biodiversity Action Plan Priority Habitats
- NC7 - Compensation for Loss of Biodiversity
- HBA6 - New Development in Conservation Areas

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

#### Application Site

3.1 MH/90/0148 Outline application for the erection of two dwellings. Refused.

#### Adjoining Coach House

- |     |                           |  |                      |
|-----|---------------------------|--|----------------------|
| 3.2 | MH/90/132                 | Conversion of Coach House to dwelling.   | Approved.            |
| 3.3 | NE/2001/0728/F            | Conversion of offices to residential use.  | Approved 22.6.2001.  |
| 3.4 | NE/2002/2299/F            | Demolition of storage building and formation of extension to provide sitting room with bedroom over. | Approved 26.9.2002.  |
| 3.5 | NE2003/0050/F             | New timber garage.   | Approved 26.3.2003.  |
| 3.6 | DCNE/2005/2031/F          | Proposed conservatory.   | Approved 1.8.2005.   |
| 3.7 | N113003/FH &<br>N113004/C | Two storey extension to dwelling.  | Approved 16.12.2011. |

### 4. Consultation Summary

#### Statutory Consultees

None.

#### Internal Consultees

- 4.1 Conservation Manager (Historic Buildings): Supports the proposal and is of the view that the proposal would not only preserve the existing conservation area but would enhance it providing a quality building that responds to its setting.
- 4.2 Conservation Manager (Landscape): Does not object to the proposed development subject to an appropriate planning condition. The submitted landscaping scheme is considered to be acceptable.
- 4.3 Conservation Manager (Ecology): No objections subject to an appropriate planning condition.
- 4.4 The Transportation Manager: No objections.

4.5 The Land Drainage Adviser (Amey) has no objections to the proposal but notes that if planning permission were to be granted a separate Land Drainage Consent would be required.

## 5. Representations

5.1 Colwall Parish Council state:-

“Colwall Parish Council raises strong objections to this proposed development.

The following comments are to be submitted to Herefordshire Council for consideration - In summary this is a new dwelling in the Malvern Hills AONB which is outside the settlement boundary of the Parish of Colwall.

One additional “windfall” dwelling has already been developed on the site, by the applicant – in the conversion of the Old Coach House to a residential dwelling, and the Parish Council is opposed to another new dwelling outside the Parish Settlement Boundary.

The Parish Council are of the opinion the application contravenes H4 of the UDP which states the provision of housing in the main villages will be restricted to sites within the identified settlement boundary.

LA1 Of the UDP – the development is not of greater national interest than the purpose of the AONB, and it is not the case that no alternative sites are available.

HBA6 – Development within the conservation area will not be permitted unless it preserves or enhances its character or appearance. “

5.2 Councillor Attwood (Hope End Ward) states:-

“The application has my support. The building appears to be well designed, environmentally appropriate and non-intrusive.

Colwall Parish Council has quite logically objected that it is outside the Settlement Boundary, a principle they sensibly adhere to.

However, in this particular instance, it can be seen from the site map (and from the site visit), that the boundary contains an idiosyncratic diversion from its general line and excludes the plot which is the subject of this application. There appears to be no rhyme or reason for this oddity.

It would seem eccentric for the unexplained and apparently arbitrary diversion of the Settlement Boundary to prohibit this application.”

5.3 The occupiers of three neighbouring properties (i.e. ‘Grovesend’, ‘Whitegates’ and ‘Burleigh’) object to the proposed development on the following summarised grounds:-

- The proposed development lies outside of the defined settlement / village boundary of Colwall.
- The design of the building in a conservation area is unsympathetic to the Victorian and Arcadian character of the area.
- The issue of flooding does not appear to have been addressed by the agent.
- The access onto Old Church Road is poor and currently used by The Coach House and Burleigh. The proposal would increase use of this unsafe access.

- There has been incremental development upon the land within the applicant's ownership.
- The proposal would reduce the garden area associated with The Coach House.
- Concern as to siting so close to the boundary with 'Whitegates'.
- The proposed development lies within the Malvern Hills AONB and fails to preserve its special qualities and distinctive character of the villagescape including large gardens, low densities or the sense of tranquillity that is to be protected. It is felt the proposal compromises the integrity of the settled landscape.
- The development potentially affects many types of views – short and long distance – within and to / from AONB.
- This feels like a significant overdevelopment and garden grab of The Old Coach House.
- Loss of mature trees.

5.4 Notwithstanding the above objections, the occupiers of 'Whitegates' state that if planning permission were to be granted they would wish:-

- Comprehensive landscaping to be secured between the proposed house and the northern boundary.
- No new windows to be inserted in the rear (north) elevation.
- No subsequent extensions to the building.

5.5 Notwithstanding the above objections, the occupiers of 'Grovesend' state that if planning permission were to be granted they would wish:-

- The property to have some form of concealing screening.
- Limited windows towards their property.
- Some form of binding contractual obligation for any flooding damage that may be caused by the development.
- Our garden wall which adjoins the Coach House to be restored to its original height as following the flood damage in 2007 it was rebuilt to a lower level at the informal request of the owners of The Coach House.

5.6 One letter of support has been received from the occupiers of 'Shires Lodge' on the following grounds:-

- Welcome the development of sustainable building methods as crucial to the survival and welfare of us all in a local and global context.
- The building appears attractive with clean lines.
- Would not be visible from the road.
- Planted roof is welcomed.
- Additional traffic would not be significant.

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

[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://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](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

### Principle

- 6.1 Although the application abuts the settlement boundary (i.e. village envelope) of Colwall, it lies outside of the settlement boundary. As such, the proposal to build a new dwellinghouse is contrary to policy H7 of the Herefordshire Unitary Development Plan 2007. The issue then arises as to whether there are any other material planning considerations that indicate that the proposal is acceptable.
- 6.2 As Members will be aware the Council has a shortfall in its five year housing land supply and fails to meet the enhanced requirements in the National Planning Policy Framework (NPPF) for a 5% oversupply. This is a significant material planning considerations and means that the Local Planning Authority should release *appropriate* sites for housing development even if they lie outside of the defined town and rural settlement boundaries.
- 6.3 Suitable sites for release are likely to be ones which:-
- fall at locations that currently have settlement status within the UDP; and
  - are located adjacent to the existing settlement boundary.
- 6.4 In this particular case, Colwall has the status of a main village / settlement in Herefordshire Unitary Development Plan 2007. In terms of the context of Herefordshire, it is considered that Colwall is a highly sustainable settlement having a range of facilities (e.g. retail shops, community facilities, employment land) and a railway station.
- 6.5 Furthermore the application site directly abuts the settlement boundary (see plan attached in annex to this report). In fact, when one examines the line of the settlement boundary it almost appears as an anomaly that this land was excluded. The land is already in a residential use.
- 6.6 As such the site is considered suitable for the erection of a dwellinghouse.
- 6.7 Notwithstanding the above, the detail of the proposal requires careful consideration.

### Pattern of Development

- 6.8 When one analyses the location and site plan, the provision of a building on this site would be consistent with the grain of the immediate area. It follows the random and scattered siting of other dwellings in the vicinity, whilst providing a large garden for the proposed dwelling and a generous garden for the retained Coach House.

### Siting

- 6.9 The precise siting of the proposed house has been very carefully chosen having had full regard to the physical characteristics of the site. The site is characterised by a lawned area that is surrounded by mature trees with a few trees within it. The location of the proposed house has been very carefully selected to having regard to:-
- retaining the quality trees upon the site and ensuring that they are not prejudiced in the long term. In fact only two silver birch trees would be felled. All trees upon the site have been the subject of a full tree survey including a qualitative assessment. The two silver birches to be felled were considered to be of a low quality value.
  - Providing for solar gain to the proposed house
  - Respecting the pattern / grain of development in the area and ensuring generous plot sizes for both the retained 'Coach House' and the proposed new house.

- Providing access to the site by way of a logical split off the existing driveway; and
- A desire to site the building at a low level upon the site thus keeping the building height low.

It is considered the siting of the proposed house to be both logical and appropriate.

#### Design & Sustainability Credentials

- 6.10 The design of the building is overtly and unashamedly contemporary. This approach is welcomed and is considered to be preferable to a pastiche approach. It is considered that a pastiche may compete with The Coach House and the Victorian dwelling known as 'Burleigh'.
- 6.11 Whilst in essence the design is a box, its shape has been developed further to a much more sophisticated level using sloping walls, different treatments for the larger and smaller boxes in terms of cladding, the use of a green system over the projecting ground floor which surrounds the terrace and the angles that help to minimise the impact of the large amount of glazing. On a more detailed level the timber cladding has been carefully thought out to address potential problems at the junction with windows and the roof plus the relationship with the ground level. They all, in the opinion of the Conservation Manager (Historic Buildings), "show a crispness of form that is considered, to lift the proposal out of the realms of being merely put together and into architecture."

Though the scheme is dramatically different to its neighbours in style, it is considered to respond appropriately to the site and its surroundings, using appropriate materials that should mature well. It does exhibit a high quality of design that is considered to be appropriate to the area.

- 6.12 The proposal has clearly been designed from the outset with regard to achieving a building with genuine sustainability credentials. The proposal is to construct a house that would meet Passivhaus standards (<http://www.passivhaus.org.uk/> and <http://www.passiv.de/en/index.php>). This is considered the highest and best of the numerous standards as its approach is to design buildings that minimise energy consumption (i.e. heating of less than 15 kilowatt hours per m<sup>2</sup> per year compared to most new dwellinghouses that tend to consume 100 kw (m<sup>2</sup>/a). In my experience such buildings typically involve:-
- The building facing south or within 15 degrees of south.
  - Very high levels of insulation.
  - Extremely high performance windows with insulated frames.
  - Airtight building fabric.
  - Thermal bridge free construction.
  - A mechanical heat recovery system with highly efficient heat recovery.
- 6.13 Therefore the proposed house is not only considered to be excellent in terms of its aesthetics but also its sustainability credentials. As such, it is considered that the design is innovative, original and responds to the challenges of the time. The proposal is considered to represent excellent architecture that may assist in helping to raise the standard of design in the area.
- 6.14 It is also worth noting that paragraph 65 of the NPPF specifically states that "Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with the existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits)."

### Impact upon character and appearance of Conservation Area

- 6.15 The Colwall Conservation Area is defined by the villas and their garden areas. Old Church Road is the more rural part of the area with less formal gardens than Walwyn Road although there are some similarities between the two.
- 6.16 The conservation area is somewhat unusual in that there are few listed buildings and its character derives primarily from the gardens and mature garden settings. Whilst there are some attractive villas, such as 'Burleigh', there are some residential dwellings of no architectural merit. Whilst the area has developed gradually it saw most of its development in the twentieth century.
- 6.17 In this case the garden area of The Coach House (i.e. the application site), is an area of private open space which is not readily visible and apparent from public vantage points (i.e. public highway and public rights of way). As such, limited development upon it would not harm the visual appearance of the conservation area. The resultant density and generous garden areas that would be afforded to both the retained Coach House (which has three bedrooms and a home office that could be used as a fourth bedroom) and the proposed house would respect the character of the conservation area. Interestingly, the Local Planning Authority was unsuccessful at an appeal in resisting the development of a smaller garden area within the conservation area that was visible from the public highway at 'Holmleigh' Old Church Road (reference DCNE2007/1020/F).
- 6.18 Additionally and significantly, it is considered that the proposed house is of a scale and design that provides a clear hierarchy to the wider historic site comprising the original Victorian villa ('Burleigh') and the Coach House.
- 6.19 Furthermore the Conservation Manager considers that the proposed development not only preserves the existing conservation area but would enhance it by providing a quality building that responds positively to its setting, thus complying with policy HBA6 of the Herefordshire Unitary Development Plan 2007.

### Impact upon landscape, trees & landscaping

- 6.20 Colwall is located within the Malvern Hills Area of Outstanding Natural Beauty. It is considered that the proposed development would not be readily visible from public vantage points.
- 6.21 The trees upon the site are protected by both an Area Tree Preservation Order (TPO-289/A1) and by virtue of being within the Conservation Area. The proposed scheme respects the existing trees by ensuring that those trees that are both worthy and capable of retention are retained.
- 6.22 In addition, a landscaping scheme has been submitted that includes enhanced planting between the rear elevation of the proposed house and the northern boundary of the site.
- 6.23 These proposals are welcomed to replace the two trees that are to be felled and to continue the important green infrastructure around the boundary of the site. The proposals include tall, hardy evergreen species to the back of the planting bed, which will form a substantial screen with the neighbouring property to the north known as 'Whitegates'. The front of the bed would include smaller ground cover plants with low maintenance and suitable to the garden setting. A new beech hedge would clearly define the western garden boundary with 'The Coach House'.
- 6.24 Therefore it is concluded that the proposal would safeguard the landscape and not have any detrimental impact upon the landscape of the Malvern Hills Area of Outstanding Natural Beauty.

### Bio-diversity / Ecology

- 6.25 The Conservation Manager (Ecology) has no objections to the proposal. Furthermore the replacement of the existing culvert with a bridge is welcomed. From a bio-diversity perspective this is invariably preferred as it allows light to the water course and ensures the free flow of water. Culverts block light and can become obstructed.
- 6.26 A recommended condition would secure a habitat enhancement scheme.

### Flooding

- 6.27 The site is not within an area that the Environment Agency identifies as being liable to flood. That does not mean that the site is not liable to flood from say surface water. It is understood that in the 22 years that the applicant has lived on or adjoining the site, the water / storm drained became blocked once (July 2007) after extreme weather conditions at the point where it enters the culvert near the Coach House resulting in the water over spilling the bank and running across to the north-west part of the existing garden.
- 6.28 It is understood that on the western boundary of the curtilage of the Coach House there was a tall wall with on a small pipe through it (in line with the swale) which was blocked and therefore was unable to take the volume of water, which built up. Eventually the wall toppled over (it is understood that the wall was concrete with metal in it which had become rusty and the concrete had started to break away before the incident) and the water passed onto the land of 'Grovesend'. Significantly, it is understood that at no time did the retained water approach the site of the proposed house.
- 6.29 It is understood that subsequently the wall was rebuilt by the owners of 'Grovesend' and a larger opening left at the bottom of this wall by the swale (75cm wide and 25 cm deep) to allow water in extreme weather conditions to run freely.
- 6.30 In addition, it is understood that a wire barrier was erected in the water course to catch any twigs/leaves/rubbish before they reach the culvert pipe entrance. When the proposed bridge is built for accessing the new house (in place of the culvert near our Eastern boundary) it is intended to provide a further wire barrier in the water course as when it runs quickly after heavy rain rubbish is carried down from other gardens.
- 6.31 As this was a single incident in 22 years, and changes have been made subsequently, it is not considered that the garden is subject to flooding and there does not appear to have been any incident in the area proposed for the new house. It is understood that 2012 has been the wettest for many years and Officers are not aware of any flooding of the application site.
- 6.32 Members are assured that the application has been assessed by the Council's Land Drainage Advisor who raises no objections. Furthermore even if planning permission were to be granted the applicant would need to obtain a separate Land drainage consent from the Lead Local Flood Authority (Herefordshire Council – Agents Amey) who would assess in detail the matter of flood risk management and who would need to be satisfied that there is no adverse affect on flow and / or capacity.

### Transportation

- 6.33 It is considered that the local highway network has sufficient capacity to cope with the additional 6-8 vehicular movements a day that the proposed development is likely to generate.
- 6.34 The existing vehicular access and highway network is considered to be of a standard that the proposed development would not prejudice highway safety. The off-site parking provision

accords with adopted standards. Colwall is considered to be a sustainable location with a range of facilities and a railway station.

#### Impact upon neighbouring residential properties

- 6.35 As Members are aware the planning system does not entitle one to a view. The distance between the proposed house itself and the physical dwellinghouses at 'Burleigh', 'Grovesend' and 'Whitegates' are some 75 metres, 90 metres and 30 metres respectively. Given the limited height of the proposal and the significant distances to neighbouring properties it is considered that they would not suffer any undue loss of daylight and / or sunlight. Similarly a distance of 21 metres from habitable room window to habitable room window is significantly exceeded. As such, it is considered that there would not be any undue loss of privacy to neighbouring dwellinghouses.
- 6.36 Furthermore the privacy distance of 21 metres to the immediate private (normally rear) garden / patio areas (normally the 3-5 metres to the rear of a dwellinghouse) of neighbouring dwellings is exceeded and as a consequence it is considered that there would be no undue loss of privacy to neighbouring garden areas.
- 6.37 The perceived physical massing affect of the rear elevation upon the occupiers of 'Whitegates' would be lessened by the proposed planting in the intervening gap of 9 metres between the rear elevation of the proposed house and the northern boundary of the application site. This would lessen the impact from the garden of the neighbouring property. The impact from the 'Whitegates' house itself would be negligible given the distance involved (some 30 metres) and the fact that 'Whitegates' itself is sited on materially higher ground (estimated as at least 2 metres).
- 6.38 Therefore it is considered that the proposed development would not have any adverse impact upon the amenities of the occupiers of neighbouring dwellinghouses.

#### Conclusion

- 6.39 Therefore whilst the proposal is contrary to the provisions of the Development Plan in that it would provide a new house outside of the existing settlement boundary, in this instance it is considered that planning permission should be granted as:-
- a) Herefordshire Council has a shortfall in its 5 year housing land supply plus 5%.
  - b) The site immediately abuts the settlement boundary of Colwall which is a main village and considered to be sustainable.
  - c) The design of the building is outstanding in terms of both its architecture and sustainability credentials.
  - d) The proposal would enhance the Conservation Area.
  - e) The proposal would not harm the landscape which hereabouts is designated as an Area of Outstanding Natural Beauty.
  - f) In all other respects the proposal is considered to be acceptable in planning terms.
- 6.40 The recommendation is also made in the context of the National Planning Policy Framework which advances a presumption in favour of sustainable development.



## RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. The development hereby permitted shall be begun before 20 February 2014.

**Reason:** To comply with the provisions of Section 91(1) (b) of the Town and Country Planning Act 1990 (as amended) and to reflect the decision of the Local Planning Authority on 4 March 2009 to suspend (effective from 1 April 2009) the requirements of the Local Planning Authority's 'Planning Obligations' Supplementary Planning Document (February 2008) in relation to all employment developments falling within Classes B1, B2, and B8 of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, the employment element of any mixed use development and residential developments of five dwellings or less.

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

- A full written schedule (including colour finishes) of all external materials (including doors, rainwater goods and windows).
- Written details and samples of the surfacing material to the driveway.
- Full details of all external lighting (if any).
- Full details of the "green roof".
- Written details of the colour of the render and paint colour (if any) to the flue.

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

**Reason** To ensure a satisfactory appearance to the development in accordance with Policies DR1, LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended, including the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no development normally permitted by Classes A, B, C, D, E, F and G of Part 1 and Classes A and C of Part 2 of Schedule 2 of Article 3 of the General Permitted Development Order 1995 shall be carried out without the express consent of the Local Planning Authority.

**Reasons:**

a) To safeguard the architectural integrity of the scheme and to safeguard the character and appearance of the area which hereabouts is designated as an Area of Outstanding Natural Beauty and a Conservation Area, in accordance with Policies LA1, HBA6 and DR1 of the Herefordshire Unitary Development Plan 2007.

b) To safeguard the privacy of the occupiers of the dwellinghouse to the north known as 'Whitegates' in accordance with Policy DR2 of the Herefordshire Unitary Development Plan 2007.

4. Prior to commencement of the development hereby permitted all existing trees shown to be retained upon the approved drawings shall be protected by fencing of in accordance with the advice contained within BS5837:2012. Once these protective measures have been erected but prior to commencement of the development a suitably qualified arboricultural consultant appointed by the developer shall inspect the site and write to the Local Planning Authority to confirm that the protective measures are in-situ. Upon confirmation of receipt of that letter by the Local Planning Authority the development may commence but the tree protection measures must remain in-situ until completion of the development.

Reason: To safeguard the trees upon the site that are of amenity value in accordance with Policy LA5 of the Herefordshire Unitary Development Plan 2007.

5. Other than any external lighting permitted pursuant to condition 2 above, no further external shall be installed upon the site, including the external elevations of the building, without the express consent of the Local Planning Authority.

Reason: To safeguard the character of the Malvern Hills Area of Outstanding Natural Beauty in accordance with Policies LA1 and DR14 of the Herefordshire Unitary Development Plan 2007.

6. The car port hereby permitted shall be permanently kept available for the parking of two private motor vehicles.

Reason: In the interests of highway safety and to ensure that the site is dominated by the parking of private motor vehicles thus ensuring that the character and appearance of the Conservation Area and Malvern Hills Area of Outstanding Natural Beauty is not adversely affected, in accordance with Policies T11, LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.

7. All planting in the approved details of landscaping (i.e. Landscaping Proposals - Drawing number CHC 001 (Scale 1:200) received 10 January 2013) shall be carried out in the first planting and seeding seasons following the first occupation of the dwellinghouse hereby permitted or completion of the development (whichever is the sooner). Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development is satisfactorily integrated into the landscape and to soften the rear (north) elevation of the dwellinghouse when viewed from the garden of 'Whitegates' to the north, in accordance with Policies LA1 and LA6 of the Herefordshire Unitary Development Plan 2007.

8. Prior to commencement of works on site, evidence that the proposed dwelling design and specification complies with Passivhaus Certification criteria is to be submitted to the Local Planning Authority by a CEPH (Certified European Passivhaus) designer. Evidence is to include full PHPP (Passivhaus Planning Package) assessment, proposed construction method including specification for all external envelope elements, general arrangement plans, sections and elevations, key junction details and ventilation design information. The works on site shall not commence until the Local Planning Authority have confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation.

**Reason:** The sustainability credentials of the proposed building was given considerable weight in the decision of the Local Planning Authority to grant planning permission for the dwellinghouse and to accord with Policy S1 of the Herefordshire Unitary Development Plan 2007.

9. Evidence of Passivhaus certification received from the Passivhaus Institute in Darmstadt shall be submitted to the Local Planning Authority by an accredited passivhaus assessor within six months of the first occupation of the dwellinghouse hereby permitted.

**Reason:** The sustainability credentials of the proposed building was given considerable weight in the decision of the Local Planning Authority to grant planning permission for the dwellinghouse and to accord with Policy S1 of the Herefordshire Unitary Development Plan 2007.

10. Prior to commencement of the development hereby permitted, a Construction Environmental Management Plan and Habitat Enhancement scheme shall be submitted to the Local Planning Authority for their written approval. This shall include timing of the works, details of storage of materials to minimise the extent of dust, odour, noise and vibration arising from the construction process. The development shall not commence until the Local Planning Authority has given such written approval. The Construction Environmental Management Plan and Habitat Enhancement scheme shall be carried out in full accordance with the approved details and thereafter maintained as such;

**Reasons:-**

- a) To ensure that all species and sites are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats Regulations 2010 and policies NC1, NC6 And NC7 of the Herefordshire Unitary Development Plan 2007.
- b) To comply with policies NC8 and NC9 of the Herefordshire Unitary Development Plan 2007 in relation to Nature Conservation and Bio-diversity and to meet the requirements of the NPPF and the NERC Act 2006.

**Reasons for Approval**

1. Whilst the proposal is contrary to the provisions of the Development Plan in that it would provide a new house outside of the existing settlement boundary, in this instance it was considered that full conditional planning permission should be granted as:

- a) Herefordshire Council has a shortfall in its 5 year housing land supply plus 5%.
- b) The site immediately abuts the settlement boundary of Colwall which is a main village and considered to be sustainable.
- c) The design of the building is outstanding in terms of both its architecture and sustainability credentials.
- d) The proposal would enhance the Conservation Area.
- e) The proposal would not harm the landscape which hereabouts is designated as an Area of Outstanding Natural Beauty.
- f) In all other respects the proposal is considered to be acceptable in planning terms.

The decision was also made in the context of the National Planning Policy Framework which advances a presumption in favour of sustainable development.

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

**Informatives:**

1. The Local Planning Authority acted positively and proactively in dealing with this development by providing pre-application advice prior to the submission of the planning application.

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

2. The applicant/developer are advised that a separate Land drainage consent from the Lead Local Flood authority (Herefordshire Council – Agents Amey) will be required. The relevant contact is [Martin.Jackson@amey.co.uk](mailto:Martin.Jackson@amey.co.uk)

3. The documents to which this decision relate are:

- Planning Application Form received 30 October 2012.
- Topographical Survey – Drawing number G 7217/1 received 30 October 2012.
- Site Location Plan – Drawing number 7022 PL001 Revision 1 (Scale 1:1250) received 30 October 2012.
- Site Plan – Drawing number 7022 PL002 Revision 1 (Scale 1:200) received 30 October 2012.
- Floor Plans – Drawing number 7022 PL100 Revision 1 (Scale 1:100) received 30 October 2012.
- Elevations – Drawing number 7022 PL600 Revision 1 (Scale 1:100) received 30 October 2012.
- Sections – Drawing 7022 PL800 Revision 1 received 30 October 2012.
- Perspectives – Drawing 7022 PL810 Revision 1 received 30 October 2012.
- Timber Cladding Details – Drawing number 7022 PL910 received 30 October 2012.
- Bridge Details – Drawing number 7022 PL900 Revision 1 received 30 October 2012.
- Design & Access Statement (October 2012) received 30 October 2012.
- Aboricultural Implications Assessment received 30th October 2012.
- Landscaping Proposals – Drawing number CHC 001 (Scale 1:200) received 10 January 2013.

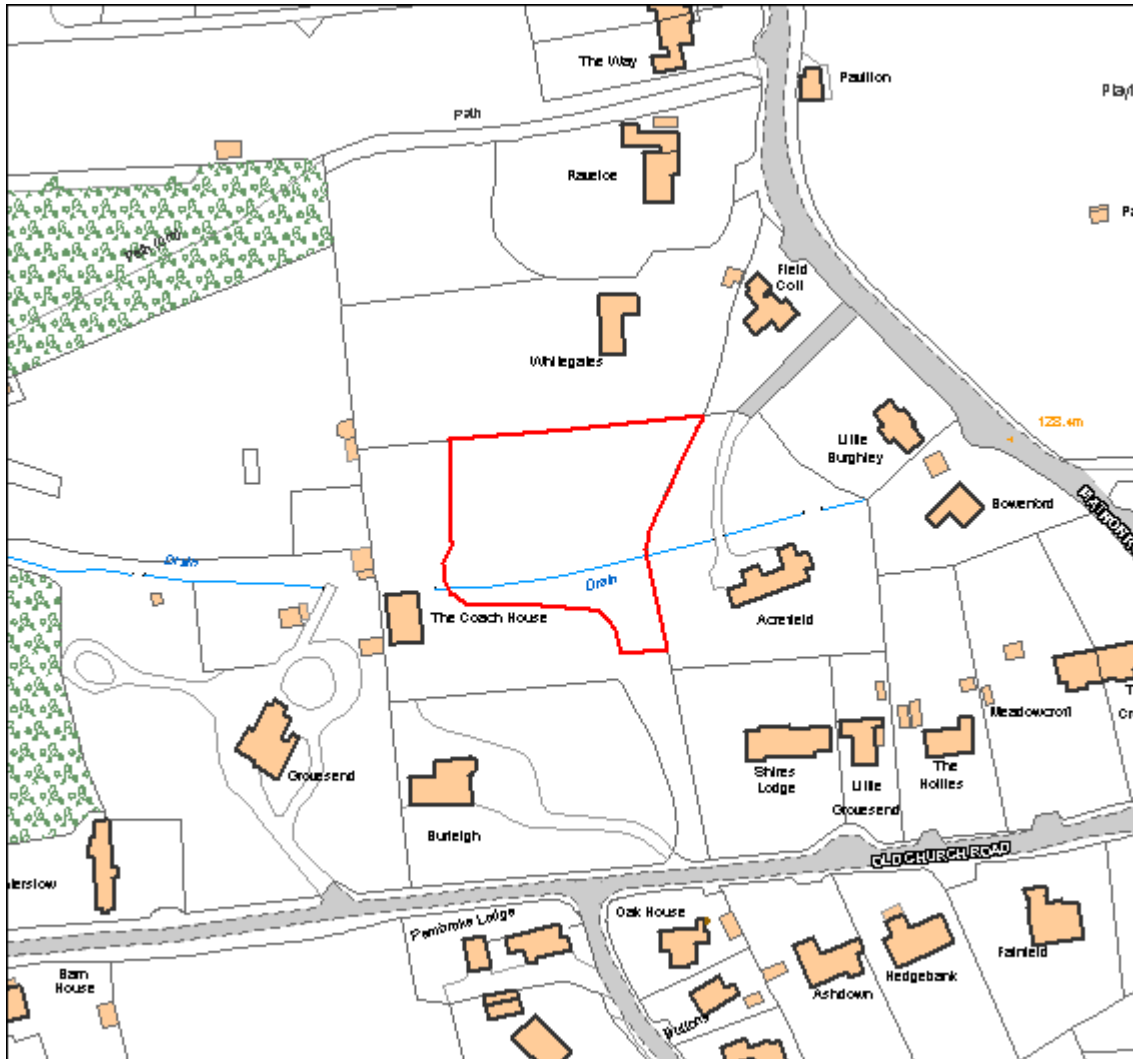
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** N/123067/F

**SITE ADDRESS:** LAND AT THE COACH HOUSE, OLD CHURCH ROAD, COLWALL, MALVERN, HEREFORDSHIRE

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





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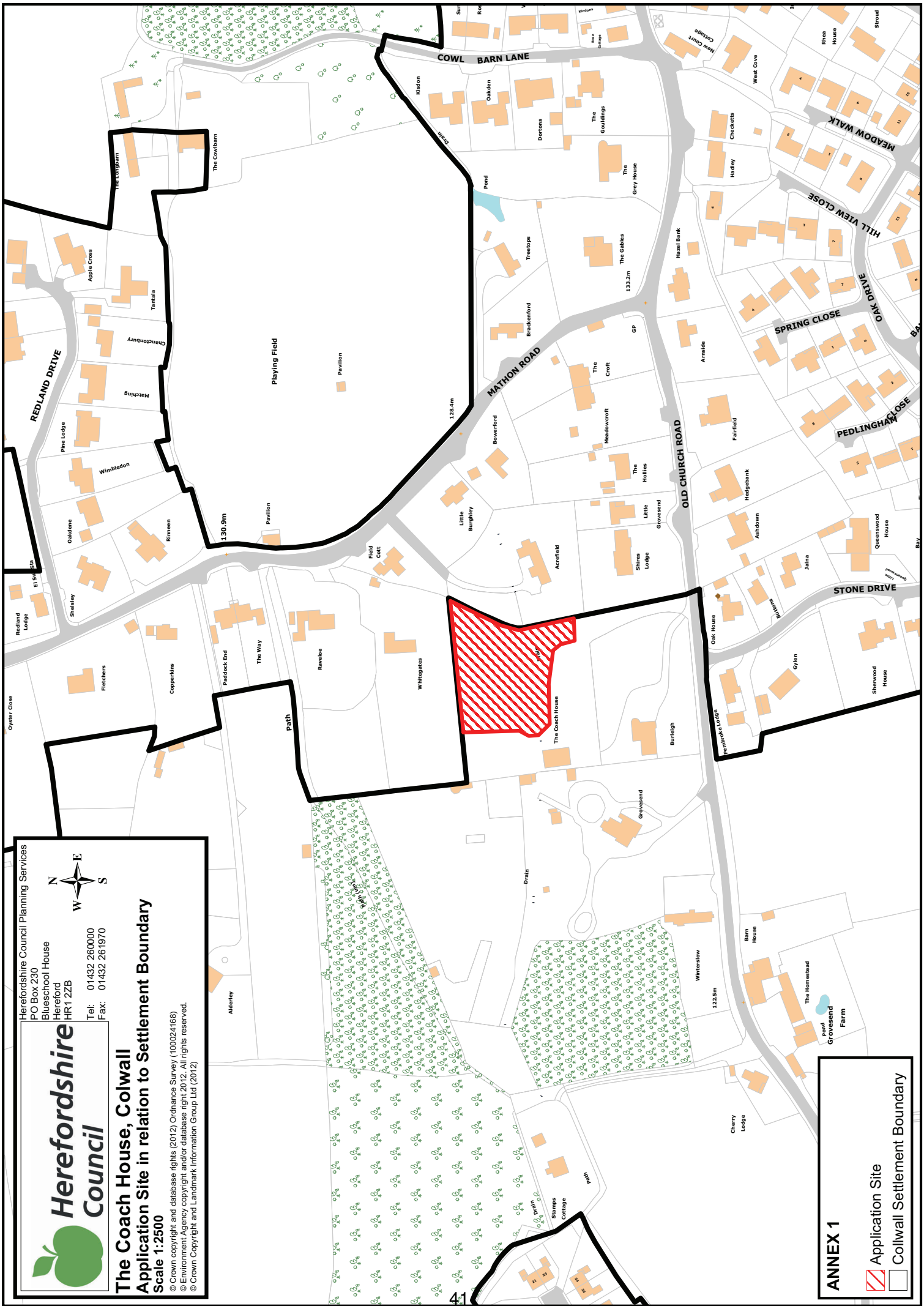
**Herefordshire  
Council**

# The Coach House, Colwall

## Application Site in relation to Settlement Boundary

Scale 1:2500

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**ANNEX 1**

- Application Site
- Colwall Settlement Boundary







<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>30 JANUARY 2013</b>
<b>TITLE OF REPORT:</b>	<p><b>S122604/O - OUTLINE APPLICATION FOR 35 UNIT HOUSING SCHEME WITH ASSOCIATED ACCESS AT LAND REAR OF WHITE HOUSE DRIVE, KINGSTONE, HERFORD.</b></p> <p><b>For: Bayhill Property Developments Ltd per Quattro Design Architects Ltd, Imperial Chambers, Longsmith Street, Gloucester, Gloucestershire, GL1 2HT</b></p>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122604&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122604&amp;NoSearch=True</a>

**Date Received: 19 September 2012**

**Ward: Valletts**

**Grid Ref: 342335,235900**

**Expiry Date: 10 January 2013**

Local Member: Councillor JF Knipe

## 1. Site Description and Proposal

- 1.1 The site comprises 1.18 hectares of undeveloped agricultural land immediately adjoining the western side of White House Drive from which access is proposed to be gained and immediately north of residential development along the southern side of the gently undulating site. There are no trees on the site and the only vegetation is well maintained hedgerows on the north western boundary of the site and along the north western boundary of the site.
- 1.2 The site lies adjacent to the settlement boundary which is provided by the rear garden and western boundary of properties in White House Drive and by the northern boundary of Green Lane. Therefore, the site falls within open countryside in planning policy terms.

This is an outline planning application that is seeking to establish the principle of erecting 35 dwellings. The means of access, siting and layout is to be determined as part of this submission. In the event that planning permission was granted a further application would need to include details relating to external appearance and landscaping.

- 1.3 23 dwellings will provide private housing and the remaining 12 dwellings will provide social housing. The private housing will comprise 7 no., 2 bedroom dwellings, 6 no. 3 bedroom dwellings of two different house types and 10 no., 4 bedroom houses again comprising two house types. The affordable housing will comprise a two storey block of building providing 4 no. 1 bedroom flats, 6 no. 2 bedroom houses, 1 no. 3 bedroom dwelling and a single 4 bedroom dwelling. The dwellings will be accessed off the north western end of White House Drive between two dwellings 17 metres apart. Four detached dwellings will continue the line of detached dwellings on White House Drive before the access road turns at 90 degrees and leads south westwards and slightly down slope towards properties and private allotments in Green Lane. Detached and semi-detached properties will be erected along both sides of the new access road. The affordable housing will be provided on the south western area of the

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Further information on the subject of this report is available from Andrew Prior on 01432 261932

inverted 'L' shaped site. An unequipped open space area is proposed on the eastern boundary of the site.

- 1.4 The traffic leaving the proposal site will travel south eastwards to the junction with Church Road (C1221), which is the main thoroughfare in this part of Kingstone. It joins the B4349 road to the north and the B4348 road to the south, adjoining the Bull Ring public house.
- 1.5 A Draft Heads of Terms Agreement was submitted with the application. This has been developed further and has been the subject of consultation with the Parish Council.
- 1.6 The application was the subject of pre-application discussion at a public meeting early in 2012.
- 1.7 This application was accompanied by a Planning Statement, Design and Access Statement, Landscape and Visual Statement, Waste Minimisation Statement, Transport Statement, Flood Risk Assessment and Biodiversity Appraisal.

## **2. Policies**

### **2.1 National Planning Policy Framework**

The following sections are of particular reference:

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
S6	-	Transport
S7	-	Natural and Historic Heritage
S8	-	Recreation, Sport and Tourism
S11	-	Community Facilities and Services
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H7	-	Housing in the Countryside Outside Settlements
H9	-	Affordable Housing
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H16	-	Car Parking
H19	-	Open Space Requirements
LA2	-	Landscape Character
LA3	-	Setting of Settlements

- LA6 - Landscaping Schemes
- NC1 - Biodiversity and Development
- NC8 - Habitat Creation, Restoration and Enhancement
- T6 - Walking
- T7 - Cycling
- T8 - Road Hierarchy
- T11 - Parking Provision
- RST4 - Standards for Outdoor Playing and Public Open Space
- W11 - Development and Waste implications
- CF2 - Foul drainage

## 2.3 Supplementary Planning Documents

Landscape Character assessment  
 Planning Obligations  
 Design  
 Biodiversity and Development

## 2.4 Other Guidance

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

2.5 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 None identified

## 4. Consultation Summary

### Statutory Consultees

4.1 Welsh Water

Welsh Water state that the proposed development would overload the existing Water Treatment Works. However, improvements are planned for completion by 1<sup>st</sup> April 2015

Welsh Water offer a condition to safeguard the security of service to customers and the protection of the environment

*'No buildings on the application site shall be brought into beneficial use earlier than 1st April 2015, unless the upgrading of the Waste Water Treatment Works, into which the development shall drain, has been completed and written confirmation of this has been issued by the Local Planning Authority.'*

*Reason: To prevent overloading of the Waste Water Treatment works and pollution of the environment'.*

Welsh Water also recommend that in the event of planning permission being granted standard conditions are attached to the planning permission in respect of the separation of foul water and surface water discharges

Welsh Water also state that new legislation makes it mandatory for developers to obtain an adoption agreement, in relation to any connection to the public sewerage system.

As regards Water Supply, this can be made available; however the developer may be required to contribute under Sections 40-41 of the Water Industry Act 1991, towards the provision of new off-site and/or on-site water mains and associated infrastructure.

- 4.2 Environment Agency has no objections as the site is within Flood Zone 1, the Low Risk Zone. The Environment Agency recommends seeking advice of Council's Land Drainage team.

#### Internal Council Advice

- 4.3 Transportation Manager has no objections subject to appropriate conditions
- 4.4 Conservation Manager (Landscape): The landscape character type is principal settled farmlands. The Landscape and Visual Assessment (LVA) follows recommended standards. It demonstrates that the landscape character has informed the design process. The Landscape Officer confirms that apart from well maintained field hedgerows, there are no obvious landscape features. The proposal will also retain the character and integrity of Kingstone, there will be a change in view points these will not though necessarily be negative ones.
- 4.5 Conservation Manager (Ecology): No objections are raised. There are opportunities for habitat protection and enhancement which would need to be the subject of a submitted scheme prior to commencement of works on the site.
- 4.6 Housing Manager: Support. Tenure split is acceptable, being social rent. The unit sizes meet the requirements of Lifetime Homes. The affordable units will need to be built to the minimum code for Sustainable Homes level 3
- 4.7 Parks and Countryside Manager states that the contributions towards play space for both young and older children is needed given that no provision is made on the site. It is though acknowledged that Kingstone is well served with existing facilities. Nevertheless, given Policy H19 of UDP requires provision for play space for sites of between 30 to 60 dwellings.
- 4.8 Land Drainage Officer states that the Flood Risk Assessment is comprehensive and all aspects of flooding and drainage have been considered for this stage.

## **5. Representations**

- 5.1 Kingstone Parish Council state: Following housing development proposals of 30 homes as an extension to White House Drive and 150 houses opposite Kingstone Surgery the Parish Council organised an open meeting on 30 May 2012.

94 residents attended and 12 sent email comments.

A summary of the comments specific to White House Drive were:

- a) 84% were against the 30 houses (now 35 houses)
- b) majority thought this proposal too large and that Kingstone should have no more 60 houses built with the 20 year scale of the Local Development Plan
- c) affordable houses should not be more than 25% (preferably less) of any development to bring Kingstone currently at 30%, in line with the County average of 15%

- d) these proposals far exceed the local housing requirement identified in the last housing survey of 7 affordable homes
- e) there is no local employment so these homes will just add commuters to the daily Belmont Road traffic jam twice a day
- f) there is no gain to the village whatsoever from this proposal
- g) there is general concern about utility services coping with this increase in particular the sewage system is known to be overloaded. It has been stated that the utility infrastructure would not cope with further housing particularly as further housing planned for Madley will use this overloaded structure
- h) is White House Drive and the C1221 road junction suitable for the large increase in traffic?

About 30 residents attended the last Parish Council meeting on the 14 November and again re-iterated their opposition to this housing proposal. There was a specific complaint that one of the new houses was shown very close to the garden of 21 Green Lane. This could be avoided by realigning the houses so that the back gardens abutted the existing property.

The Parish Council therefore recommends that this application be rejected.

5.2 69 letters of objection have been received. In summary the points raised are as follows:

- Greenfield site, brown field sites should be developed first. Contrary to Policies S3, H13 and HBA9 of UDP.
- Loss of valuable open space. Village needs green heart
- Village not a town
- Loss of privacy
- Loss of light
- Loss of outlook
- Nearby house very wide and as tall.
- Light pollution from parking area
- Three –storey house dominates our property
- Understand covenant on land restricting development
- Enough affordable housing
- No provision for elderly i.e. bungalows
- At public meeting led to believe would be 15 dwellings
- Discrepancy in stated parking spaces is it 63 or 72?
- Additional traffic, 70 %
- Junction onto Church Road has very poor visibility particularly to right. Exacerbated by no footpaths
- Increase traffic on Whitehouse Drive a danger to this existing cul-de sac, particularly to children
- Poor junctions onto B4348 road at Dews Corner and onto Allensmore/Peterchurch junction
- Belmont Road cannot take any additional traffic. South of city experiencing major hold ups now, deterring people moving to Kingstone and beyond (empty properties in village)
- Not the employment as stated, by applicant, in village. New residents will inevitably commute
- Question of capacity of school and surgery to take additional population.
- Land acts as natural drain now, won't when covered over.
- Question capacity of sewage works also used by Madley, which has 19 dwellings approved recently at Madley. Sewerage is old and failing
- Understood water brought from Wormelow to lagoon to serve village
- Hedgerow will not screen site
- Will devalue properties
- More policing required. Who pays?
- Definition of affordable housing?
- No Section 106 money going to community.

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Further information on the subject of this report is available from Andrew Prior on 01432 261932

- Are these sweeteners for further development?
- Development to rear of Hawthorn Rise refused by Council similar as for this site.
- See copy of letter from Andrew Mitchell MP, self-explanatory
- Affordable houses will make private dwellings difficult to sell.

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](http://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](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

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

- 1) The Principle of the Development
- 2) The NPPF and Housing Land Supply
- 3) Landscape Impact
- 4) Layout and Design
- 5) Highways Matters
- 6) Infrastructure
- 7) Other Matters
- 8) Conclusion

### The Principle of Development

6.2 The site falls outside of the settlement boundary for Kingstone as defined by the Herefordshire Unitary Development Plan (UDP) and therefore falls within open countryside. New residential development in the countryside can be permitted where it satisfies one of the exceptions within UDP Policy H7 such as for a dwelling for a key worker or possibly entails the conversion of a suitable rural building. Policy H10 does allow for exceptional affordable development where it adjoins an existing settlement boundary, such as in this instance. However, it is necessary to consider whether or not there are any other material planning considerations.

6.3 The Core Strategy is not sufficiently advanced to be given due weight in the consideration of this application, in any case there are no specific policies or proposals that relate to this particular site. The National Planning Policy Framework (NPPF) came into force in March 2012. Paragraph 215 of the NPPF clarifies that due weight can still be given to the relevant UDP policies for a period of 12 months from the date of adoption of the NPPF providing those policies are broadly consistent with the NPPF.

### The NPPF and Housing Land Supply

6.4 At the heart of the NPPF is a general presumption in favour of sustainable development and applications for housing should be considered in this context. The NPPF requires that local planning authorities should identify a rolling five year supply of deliverable housing land to ensure choice and competition in the market. Additionally, the NPPF requires an additional buffer of 5% (increased to 20% if a planning authority has persistently under delivered housing land). On the basis of the evidence available to date, it is considered the requirement for a 5% buffer is applicable to Herefordshire.

6.5 Earlier this year, the Council published its Annual Monitoring Report (AMR) which monitors housing land availability. Based on the AMR figures, the Council currently has a shortfall of 216 units which equates to a 4.6 year supply. This shortfall also does not account for the requirement to maintain the additional 5% buffer which would amount to a further 140 units.

The data collection for the 2011/2012 period has commenced and this will provide a more up to date land supply position but it is not anticipated that the shortfall will have decreased.

- 6.6 Paragraph 49 of the NPPF stipulates that relevant policies concerning the supply of housing land should not be regarded as up to date if a five year land supply cannot be demonstrated. In view of this, there is a requirement to release further land for housing that is deliverable within the next five years and is sustainable. There remains a requirement for the development to accord with other relevant UDP policies and NPPF guidance but in terms of the principle, if the development is acceptable in all other respects, the conflict with UDP Policy H7 is not a reason for refusal of the application that could be sustained.
- 6.7 This position was also endorsed by the Council's Cabinet on 12 July 2012. The agreed process for considering proposals of this nature being that with larger developments, the focus should be on sites that have been identified as having low or minor constraints in the Strategic Housing Land Availability Assessment unless it can be demonstrated that the location is sustainable and appropriate for additional housing development and the environmental and other impacts of the development are acceptable.

#### Landscape Impact

- 6.8 The site has no statutory landscape designation but is classified as Principal Settled Farmlands in the Council's adopted Landscape Character Assessment Supplementary Planning Document. This roughly triangular area of land does not have notable landscape features, the main contribution being the existing well maintained hedgerows. The proposals for additional boundary planting, street trees and shrub planting will provide a well integrated development layout as confirmed by the Conservation Manager (Landscape)
- 6.9 The major impact will continue to be the large extent of post Second World War housing to the east and south of the proposal site. The major impact will be given the topography of the site this backdrop of modern houses. The landscape appraisal confirms that from distant views particularly from the west and north west the impact of the new development is mitigated by established trees around the playing field to the north and by intervening buildings. This is a matter though that will need to be the subject of a reserved matters application. Therefore, it is not considered that the proposal will have an adverse impact in the landscape and therefore the proposal accords with Policy LA2 of UDP.

#### Layout and Design

- 6.10 The proposal provides a housing scheme with a mixture of housing types, detached semi-detached, a terrace together with a building providing flats on two floors. The layout will, it is considered, integrate well with the existing adjoining White House Drive by providing a continuation along the northern boundary of the site. These dwellings will utilise a backdrop of trees and hedgerows. The private dwellings on the northern end of the site are reasonably well spaced and have satisfactory areas of private garden. There is considered to be sufficient spacing between properties which adjoin White House Drive such that acceptable levels of privacy are maintained in accordance with Policies DR1 and SH13 of UDP.
- 6.11 Plots 10 and 11 which will adjoin private allotments and the rear boundaries of properties in Green Lane will not have an adverse impact on the amenity of adjoining residents. However, plot 17 which is 4 bedroom dwelling over 8 metres in height is in the south western most dwelling close to a boundary with a property in Green Lane. This dwelling type has been swapped for one which is not as tall or wide and on this basis it is considered the submitted layout can be supported.
- 6.12 The layout is not regimental and with the proposed public open space on the eastern side of the development adjoining properties in White House Drive, the new dwellings will be laid out

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Further information on the subject of this report is available from Andrew Prior on 01432 261932

such that privacy between new properties and existing properties around the site is maintained.

### Highways Matters

- 6.13 This is considered to be one of the major issues raised in objections received from local residents and the Parish Council. The primary issue is considered to relate to the junction of White House Drive and Church Road, which is a class III road. It is considered that given the visibility achievable and the configuration of the classified road, which slows traffic approaching from the right or south west, the available visibility in both directions is satisfactory. Reference has also been made to additional traffic joining the two class II roads to the north and south of Church Road and to increasing traffic in general on the Belmont Road. It is considered that the increased movement of traffic on local roads albeit on class II roads is not a factor that outweighs the primary objectives of national government advice of providing sufficient numbers of sustainable developments across the country.
- 6.14 A discrepancy has been highlighted in some representations received relating to the number of parking spaces cited in the Transport Statement and the number identified in the application form and submitted plans. This has come about primarily as the higher figure includes garage spaces and the lower one includes only spaces around the site. The provision of integral garage spaces will together with the provision of visitors' spaces bring the level of parking, as stated on the application form to 74 spaces which includes 3 visitors spaces and an average of just over 2 spaces per dwelling which is considered to be acceptable and therefore accordance with Policy DR3 of UDP. This parking provision is also considered to be acceptable by the Traffic Manager.
- 6.15 The Traffic Manager is seeking slight re-alignments to the new road together with give way signage and appropriate lighting at the junction of Church Road and White House Drive; these are matters that can be addressed by a Section 38 Agreement with the Highway Authority and developer.

### Infrastructure

- 6.16 Welsh Water has confirmed that there is not the capacity for these additional dwellings until 2015. It is a matter that has also been referred to in representations received from the Parish Council and local residents. However, Welsh Water state that improvement works which are on going will make it possible after April 2015 for the developer to utilise these sewage works. There would also be an option for the developer to contribute towards funding the works needed. A Grampian style planning condition will need to be attached to any planning permission granted. Therefore, although Welsh Water confirm that works are required to enable the development to proceed, they have not objected and accordingly this proposal accords with Policy DR4

### Other matters

#### Housing mix

- 6.17 Although, this has not been the subject of representations received, it is considered that the mix and style of dwellings submitted for the general housing market is acceptable as regards the mix of four bed units and smaller three and two bedroom units.
- 6.18 Twelve units will be affordable dwellings. Nine will be made available for social rent and three for intermediate tenure occupation. The Strategic Housing Officer supports the number and tenure of the affordable units, four of which are one bedroom flats. Representations have been received relating to a perceived over provision of affordable housing. However, the provision of such housing needs to be placed in the context of other settlements that have not brought



affordable housing. Issues of devaluing existing housing stock by providing affordable provision do not provide a justified or sustainable planning policy objection for not providing such development which is a requirement of not only UDP policy but also in the National Planning Policy Framework.

#### Section 106 Agreement

- 6.19 A Section 106 Heads of terms is appended to this report. This provides for contributions towards the provision of new and enhanced community infrastructure in line with the adopted Planning Obligations Supplementary Planning Document. This includes monies towards education, new highway and sustainable transport, enhancement of existing off site play facilities, library contribution and improvements to waste and recycling provision.

#### Flood Risk

- 6.20 Both the Environment Agency and the Council's Land Drainage Officer confirm that the site is not at risk of flooding, which is an issue raised in representations received. Therefore, the site is capable of development in accordance with Policy DR7 of UDP.

#### Biodiversity

- 6.21 The proposal site which is used for grazing is not one rich in biodiversity as confirmed by the Planning Ecologist. There are though opportunities for habitat enhancement with additional hedgerow and tree planting on the western boundary of the site. These are matters though that can be addressed by attaching a planning condition requiring details of habitat protection and enhancement before any works commence on site. Therefore, the proposal accords with Policies NC1 and NC4 of UDP.

#### Play Facilities

- 6.22 The scheme whilst not providing an equipped play area does provide an open space area. This is though compensated for by contributions within the remit of the Draft Heads of Terms towards on going projects in Kingstone cited by the Parks/Countryside Manager. It is on this basis that the proposal can be supported and accord with Policy H19 of UDP.

#### Other matters raised:

- 6.23 Reference has been made to a refusal of planning permission for a site at Hawthorn Rise at Peterchurch. This reference is made on the basis of comparability. The site proposal for development to the north of Hawthorn Rise utilising an existing estate road was refused on the proximity of the access road to bungalows either side of it. This site is not comparable to the one the subject of this application given the dwellings either side of the road, in this instance are at a minimum of 17 metres apart. Reference is also made to a green belt development in Sutton Coalfield. There is no green belt in Herefordshire and this development is sustainable.

#### Conclusion

- 6.24 Paragraph 14 of the NPPF states that:
- a presumption in favour of sustainable development should be seen as a golden thread running through both plan making and decision-taking. In terms of the latter, this means
  - approving development proposals that accord with the development plan without delay; and
  - where a development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole; or - Specific policies in the NPPF indicate development should be restricted."

6.25 It has already been established that the UDP housing supply figures are not up to date due to the deficit in housing land supply. The development offers benefits in terms of the delivery of additional housing including twelve affordable units and it is accepted that the development is sustainable in terms of location of the site and accessibility by non car based transport modes, the revised layout and design and the commitment to construct to a high sustainability standard. This is not a brownfield site but the site will also not have an adverse impact in the landscape and although this is a reserved matter, there are opportunities further tree and hedgerow planting and opportunities for biodiversity enhancement.

6.26 The development can be served by a means of access that will not have an adverse impact on highway safety.

## **RECOMMENDATION**

**That subject to completion of a Section 106 planning obligation in accordance with the draft Heads of Terms annexed to the report the officers named in the Scheme of Delegation to Officers be authorised to grant outline planning permission subject to conditions noted in the report and subject to any further conditions considered necessary by officers:**

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **A05 Plans and particulars of reserved matters**
5. **B01 Development in accordance with the approved plans**
6. **F08 No conversion of garage to habitable accommodation**
7. **F16 No new windows in specified elevation**
8. **H03 Visibility splays**
9. **H06 Vehicular access construction**
10. **H11 Parking - estate development (more than one house)**
11. **H19 On site roads - phasing**
12. **H20 Road completion in 2 years**
13. **H21 Wheel washing**
14. **H27 Parking for site operatives**
15. **H29 Secure covered cycle parking provision**
16. **H30 Travel plans**

17. H17 Junction improvement/off site works
18. K4 Nature Conservation - Implementation
19. No buildings on the application site shall be brought into beneficial use earlier than 1st April 2015, unless the upgrading of the Waste Water Treatment Works, into which the development shall drain, has been completed and written confirmation of this has been issued by the Local Planning Authority.  
  
Reason: To prevent overloading of the Waste Water Treatment works and pollution of the environment.
20. L01 Foul/surface water drainage
21. L02 No surface water to connect to public system
22. L03 No drainage run-off to public system
23. L04 Comprehensive & Integrated draining of site

#### Reason for Approval

1. In reaching the decision to grant planning permission, regard has been had to the relevant policies in the Herefordshire Unitary Development Plan and the National Planning Policy Framework. The local planning authority was also mindful of other supplementary planning guidance

The National Planning policy framework requires the council to maintain a 5 year supply of deliverable housing land and where this requirement is not being met, the relevant plan policies concerning the supply of housing land should not be regarded as up to date. As such the conflict with UDP Policy H7 is not, in itself, a reason for refusal.

The development offers the benefits in terms of the additional housing within the next five years including twelve affordable dwellings and the development is sustainable in terms of the location of the site and accessibility by non-car modes of transport. The amended plan provides an improved relationship to the existing development. The development will not have an adverse impact in the wider landscape and there are opportunities to ameliorate the impact of the development by further tree and hedgerow planting as well as measures for improving biodiversity around the site. The need to deliver additional housing land and the requirement to consider new residential development in the context of a presumption in favour of sustainable development along with the benefits of the development will outweigh the conflict with Policy H7, in this instance. The development is considered to comply with other relevant Policies in the UDP and is therefore considered acceptable.

#### 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

**Framework.**

- 2. **N02 Section 106 Obligation**
- 3. **HN01 Mud on highway**
- 4. **HN04 Private apparatus within highway**
- 5. **HN05 Works within the highway**
- 6. **HN08 Section 38 Agreement & Drainage details**
- 7. **HN10 No drainage to discharge to highway**
- 8. **HN17 Design of street lighting for Section 278**
- 9. **HN24 Drainage other than via highway system**

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.

# DRAFT HEADS OF TERMS

## PROPOSED PLANNING OBLIGATION AGREEMENT Section 106 Town and Country Planning Act 1990

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

Outline planning application S122604/O

Outline application for the erection of 35 dwellings (23 x open market dwellings and 12 x affordable dwellings) on land to the rear of White House Drive, Kingstone, Hereford.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £87,893.00 (breakdown detailed in the table below) to provide enhanced educational infrastructure at South Hereford City Early Years, Kingstone and Thruxton Primary School and South Wye Youth Service with 1% allocated for Special Education Needs (SEN). No secondary school contribution is required as capacity presently exists in all year groups. 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.

<b>Pre-School</b>	<b>£6,772.00</b>
<b>Primary</b>	<b>£55,797.00</b>
<b>Post 16</b>	<b>£2,001.00</b>
<b>Youth</b>	<b>£19,059.00</b>
<b>SEN</b>	<b>£4,264.00</b>
<b>Total</b>	<b>£87,893.00</b>

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £48,821.00 to provide new highway and sustainable transport infrastructure to serve the development. 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 as appropriate.
3. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
  - 3.1. Localised sustainable transport infrastructure to enhance the accessibility of the site for non car based modes of transport including but not limited to:
    - a) Creation of cycle link between Kingstone and Madley via the Madley Industrial

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Further information on the subject of this report is available from Andrew Prior on 01432 261932

## Estate

- b) New pedestrian and cyclist crossing facilities
  - c) Bus passenger waiting facilities in Kingstone specifically along the C1221
- 3.2. Enhancement in the usability of the localised public right of way network
- 3.3. Provision of park and share and park and cycle facilities
4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £38,785 for the provision of new or the enhancement of existing play facilities in the locality and £15,684 for the provision of new or the enhancement of existing sport facilities in the county (contribution based around the requirements of saved policies H19 and RST4 of the UDP and Sport England Sports Facilities Calculator). 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 as appropriate.
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.
6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £4,620 towards the provision of new and enhanced of existing library facilities in Peterchurch. 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.
7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £2,760 towards the provision of new or the enhancement of existing waste and recycling facilities to serve the development and waste reduction strategies within the locality and city.
8. 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.
9. Of those Affordable Housing units, nine (9) shall be made available for social rent and three (3) being available for intermediate tenure occupation. For the avoidance

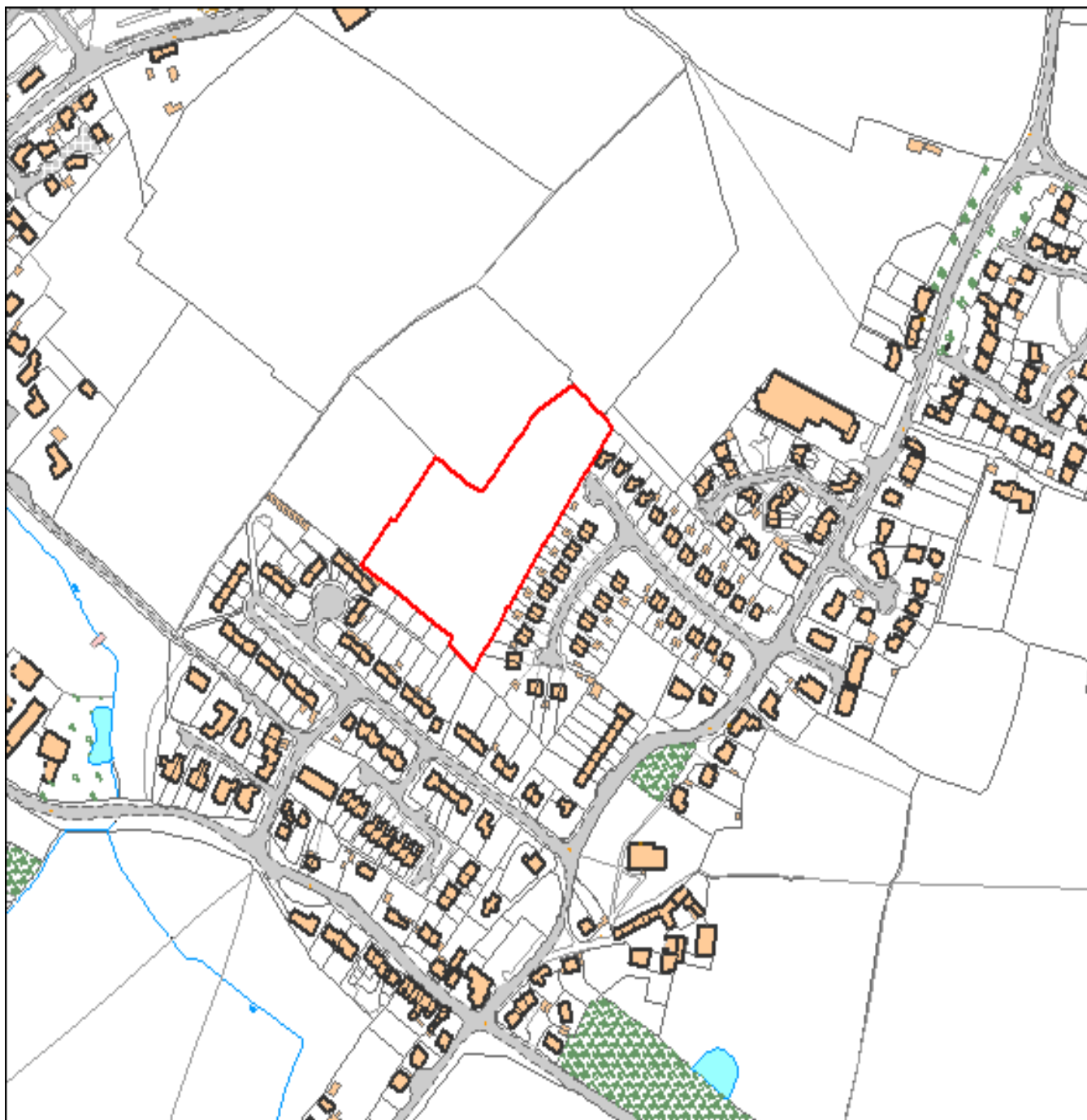
of doubt, the term intermediate tenure shall not include equity loans or affordable rent.

10. 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.
11. 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) 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:-
  - 11.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 11.2. satisfy the requirements of paragraphs 12 & 13 of this schedule
12. 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:-
  - 12.1. a local connection with the parish of Kingstone;
  - 12.2. in the event of there being no person having a local connection to the parish of Kingstone, a person with a local connection with the parishes of Madley, Clehonger, Abbey Dore, Thruxston, Treville, Allensmore and Eaton Bishop
  - 12.3. in the event of there being no person with a local connection to any of the above parishes, 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 12.1 or 12.2 above.
13. For the purposes of sub-paragraph 12.1 or 12.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:

- 13.1. is or in the past was normally resident there; or
  - 13.2. is employed there; or
  - 13.3. has a family association there; or
  - 13.4. a proven need to give support to or receive support from family members; or
  - 13.5. because of special circumstances;
14. 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.
  15. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 4, 6 and 7 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.
  16. The sums referred to in paragraphs 1, 2, 4, 6 and 7 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.
  17. 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.
  18. 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.

**20 November 2012**





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**APPLICATION NO:** S/122604/O

**SITE ADDRESS :** LAND REAR OF WHITE HOUSE DRIVE, KINGSTONE, HEREFORD

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Further information on the subject of this report is available from Andrew Prior on 01432 261932

