

# AGENDA

## Planning Committee

Date: **Wednesday 18 September 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:

**Tim Brown, Democratic Services Officer**

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If you would like help to understand this document, or would like it in another format or language, please call Tim Brown, Democratic Services Officer on 01432 260239 or e-mail [tbrown@herefordshire.gov.uk](mailto:tbrown@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 AM Atkinson**

**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 7 August 2013.	7 - 18
5.	<b>CHAIRMAN'S ANNOUNCEMENTS</b> To receive any announcements from the Chairman.	
6.	<b>APPEALS</b> To be noted.	19 - 24
7.	<b>131391/F AND 131390/O THE OVAL, HEREFORD</b>  Proposed demolition and regeneration to include 259 new build flats/houses, external refurbishment works to the existing flats above the Oval Shops, landscaping and associated works.  Construction of new Community Hub.	25 - 56
8.	<b>123317/O LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE</b>  Class A1 Food store, petrol filling station and associated parking and servicing facilities, resizing and refurbishment of two class B units and associated highway works.	57 - 76
9.	<b>131631/F LAND AT THORNY ORCHARD, COUGHTON, ROSS ON WYE, HEREFORDSHIRE</b>  Erection of 3 residential dwellings and associated landscaping and access works including a scheme of landscape enhancement and the reinstatement of a public footpath.	77 - 90
10.	<b>131519/CD THE COURTYARD THEATRE, 93 EDGAR STREET, HEREFORD</b>  Installation of 2 nos fully glazed draught lobbies and associated alterations to landscaping; installation of bicycle stands and replacement of glazed doors to ground, first and second floors to north east elevation.	91 - 96
11.	<b>DATE OF NEXT MEETING</b>  Date of next site inspection – 8 October 2013  Date of next meeting – 9 October 2013	



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- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

## HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 7 August 2013 at 10.00 am**

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

Councillors: PJ Edwards, DW Greenow, J Hardwick, JW Hope MBE, MAF Hubbard, RC Hunt, Brig P Jones CBE, JF Knipe, RI Matthews, FM Norman, AJW Powers, GR Swinford, PJ Watts and DB Wilcox

**38. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors PA Andrews, AM Atkinson, AN Bridges, KS Guthrie and JG Lester.

**39. NAMED SUBSTITUTES**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor JF Knipe attended the meeting as a substitute member for Councillor AN Bridges and Councillor DB Wilcox substituted for Councillor JG Lester.

**40. DECLARATIONS OF INTEREST**

Mr K Bishop, Development Manager, declared a non-pecuniary interest in agenda item 7: land at Merton Meadow, Edgar Street, Hereford, as a holder of a small number of shares in Hereford United Football Club.

**41. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 17 July 2013 be approved as a correct record and signed by the Chairman.

**42. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman paid tribute to the late former Councillor Josie Pemberton. The Committee stood in silence in her memory.

The Chairman informed the Committee that Mr Ricky Clarke, Democratic Services Officer, had been successful in obtaining a new post. The Chairman expressed his appreciation for Mr Clarke's excellent support to him as Chairman and to the Committee and, on behalf of the Committee, wished him every success in the future.

The Chairman informed the Committee of the opportunity to sponsor members of the Planning Team who were undertaking a sponsored walk for charity.

**43. APPEALS**

The Planning Committee noted the report.

#### 44. 130888F - LAND AT MERTON MEADOW, EDGAR STREET, HEREFORD, HR4 9JU

The Strategic Applications Officer gave a presentation on the application. He clarified that condition 36 listed in the recommendation should refer to a maximum of 192 units, not 191.

In accordance with the criteria for public speaking, Mr O'Brien, the applicant's agent, spoke in support of the application.

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

- The application was for outline planning permission. In principle he accepted the development of a brownfield site within walking distance of the city centre and to its economic benefit, although a site further to the south would have been preferable.
- He urged great caution over the risk to the site of flooding, which he considered inevitable, and emphasised the need for the Committee to satisfy itself, when considering the detailed application, that the proposed mitigation measures would be effective. There were a number of examples across the Country of new developments that had suffered flooding.
- The Environment Agency had identified the need to provide flood free access to the northern part of the site.
- Several plots of land required for the scheme were not in control of the Council. He asked how it was proposed to ensure that the scheme was deliverable.
- He expressed regret at the closure or relocation of a number of local businesses.
- With reference to the Transportation Manager's comments in the report at paragraph 4.5, he questioned whether it was legally possible, as proposed, to make the progress of the scheme conditional upon the development of the link road. When the planning application for the retail quarter had been considered it had been suggested that such a condition could not be imposed
- Access to the extra care facility for elderly pedestrians and mobility impaired people needed to be addressed.
- The report should have stated that the ratio of parking spaces to properties would be 1.3 and not rounded up the figure to 1.5. This was a significant difference.
- Planning permission needed to be conditional on a travel plan, either at the outline or detailed stage.
- It was essential that the development provided for high quality cycle parking.
- Further consideration needed to be given to the provision of adequate public open space. The suggestion in the report by the Parks and Countryside Manager that enhanced facilities should be provided at the King George V playing fields was not acceptable. He expressed concern that this aspect had not been discussed with him as ward member.

In response to the points raised the Strategic Applications Officer commented:

- There had been a detailed flood risk assessment. The Environment Agency and the Council's drainage engineer were content that the scheme could proceed.
- Condition 33 required safe access in the event of flooding to be provided across the whole site including the northern section.
- Regarding land ownership the majority of the site was either owned by the Council or would be secured through the link road Compulsory Purchase Order. There were two additional properties to be acquired. This should have been clarified by the time the detailed application was submitted and the scheme would need to be modified to reflect the land ownership situation at that time.
- It was appropriate to make the scheme partly conditional upon the development of the link road, given the confidence that the scheme would proceed now that



planning permission for it had been granted and that the associated Compulsory Purchase Order was shortly to be made. This was also the recommendation of the Transportation Manager in this instance.

- Safe vehicular and pedestrian access to the extra care facility would be provided.
- He acknowledged the need to ensure that sufficient detail of cycle parking provision was provided when the detailed planning application was sought.

The debate opened and the following principal points were made:

- Several Members spoke in support of the Ward Member's concerns.
- It was essential that alternative car parking was provided and clearly signposted. The loss of low cost commuter parking needed to be addressed.
- Cycling parking needed to be provided to a good standard and the development made user friendly for cyclists.
- The detailed planning application needed to have a joined up approach to landscaping.
- Concern was expressed at the absence of a policy prescribing sustainability standards prevented a condition being imposed requiring higher construction standards than were being proposed.
- Measures to mitigate flooding, including flash flooding which was thought likely to become more frequent, were essential. Concern was expressed that the present proposals were not sufficient to protect the site and that they would also lead to problems elsewhere. The Yazor brook was at capacity since the recent flood alleviation scheme had been put in place. It might be difficult for householders to obtain insurance.
- Appropriate public open space needed to be provided on site. It was to be regretted that the ward member had not been consulted on this aspect.
- A Member questioned whether the application should be deferred pending the production of an Annual Monitoring Report providing the evidence for housing need.
- It was understood that Hereford United Football Club intended to develop the stand at the northern end of the ground and, if made larger, this would affect the light and amenity of properties proposed to be built in that part of the development.
- It was to be regretted that the extra care housing was included in the affordable housing provision and it was questioned what evidence of affordable housing need there was.
- The scheme should be of a higher standard. It did not have the desirable features of an urban village such as community facilities.
- There would be a risk of noise from the link road.
- Where would coaches for football matches park?
- The scheme should be designed so that cycling and walking should be the first choice.
- The aim should be to maintain and enhance the landscape.
- Displaced businesses should be supported in seeking to find alternative sites and given certainty over the timing of the redevelopment.

In response to the points raised the Strategic Applications Officer commented:

- The masterplan reflected the proposed re-development of the Merton stand and the Football Club was content with the scheme. Discussions were taking place about the scale of any new stand and a land swap was being proposed to facilitate this.
- Additional car parking would be available on the Stanhope site before any development of the Merton Meadow site. A further site for car parking was the subject of the next application on the agenda.
- A business relocation strategy was in place.
- The planning service would work with the applicant to seek to achieve a higher sustainability standard. Policies in the approved draft Core Strategy would assist in this regard.

- The 2013 Annual Monitoring Report was being prepared. However, an interim assessment of housing land supply had shown a deficit of over 600 homes as at 2012.
- Account would be taken of the observations made by the Committee in working on the detailed planning application.

Councillor Hubbard was given the opportunity to close the debate. He commented that he had assured himself that the phasing of development should mean parking provision was adequate. Commuter parking needed to be secured. He was, however, concerned that a strategy to deliver the necessary behavioural change was not yet in place. He expressed criticism of the link road design and noted that it was to be expected that the road would be heavily used. Consideration therefore needed to be given to measures to ensure that the environment for the people living on the development was appropriate. He did not oppose the scheme but would expect the detailed design to address the issues that had been identified during the debate.

#### **RESOLVED:**

**That officers named in the scheme of delegation be authorised to issue planning permission subject to the conditions set out in this report and any varied or additional conditions considered necessary by officers:**

1. **The details to be submitted with the first reserved matters application under the terms of condition 4 shall include a construction phasing plan. The submission of details required by the conditions accompanying this decision and the construction shall thereafter follow the agreed phasing plan unless otherwise agreed in writing by the local planning authority.**

**Reason: To ensure the construction is phased with the delivery of the essential infrastructure and to comply with policy DR1 of the HUDP.**

2. **A02 Time limit for submission of reserved matters (outline permission)**
3. **A03 Time limit for commencement (outline permission)**
4. **A04 Approval of reserved matters**
5. **A05 Plans and particulars of reserved matters**
6. **B01 Development in accordance with the approved plans**
7. **C01 Samples of external materials**
8. **E01 Site investigation - archaeology**
9. **F08 No conversion of garage to habitable accommodation**
10. **G04 Protection of trees/hedgerows that are to be retained**
11. **G09 Details of Boundary treatments**
12. **G10 Landscaping scheme (To include electric vehicle charging points)**

13. **G11 Landscaping scheme - implementation**
14. **G14 Landscape management plan**
15. **G19 Details of play equipment**
16. **H11 Parking - estate development (more than one house)**
17. **H29 Secure covered cycle parking provision**
18. **M07 Evacuation management plan**
19. **H30 Travel plans**
20. **L02 No surface water to connect to public system**
21. **L03 No drainage run-off to public system**
22. **L04 Comprehensive & Integrated draining of site**
23. **I56 Sustainable Homes Condition**
24. **I16 Restriction of hours during construction**
25. **I42 Scheme of refuse storage (residential)**
26. **I51 Details of slab levels**
27. **M09 Development on land affected by contamination**
28. **M10 Unsuspected contamination**
29. **I26 Interception of surface water run off**
30. **No development shall commence (including any works of demolition) within each geographical phase of development until a construction environmental method statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:**
  - **Means of access for construction including vehicle routes to and from the site**
  - **Parking for site operatives and visitors**
  - **Loading and unloading of plant and materials**
  - **A scheme for recycling and disposing of waste arising from demolition and construction works**
  - **Wheel washing facilities**
  - **Site compound area(s) and area(s) for the storage of plant and materials used in constructing the development**
  - **The erection and maintenance of security hoarding including the external finish and colour.**
  - **Measures to control the emission of noise, dust and dirt during construction**
  - **Containment of silt/soil contaminated runoff**
  - **Habitat and species protection measures**

**Reason: To safeguard water quality, the amenity of the area and the biodiversity interest of the site and to comply with HUDP policies DR2, DR3, DR4 and NC1.**

- 31. Other than works associated with the construction of the of the extra care accommodation and unless otherwise agreed in writing with the local planning authority, no other dwellings shall be occupied until the development known as the link road approved under planning permission ref CE092576/F (as amended) has been completed in accordance with the details of that permission and any subsequent amendments.**

**Reason: To ensure the remainder of the development is served by appropriate vehicular, pedestrian and cycle access and drainage arrangements and to comply with HUDP policies DR4, CF2, T6, T7 and T8.**

- 32. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment, dated 27/03/2013, produced by Capita Symonds.**

**Reason: To prevent the increased risk of flooding and to comply with policy DR7 of the Herefordshire Unitary Development Plan and the NPPF**

- 33. Details of the means of achieving a safe, dry, pedestrian access and egress route, not adversely affecting the flood regime, on land outside the 1 in 100 year plus climate change event should be submitted to and approved in writing by the local planning authority prior to the commencement of the development within each phase. The agreed details shall be implemented as approved prior to the occupation of any dwellings within the phase of the development to which the proposals relate.**

**Reason: To provide safe access and egress during flood events to each part of the development and to comply with policy DR7 of the Herefordshire Unitary Development Plan and the NPPF**

- 34. No development shall commence within each phase until a scheme for protecting the proposed dwellings from road traffic and football club noise including detailed construction methods for noise mitigation has been submitted to and approved by the local planning authority. All works which form part of the scheme shall be completed before any of the permitted dwellings within that phase are occupied.**

**Reason: To protect the residential amenities of the future occupiers of the properties and to comply with Policy DR13 of Herefordshire Unitary Development Plan.**

- 35. B07 – Section 106 Agreement**

- 36. The development hereby permitted is for the construction of a maximum of 192 open market and affordable residential units.**

**Reason: To define the terms of the permission and comply with policy**

**DR1 and H13 of the Herefordshire Unitary Development Plan.**

37. **Unless otherwise agreed in writing with the local planning authority, a minimum of 200 public parking spaces shall be retained within the site and be accessible for public usage until the new car park proposed under planning application ref S131240/CD has been completed and is available for public usage.**

**Reason: To ensure adequate supply of public parking remains available within the city and to comply with policy DR3 of the Herefordshire Unitary Development Plan.**

**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. **HN08 Section 38 Agreement and Drainage Details**

*(The meeting adjourned between 11.55 am and 12:10 pm)*

**45. 131240F - LAND AT FORMER ROCKFIELD DIY SUPERSTORE, STATION APPROACH, HEREFORD, HR1 1BB**

The Strategic Applications Officer gave a presentation on the application. An additional representation received following the publication of the agenda was provided in the update sheet, as appended to these Minutes.

In accordance with the criteria for public speaking, Mr Ledlie, representing Rail for Herefordshire, spoke in objection to the application.

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

- There remained a complete lack of an integrated transport system in Hereford. Until this was addressed and connections between the City and the rest of the County were improved the County's economy would not grow as it might.
- In principle he supported the proposal as a transitional measure given that the link road had planning permission and there was a loss of car parking associated with development in the City. However, a better vision for an improved future transport strategy was required.

The debate opened and the following principal points were made:

- There was a clear need for the car park. However, the Link Road was expected to be completed by 2015. It was therefore proposed that the temporary permission should be for three years rather than five as was being recommended.

- The proposal for a transport hub remained part of the plan for the development of the Edgar Street Grid and it was important that this was progressed.
- Landscaping was discussed. It was acknowledged that little could be done given the temporary planning permission. However, it would be important for businesses in Commercial Road that landscaping was restored to its original condition once the temporary permission ceased.

Councillor Hubbard was given the opportunity to close the debate. He supported the application, whilst highlighting the need for an improved strategy and the development of a transport hub.

**RESOLVED:**

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

1. **F18 Temporary permission (3 years)**
2. **B01 Development in accordance with the approved plans**
3. **G10 Landscaping scheme**
4. **G11 Landscaping scheme - implementation**
5. **H29 Secure covered cycle parking provision**
6. **Prior to the commencement of development, scaled plans identifying the provision of a bus lay-by and supporting bus infrastructure including a bus shelter and signage shall be submitted to and approved in writing by the local planning authority. The works shall be completed in accordance with the approved plans prior to first use of the car park hereby permitted.**

**Reason: To improve the public transport facilities in the locality and support the creation of a transport interchange in accordance with policies T1 and DR3 of the Herefordshire Unitary Development Plan.**

**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. .**

**46. 131071F - LAND AT LEYS FARM, TARRINGTON, HEREFORD, HR1 4EX**

The Development Manager gave a presentation on the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor J Hardwick, the local ward member, commented on the application. He reported that, whilst the Parish Council and others had objected to the application, there were no objections to the business as such. Several objections related to the proximity of pens

for rearing game birds in fields adjacent to the site to residential properties. The applicant had offered not to erect pens within 50 metres of another property. This offer was not enforceable but had been well received and should be recorded.

The debate opened and the following principal points were made:

- It was proposed that the applicant's offer not to erect pens within 50 metres of another property should be included as an informative with the Committee's resolution.
- Intensive farming should not be supported.
- There would be smell associated with the activity.
- Landscaping of the site was discussed. The Development Manager commented that the site itself was relatively well screened. A number of Members referred to the comments of the Conservation Officer in the report that there was an opportunity to provide landscape enhancement. The Development Manager advised that most of the issues raised by the Conservation Officer related to matters outside the application site and a condition to give effect to the Conservation Officer's comments could not be proposed.

**RESOLVED:**

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

1. **No cleaning of equipment or housing involving the use of a pressure washer(s) shall take place outside of the hours of 0800 hours to 1800 hours, Monday - Saturday and not at all on Sundays or Bank Holidays.**

**Reason: In order to protect the amenity of nearby residents to ensure continued compliance with policies DR2, DR13, HBA12 and E13 of the Herefordshire Unitary Development Plan.**

2. **Within 3 months of the date of this permission, the silos shall have been painted in accordance with details to be submitted to and approved in writing by the local planning authority.**

**Reason: In the interests of visual amenity to comply with policy DR1 of the Herefordshire Unitary Development Plan.**

**INFORMATIVE:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including 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.**

- 2 **Note. A voluntary and informal undertaking has been provided by the applicant to the effect that pens rearing game birds, shall not be erected within 50 metres of any residential building/area adjacent to the site.**

**47. 131090F - ROUNDABOUT AT BURLEY GATE, JUNCTION OF A465 AND A417, BURLEY GATE, HEREFORDSHIRE**

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr Hoskins, Chairman of Much Cowarne Parish Council, spoke in support of the application.

A Member congratulated the Parish Council on its initiative.

**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**

**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.**
2. **HN05 Works within the highway**

**48. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES**

The meeting ended at 12.15 pm

**CHAIRMAN**



# PLANNING COMMITTEE

7 August 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.

**131240/CD - REDEVELOPMENT OF SITE TO PROVIDE A PUBLIC CAR PARK WITH ASSOCIATED LIGHTING, SIGNAGE AND PARKING METERS AT LAND AT FORMER ROCKFIELD DIY SUPERSTORE, STATION APPROACH, HEREFORD, HR1 1BB**

**For: The Owner and/or Occupier per Mr Robert Scott, Plough Lane Offices, Hereford, Herefordshire, HR4 0LE**

### ADDITIONAL REPRESENTATIONS

An amended plan has been received identifying the provision of a bus lay-by along the western site frontage and a resultant reduction in the parking numbers from 175 to 157 spaces.

### OFFICER COMMENTS

This provision of a bus lay-by addresses the Transportation Officer's comments and is welcomed.

### NO CHANGE TO RECOMMENDATION





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>18 SEPTEMBER 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 an executive decision.

## Recommendation

That the report be noted

## APPEALS RECEIVED

### Application 130292/F

- The appeal was received on 29 July 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr M Rohde
- The site is located at Land adjacent to Village Hall, Clehonger, Herefordshire
- The development proposed is three bedroom property
- The appeal is to be heard by Written Representations

**Case Officer: Ms K Gibbons on 01432 261781**

### Application 130166/F

- The appeal was received on 31 July 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against
- The appeal is brought by The Owner and/or Occupier
- The site is located at Site adj to 4 Valentine Court, Canon Pyon, Hereford, HR4 8NZ
- The development proposed is Proposed erection of 30 no dwellings including 10 affordable units and associated works to provide new access and road
- The appeal is to be heard by Hearing

**Case Officer: Mr A Banks on 01432 383085**

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

#### **Application 131433/V**

- The appeal was received on 8 August 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Lawful Certificate
- The appeal is brought by Mr Lapsley
- The site is located at Castaways, Acton Green, Acton Beauchamp, Worcester, WR6 5AA
- The development proposed is Application for a Lawful Development Certificate for a proposed second storey loft conversion
- The appeal is to be heard by Written Representations

**Case Officer: Mr N Banning on 01432 383093**

#### **Application 130996/FH**

- The appeal was received on 22 August 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission (Householder)
- The appeal is brought by Mr A Cledwyn-Davies
- The site is located at The Granary, Middleton On The Hill, Little Hereford, Herefordshire, SY8 4BE
- The development proposed is Single storey side extension
- The appeal is to be heard by Householder Procedure

**Case Officer: Mr A Banks on 01432 383085**

#### **Enforcement Notice 132396/ENF**

- The appeal was received on 29 August 2013
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Yellow Wood Forestry Ltd
- The site is located at Winforton Wood, Winforton, Herefordshire, HR3 6EB
- The breach of planning control alleged in this notice is:
  - Without Planning Permission, occupation of a building for residential purposes. Specifically, unauthorised use of a building known as "The Cabin" that is situated on the land.
- The requirements of the notice are:
  - Cease occupation of the building for residential purposes
- The appeal is to be heard by Written Representations

**Case Officer: Mr M Tansley on 01432 261815**

#### **Application 131104/O**

- The appeal was received on 4 September 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr G Adams
- The site is located at Land adjoining Millbrook Gardens, Lea, Ross-on-Wye, Herefordshire
- The development proposed is Erection of four dwellings and associated garages. Construction of new vehicular access road and associated works.
- The appeal is to be heard by Written Representations

**Case Officer: Ms R Jenman on 01432 261961**

## APPEALS DETERMINED

### Application 122500/F

- The appeal was received on 22 February 2013
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mrs S Parkinson
- The site is located at Land adjacent to, 8 Llanwye Close, Old Eign Hill, Hereford
- The development proposed was new dwelling and gardens with new access onto highway.
- The main issues were the effect of the proposed development on:
  - The character and appearance of the locality, including the Hampton Park Conservation Area within which the site is located; and
  - Nature conservation interests

#### **Decision:**

- The application was Refused under Delegated Powers on 7 November 2012
- The appeal was Dismissed on 1 August 2013

**Case Officer: Mr E Thomas on 01432 260479**

### Application 121045/F

- The appeal was received on 8 May 2013
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr M Jelf
- The site is located at Land south of Greytree Road, Greytree, Ross on Wye, Herefordshire
- The development proposed was Erection of fourteen semi-detached and detached dwellings
- The main issue was:
  - The effect of the proposal on the character and appearance of the area

#### **Decision:**

- The application was Refused under Delegated Powers on 19 November 2012
- The appeal was Withdrawn on 8 August 2013

**Case Officer: Mr A Prior on 01432 261932**

### Application 121573/F

- The appeal was received on 11 March 2013
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr N Rolinson
- The site is located at Land adj to and South of Fairview, Putley, Herefordshire, HR8 2RE
- The development proposed was erection of two holiday let units
- The main issue(s) were: whether the development is sustainable; the effect of the proposal on the character and appearance of the area; and the impact of the development on nature conservation interests, with particular regard to protected species.

#### **Decision:**

- The application was Refused under Delegated Powers on 26 September 2012
- The appeal was Dismissed on 21 August 2013

**Case Officer: Mr N Banning on 01432 383093**

### Application 121503/F

- The appeal was received on 18 March 2013
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr Frans Robey

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

- The site is located at Upper House Farm, Bacton, Hereford, Herefordshire, HR2 0AU
- The development proposed was Proposed campsite for 5 demountable tents (6 months holiday season)
- The main issue(s) were: whether the proposed development can be accessed safely and conveniently by visitors and emergency vehicles; and the effect of the proposal on the character and appearance of the area.

**Decision:**

- The application was Refused under Delegated Powers on 7 November 2012
- The appeal was Dismissed on 21 August 2013

**Case Officer: Mr A Prior on 01432 261932**

**Application 130070/FH**

- The appeal was received on 6 June 2013
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr N Tilby
- The site is located at The Barn, Orchard Field, Tenbury Road, Brimfield, Ludlow, Herefordshire, SY8 4NE
- The development proposed was Proposed two storey extension.
- The main issue was: the effect of the proposed extension on the character and appearance of 'The Barn' and the house, as extended, on its surroundings.

**Decision:**

- The application was Refused under Delegated Powers on 11 March 2013
- The appeal was Allowed on 22 August 2013

**Case Officer: Mr A Banks on 01432 383085**

**Enforcement Notice 130399/ENF**

- The appeal was received on 6 February 2013
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr And Mrs C & G Poultney
- The site is located at The Old Rectory, Boat Lane, Whitbourne, Worcester, Herefordshire, WR6 5RS
- The breach of planning control alleged in this notice is:
  - Without planning permission change of use of land from a single dwelling house to a mixed use for holiday accommodation and function venue.
- The requirements of the notice are:
  - To cease the use of the premises as a function venue.
- The main issues were:
  - The effect on the living conditions of adjacent residents;
  - The effect on highway safety and sustainability;
  - Whether it preserves the setting of the listed building or the character or appearance of the Whitbourne Conservation Area in which the site is located, and its effect on the adjacent countryside;
  - Whether it causes other harm; and
 If harm results from any of the above;
  - Whether material considerations or public benefits outweigh that harm.

**Decision:**

- The appeals succeed in part in relation to ground (g) but the appeal in relation to ground (a) is dismissed and the enforcement notice is upheld as of on 22 August 2013

**Case Officer: Mrs S Kinnersley on 01432 261933**

**Application 122497/F**

- The appeal was received on 26 February 2013
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Non determination
- The appeal was brought by Mr David Thomas

- The site is located at Land at Green Lane Cottage, Green Lane, Yarpole, Leominster
- The development proposed was Demolition of existing detached house and erection of five, two storey detached dwellings, together with new vehicular access, private drive, parking areas and garages.
- The main issues were:
  - The effect of the proposed development on the character and appearance of the area;
  - Whether the proposed development adequately addresses the sustainability requirements of the development plan; and
  - Whether adequate arrangements are made for the disposal of foul and surface water from the site.

**Decision:**

- The appeal was Dismissed on 27 August 2013

**Case Officer: Mr A Banks on 01432 383085**

**Application 120882/F**

- The appeal was received on 20 March 2013
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr A Thomas
- The site is located at Land adjacent to, 1 Hunderton Avenue, Hereford
- The development proposed was Erection of 1 pair semi detached houses.
- The main issues were:
  - The effect of the proposal on the character and appearance of the area; and
  - The effect of the proposal on highway safety

**Decision:**

- The application was Refused under Delegated Powers on 20 September 2012
- The appeal was Dismissed on 30 August 2013

**Case Officer: Ms K Gibbons on 01432 261781**

**Application 122604/O**

- The appeal was received on 9 April 2013
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr Guy Wooddisse
- The site is located at Land rear of White House Drive, Kingstone, Hereford
- The development proposed was Outline application for 35 unit housing scheme with associated access.
- The main issue was:
  - whether the proposed development represents sustainable development, with particular regard to:
    - Scale and form of the scheme;
    - Access to facilities, employment and public transport; and
    - Availability of waste water treatment capacity.

**Decision:**

- The application was Refused at Planning Committee, against Officer Recommendation, on 13 March 2013
- The appeal was Allowed on 3 September 2013
- An Application for the award of Costs, made by the Appellant against the Council, was Partially Allowed – Limited to those costs incurred in rebutting Reason for Refusal No.1 as set out in the Decision Notice dated 13 March 2013

**Case Officer: Mr A Prior on 01432 261932**

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>18 SEPTEMBER 2013</b>
<b>TITLE OF REPORT:</b>	<p><b>131391/F - PROPOSED DEMOLITION AND REGENERATION TO INCLUDE 259 NEW BUILD FLATS/HOUSES, EXTERNAL REFURBISHMENT WORKS TO THE EXISTING FLATS ABOVE THE OVAL SHOPS, LANDSCAPING AND ASSOCIATED WORKS AT THE OVAL, HEREFORD</b></p> <p><b>131390/O – NEW COMMUNITY HUB AT THE OVAL, HEREFORD</b></p> <p><b>For: Keepmoat Homes/Herefordshire Housing per BM3 Architecture Ltd, 28 Pickford Street, Digbeth, Birmingham, West Midlands B5 5QH</b></p>
<b>WEBSITE LINK:</b>	<a href="http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131391&amp;NoSearch=True">http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131391&amp;NoSearch=True</a>

**Date Received: 21 May 2013**

**Ward: Belmont**

**Grid Ref: 349911,238496**

**Expiry Date: 19 September 2013**

Local Members: Councillors PJ Edwards, GA Vaughan-Powell and R Preece

## **1. Site Description and Proposal**

- 1.1 The application site comprises a 6.69 hectare site that lies to the south west of Hereford in the residential area known as Newton Farm. The majority of the site lies to the east of the Belmont Road (A465) with the site encompassing the land to the west of Goodrich Grove, north of Kilvert Road (Broxash Drive, The Oval). The Great Western Way forms the boundary to the east. There is also a smaller parcel of land that lies to the north of Belmont Road, adjacent to Beattie Avenue.
- 1.2 The majority of the area off Kilvert Road and Broxash Drive is characterised by three storey blocks of two bed apartments that are set amongst green shared spaces and areas. To the north of the site, fronting Belmont Road, lies a parade of shops at ground floor with residential units above.

The proposal is formed by two applications:

### **131391/F**

- 1.3 Application 131391/F is a full planning application for the redevelopment of the Oval within which Herefordshire Housing (HHL) propose to demolish three storey blocks on Kilvert Road, Broxash Drive, Belmont Road and Beattie Avenue and the area regenerated. The key objective of this regeneration is to create a sustainable community within the Oval

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

Regeneration Area. The proposal includes the provision of 259 new properties. 50 % of these would be let by HHL and 50% would be sold on the open market by Keepmoat. The total uplift in the numbers of dwellings will be 49.

- 1.4 The properties to be let by HHL will include 1 bed bungalows, 1 and 2 bed flats and 2, 3 and 4 bed houses. The units above the shops would be refurbished to allow them to remain open throughout the entire project. The open market properties would be a mix of 2, 3 and 4 bed dwellings. The HHL and Keepmoat properties would be interspersed throughout the site and would be "tenure blind".
- 1.5 The layout of the proposed development is based upon the existing road layout, utilising a more traditional approach of primarily two storey dwellings with parking to the front and rear gardens that are, in the main, back to back with other gardens. The exceptions to this are the two and a half and three storey 4 bed properties that front Belmont Road and a small cluster of properties that would front Broxash Road and Kilvert Road. 14 one bed bungalows are sited to the east of the site around a shared surface driveway. The dwellings are a mix of designs, but utilise a buff coloured brick, with blue detailing and render. Box bay detailing and large windows at first floor are also prevalent through the dwellings types and design.
- 1.6 There are also two blocks of apartments. The first lies in a corner position at Belmont Road and Goodrich Grove. This will be a flat roofed, three storey block designed with a curved floor plan and façade and utilising a mix of blue grey bricks, ivory render and grey aluminium box bay windows. The parking court associated with this would be sited to the rear of the property accessed from Broxash Drive.
- 1.7 The second apartment block is located to the north of Belmont Road and fronting Beattie Avenue. This element would be partially four storey with a flat roof. The building will have a mix of materials, again including a buff brick ivory render, grey panelling to the fourth floor and grey aluminium box bay window detailing. The parking court associated with the property would be sited to the rear of the building, accessed off Beattie Avenue.
- 1.8 The proposal also includes the retention of the local shopping area and retail units. In order to ensure that these would remain operational during development it is proposed that these three blocks / units, and their apartments would be refurbished utilising a panel system in a mix of materials to match the rest of the development.
- 1.9 The application submission confirms that the developers are committed to reducing carbon emissions and achieving Code for Sustainable Homes Level 4 through the use of highly insulated external envelopes, greater waste efficiency and constructed to an air tightness of 5.0m<sup>3</sup>.hr/m<sup>2</sup> thus reducing the heat loss significantly. It has recently been clarified by the applicant that they will now be unable to deliver a biomass CHP solution at The Oval, so the regeneration will utilise conventional sources of heat and power.

### **131390/O**

- 1.10 The second associated application is for the construction of a community hub. This application is in outline form, and the application site is located to the north of the site to the west of the retail units. The proposal is for an 800 m<sup>2</sup> building with the remaining area being used for landscaping and car parking. The proposed building would be three storey and would accommodate a reception area, restaurant/café, offices and public facilities.

## **2. Policies**

- 2.1 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development and this is defined as encompassing an economic, environmental and social dimension which are mutually dependent.

Paragraph 14 states that where the relevant development plan is absent, silent or relevant policies are out of date, planning 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. Relevant sections are as follows:

Section 4 Promoting Sustainable Transport  
Section 6 Delivering a wide choice of high quality homes  
Section 7 Requiring good design  
Section 8 Promoting healthy communities  
Section 10 Meeting the challenge of climate change, flooding and coastal change  
Section 11 Conserving and enhancing the natural environment  
Section 12 Conserving and enhancing the historic environment

## 2.2 Herefordshire Unitary Development Plan (UDP):

- S1 - Sustainable Development
- S2 - Development Requirements
- S3 - Housing
- S4 - Employment
- S6 - Transport
- S7 - Natural and Historic Heritage
- S8 - Recreation, Sport and Tourism
- S10 - Waste
- S11 - Community Facilities and Services
- DR1 - Design
- DR2 - Land Use and Activity
- DR3 - Movement
- DR4 - Environment
- DR5 - Planning Obligations
- DR7 - Flood Risk
- DR9 - Air Quality
- DR13 - Noise
- H1 - Hereford and the Market Towns: Settlement boundaries and established residential areas
- H9 - Affordable Housing
- H13 - Sustainable Residential Design
- H14 - Re-using Previously Developed Land and Buildings
- H15 - Density
- H16 - Car Parking
- H19 - Open Space Requirements
- T6 - Walking
- T7 - Cycling
- T11 - Parking Provision
- T12 - Existing Parking Areas
- LA5 - Protection of Trees, Woodlands and Hedgerows
- LA6 - Landscaping Schemes
- NC1 - Biodiversity and Development

- NC8 - Habitat Creation, Restoration and Enhancement
- NC9 - Management of Features for the Landscape Important for Fauna & Flora
- W11 - Development and Waste Implications
- RST4 - Safeguarding existing recreational space
- CF2 - Foul Drainage
- CF5 - New Community Facilities
- CF7 - Residential Nursing and Care Homes

### 2.3 Herefordshire Local Plan Draft Core Strategy

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS3 - Releasing Land for Residential Development
- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- SS7 -- Addressing Climate Change
- HD1 - Hereford
- HD2 - Hereford City Centre
- HD3 - Hereford Movement
- H1 - Affordable Housing
- H3 - Ensuring an appropriate range and mix of housing
- OS1 - Requirements for open space, sports and recreation facilities
- MT1 - Traffic Management, highway safety and promoting active travel
- E2 - Re-development of existing employment land and buildings
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- LD3 - Green Infrastructure
- LD4 - Historic Environment and Heritage Assets
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Wastewater Treatment and River Water Quality
- ID1 - Infrastructure Delivery

### 2.4 Other Guidance:

Supplementary Planning Documents:

Landscape Character, Planning Obligations, Biodiversity, Design, Green Infrastructure Strategy

### 2.5 Other Material Considerations:

Annual Monitoring Report,  
Strategic Housing Land Availability Assessment  
Local Housing Market Assessment (2013)

### 2.6 The Unitary Development Plan and draft Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

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

## 3. Planning History

### 3.1 None relevant

#### 4. Consultation Summary

##### Statutory Consultees

- 4.1 Welsh Water has no objection to the proposal and recommend conditions be attached to any permission.

##### Internal Consultations:

- 4.2 The Transportation Manager has made the following comments on the original submission:

##### General Highways Comments

The proposed development covers a large area with an established road network. It is noted from the Design and Access Statement that it is proposed to leave the existing road network unchanged, with enhancements in the form of additional roads. Whilst the existing geometric layout itself may be retained, the extent of changes to footways in the form of multiple vehicle crossings, changes to street lighting column positions, statutory undertakers' works and general deterioration due to the construction works/traffic on a development of this size is likely to result in the need for substantial work to the roads and footways. A jointly organised full condition survey would be required prior to commencement, and re-design of street lighting will be required at the developer's expense.

Whilst it is cited as a re-development scheme, large areas of the proposed development include areas that are currently public highway, and which will need to be extinguished under Section 247 of the Town and Country Planning Act. Areas involved are the substantial parts of Plots 153 to 161, 182 to 187, 188, 189, 199 to 208, 226, 227 together with the biomass plants by plots 153, 173, and part of the frontage of Plots 105/140. The achievability of the scheme as proposed is dependent upon obtaining such orders. I would add that these areas may also contain Statutory Undertakers Equipment. A plan should be submitted prior to determination identifying all highway areas requiring extinguishment.

A Section 38/278 agreement will be required in respect of the new and existing roads within the development.

There are concerns with the location of a number of proposed parking spaces which will involve cars reversing within junction areas, but with the density of development and frontage parking, this is inevitable. Also a large number of vehicle access points onto Goodrich Grove have been introduced but with no speed reduction measures.

Access arrangements for fuel deliveries to the Biomass heating units needs to be clarified.

Street lighting needs to be reviewed at the applicant's expense and in consultation with our highways partner.

##### Comments on Design and Access Statement

Under the Design and Access Statement Section 4c - Movement Network, the application states that the area does not have adequate cycle links and proposes better linkages, however little is actually proposed.

*"Cycle - The Oval currently does not have adequate cycle links. The new development aims to improve the existing cycle and pedestrian links. There will be better street linkage and shared surface areas where surface treatment will be designed to incorporate the use of cycles throughout the development. There will also be a separate cycle route off the oval towards the western boundary".*

Indeed wider footways through the open areas of highway mentioned in the earlier comments and which could serve as cycle routes are to be removed and highway extinguished to make way for narrower paths alongside the roads. Similarly, links to Great Western Way have not been addressed or improved. It is very disappointing that such a large development has not made more effort in this respect, and I consider that the proposals for cycling facilities and links should be urgently reviewed.

Section 4c mentions a link from The Oval to the western boundary and if this is the dotted line shown on the Drawing 52276-D01 as an on road link, this will be compromised by on street parking on the one way section which will effectively render the available width inadequate for traffic and a cycle lane, particularly if a contraflow is intended. The drawing also appears to indicate a zebra type crossing at Goodrich Grove. I would add that, as none have taken place to date, discussions should be urgently arranged with our Sustainable Transport Team to discuss sustainable proposals to ensure that these conform with the objectives of the Belmont / South Wye Transport Package.

Under Section 4e Open Space, the D&A refers:-

*“Generally the layout has been designed with central new roads, which will be offered for adoption and also shared surface areas have been designed to create a community living environment. The character of the Shared Surface will consist of block paving, rumble strips and robust street planting to provide a distinctive environment whilst also limiting traffic speeds.”*

As such, only two new roads are proposed – Homezone (Shared Surface 3?) and Shared Surface 4, with Shared Surface 5 being an extension of an existing substandard width cul de sac. These will all need to be a minimum of 4.5m wide throughout. Shared Surfaces 1, 2 are basically little more than a private shared drive, so would be unlikely to be adopted.

The remainder of the road network remains as is with little proposed enhancement or traffic calming.

I would add that the Homezone may also be viewed as a shorter route to the Oval for cars than Kilvert Drive, and will therefore be used as a shortcut which will work against the Homezone principles intended.

Section 4f refers to lighting and that the ALO will inspect the exterior lighting plans prior to design completion. The proposed alterations to accesses and layout generally will require alterations to highway street lighting and the applicant should discuss the street lighting with our highway partner as soon as possible for both the existing and new roads.

Section 4g states:-

*“Pedestrian Routes”*

*As part of the new infrastructure 2m wide footpaths have been designed throughout the new developments which connect onto the existing footpaths & New Shared surface areas creating better street links to encourage walking”*

The majority of footways on the development are 2m wide or more at present, so there is little enhancement proposed. Also wider divorced footways through the larger open space areas are now replaced by 2m footways alongside roads, and the amount of Shared Surface proposed is small in relation to the infrastructure of the overall re-development area.

I would also raise concern over the lack of footway provision along Broxash Drive fronting the play area.

Similarly links to the crossing of Belmont Road from the Oval shops need to be enhanced and widened. Mention of enhancement of the Oval shops area at pre application stage, seems to have dwindled with only brief mention under Belmont Road in the Landscape Statement.

Section 4 g also states:-

“Cycle Routes”

*Generally the cyclist can use the pedestrian routes within the development and all the existing paths from the existing estates have been linked in with the proposed to create not only a better pedestrian movement but also a better cycle movement network.”*

With all proposed footways now alongside roads with multiple vehicle crossings and of 2m width, I do not consider this to be the case. My comments in relation to Section 4c also apply

Comments on Transport Assessment

The Transport Assessment submitted in respect of the proposed re-development of the Oval assesses the likely increase in vehicular traffic and the resultant impact upon the various junctions with A465 Belmont Road.

In Paragraph 2.7, the document states that higher flows are encountered on Belmont Road between 0700 and 0800hrs, with less between 0800 and 0900 hours, and states this indicates spare capacity on Belmont Road. The flows of traffic may however be lower because queuing is occurring between 0800 and 0900, and at other times through the day and therefore vehicle speeds are low/stationary and consequently throughput is reduced, whereas at the earlier time traffic is free flowing.

Paragraph 2.7 refers to the most recent three years of accident records, however the years 2009 to 2011 are included. This information should be updated.

In Paragraphs 4.3.4 and 4.3.5, the document mentions a possible one way system from A465 into The Oval, removing the right turn out, but concludes this option would render the Goodrich Grove junction over capacity and therefore has not been pursued. I would agree with this decision.

Paragraph 4.3 6 indicates a one way system running east to west along the front of The Oval shops and states that the pedestrian environment will be improved. Little evidence of the proposed enhancement is provided in the application. Such one way working will require a Traffic Regulation Order, the application for which will need to be at the applicant's expense and which may attract objections and therefore cannot be guaranteed. The proposed cycle contraflow lane would need to be extended through this area. I would add that if a one way system is introduced, herringbone parking may be more appropriate along that length.

Paragraph 4.3.7 relates to the proposed relocation of the bus stop near The Oval to allow more parking to be provided for the shops and also the Community Hub, which is the subject of a separate planning application. However, no discussions have taken place with public transport relating to the possibility of relocation, and I have reservations about the proposed new location.

Paragraph 5.3.1 assesses the impact on the junction of Beattie Road/Belmont Road junction as a result of that part of the development north of Belmont Road which is minimal and is therefore considered acceptable.

Paragraphs 5.5.1 to 5.5.3 assess the impact on the junction of Goodrich Grove and Belmont Road, where the impact is slightly greater, but is within the capacity of the junction and is therefore considered acceptable.

Paragraphs 5.6.1 to 5.6.2 assess the impact on The Oval/Belmont Road junction. This is the worst affected by the proposals, and whilst the increase in overall junction delay per vehicle shown in Table 9 is small at around 0.06 minutes, the Arcady outputs in Appendix I indicate that vehicles exiting The Oval to Belmont Road will suffer an increase in delay of around 30-40 seconds at the worst times in the morning and evening peak as this leg of the junction would also be over capacity at these times. However, a significant amount of traffic uses the residential roads from Tesco roundabout to The Oval and Goodrich Grove as a “rat run” to avoid the queuing on Belmont Road and increased delays for traffic exiting at these junctions may effectively reduce the amount of traffic doing so. Therefore the amount of the additional delay envisaged may be reduced.

The Transport Assessment does not include assessment of the A49 Asda junction or the impact that the additional traffic will have on that junction, and the resultant increase in queuing on Belmont Road.

#### *Sustainable Transport Officer's comments*

The council is currently engaged in an intensive campaign to encourage modal shift from personal car travel. Hereford's size means that cycling is an ideal transport option and we are actively engaged in developing the cycle network throughout the city to encourage the already healthy levels of cycling. This development could embrace this strategy and help take some of the predicted car ownership out of the city's congestion.

#### *Existing cycle network*

The Great Western Way is the north-south artery of the city's cycle network and serves the area around the Oval as well as the Oval itself. Access is via the eastern ends of the Belmont Road service road and Kilvert Road. There is a further access to the north of the site via Beattie Avenue / Blackmarston Road and Belmont Road north service road.

The Kilvert Avenue access also offers continuity to the eastern side of the Great Western Way via Escley Drive to the Redhill area – a valuable alternative to negotiating Belmont Road east of the Great Western Way.

As well as the main Belmont Road, There are two strategic radial cycle network routes that pass through the area:

- Great Western Way – Belmont Road south service road – Oval / Kilvert Road – Goodrich Grove
- Great Western Way – Kilvert Road – Waterfield Road

Upgrading the existing pedestrian crossing over Belmont Road near Beattie Avenue would offer an additional north south cycle route and would also improve access to the shopping centre at the Oval. This would also require a shared use link between the crossing and Beattie Avenue to be used in both directions.

It's difficult to ascertain from the plans the proposed cycle lanes. We would need to see a detailed plan before commenting further.



### One way working

The existing one way system at the Oval is a recognised barrier to cyclists and we would expect to see a contraflow established for cyclists between the shops and Goodrich Grove and indeed any other one way streets proposed. A scheme is shown on the layout, but in insufficient detail to assess acceptability and to account for the proposed one-way past the shops. Care must be taken that there is no conflict with the car parking (both existing and proposed).

### Shared use paths (Walking and Cycling)

Hereford already has many shared use paths for pedestrians and cyclists, however, we aim to provide 3.5m widths for such use with a minimum width of 3m. Short stretches of 2.5m are acceptable if this ensures continuity of routes. The scheme proposes 2m width paths be used for shared use - this is not sufficient width here.

### Cycle Parking

If we are to make any headroom in effecting modal shift away from personal motor vehicle transport, secure cycle parking needs to be included especially at the hub, play areas and the shops. Our guidance is set out on pages 33-34 (types of cycle parking) and 38-46 (levels of provision) in our Highways Design Guide for New Developments. This area of the city is one of the best served as far as cycle infrastructure is concerned. The residential cycle parking where indicated appears to be well below our prescribed standards, some of them are too remote from some of the dwellings they are presumably intended to encourage use and I am concerned their location may also make them susceptible to vandalism and break-ins.

- 4.3 Following the receipt of amended plans to address the issues raised the Council's Transportation Manager makes the following comments:

The Shared surface only 5 and Plot access only 4 are still shown inadequate width – 4.5m required. Shared surfaces would normally have service strips.

A proposed cycle route is now included from Goodrich Grove and along widened footway on the north side of Kilvert Road and round to the Oval shops. It is doubtful this will be used in preference to Broxash drive or the Homezone route as these are shorter. The link is also shown crossing Kilvert Road to access the steps to Great Western Way by plot 170, which seems a strange proposal, particularly when there is a ramp by plot 209.

There are insufficient details of the cycle contraflow from Oval westwards, and the crossing of Goodrich Grove. The Sustainable Transport officer's view is that this would be better off-road until the shared surface then due to conflict with parking on road past the shops. Such details need to be discussed rather than plans being submitted without prior discussion. There are still no details of improvements to the link from shops to crossing of A465 and upgrade of crossing.

All cycle proposals and road proposals will need a Stage 1 Road Safety Audit and NMU audit prior to their acceptance and this should be submitted and accepted before the grant of any planning approval.

Very little cycle parking has been included in the proposals.

As regards S106 contributions, the use for South Wye Transport Package should include possible improvements to A465 approach to Asda roundabout to increase capacity/mitigate impact of the development.

#### 4.4 The Conservation Manager (Landscape) makes the following comments:

The site is within the urban area of Hereford and the redevelopment of brownfield sites is acceptable in landscape terms. Use of the existing road infrastructure is a welcomed consideration for sustainable development (rather than creating new roads). The proposals have been considered at the pre-application stage, the site has been visited and the application documents reviewed.

##### *Green infrastructure (GI)*

The site is adjacent to a strategic corridor (HerLSC11), as identified in the Herefordshire Green Infrastructure Strategy. In particular this covers the Great Western Way, also a designated site of interest for nature conservation (SINC\_48). The current tree cover, hedgerows and grass verge are a good resource, as is the public open space and the links onto the Great Western Way. The Landscape Strategy included with the application is welcome; however it does not go very far in providing any significant enhancement over the existing conditions. In particular, I agree with the comments of the Principal Leisure and Countryside Recreation Officer that the proposed pocket spaces do not improve the existing play opportunities and that this is a missed opportunity for the city. The GI will change from communal areas around flats and highway verges to individual private gardens. While the front gardens will have some amenity value, the backs will be restricted by fences. The proposed biomass containers across the site will become significant within the street scene of the new development and yet their design does not appear to have been given much consideration.

##### *Existing Trees*

The tree survey is welcome and in accordance with recommended standards. Table 1 provides a summary of the tree quality; only three require immediate attention to be felled. Most of the highest quality trees are being retained. Many of the medium quality trees are to be removed, but they are fairly small, short-lived varieties. We would advocate replacement of these trees within the scheme, with good quality, longer lived species, in-keeping with the original nature of the site, such as oak. The trees to be removed are currently in public amenity spaces and highway verges, creating a green streetscene and framework to the area. This will be lost.

The root protection radius for all the trees has been provided in table in the survey, but is not shown on the plans. This means the trees that are shown for retention will still undergo significant pressure during the demolition, construction and in the long term, through the close proximity of new buildings and changes in surfacing, particularly the introduction of drives and parking areas. This is not a good example of protecting trees for the long term.

##### *Landscape scheme*

The boundary treatments have been specified and are as expected for suburban housing estates. No effort appears to have been made to integrate the proposals with surroundings, for example there is no new boundary treatment shown along the west boundary and no proposals are shown for enhancement of the Great Western Way.

The planting proposals have been outlined, shown by the key on the four drawings and a separate specification sheet. This does not represent a full landscape scheme. Only six new tree species have been proposed and these will all be located in private gardens. The species selected are suitable for urban locations; however they are not direct replacements for the

amenity trees that will be lost. Some small sections of hedgerow have been proposed for retention, but it is unlikely that these will survive the demolition and construction phases.

#### PRE-COMMENCEMENT CONDITIONS

- Demolition and Construction phase tree protection drawing and specification in accordance with BS5837:2012.
- Construction method statement required for retained trees where there will be works within the rpa. (Note: The proposals as shown will likely require careful hand digging around the roots of all trees shown for retention.)
- Detailed hard and soft landscape scheme. This should ideally build on and improve the existing outline proposals.
- Overall long term landscape and ecological management plan (min. 10 years, clearly identify responsibility areas eg. Adopted by Herefordshire Council, private management company, conveyed to property owners).

#### *Conclusion*

There is no objection to this proposal. The above conditions are required in accordance with UDP Policy LA2, LA5 and LA6, because the development proposal will have such a large change to the visual amenity and townscape character of the centre of Hereford, because the existing trees need to be retained and protected as far as possible and because a landscape scheme is necessary to implement the green infrastructure.

Following the receipt of amended layout plans and additional comments on landscape issues the Conservation Manager (landscape) makes the following comments:

In terms of phasing, I would want to approve a landscape scheme prior to the commencement of each phase. Ideally implementation of landscape should be prior to occupation of each phase (although planting is always 'or first available planting season').

The management plan will need to differentiate between areas maintained by the housing association, areas conveyed to private occupiers, areas adopted by highways / parks – and the various 'principles' for each landscape feature, particularly existing mature trees, newly planted trees, hedges, shrubs

#### 4.5 The Parks and Countryside Manager makes the following comments:

Parks and Countryside Services are not in support of this application as it stands as there is a negative impact on existing POS/play and recreation provision with little evidence in support of mitigation measures as proposed by the applicant.

#### Existing POS Provision

Currently there are 214 x 2 bed flats in the development which @1.7 persons per flat equates to 363.8 person.

- Existing formal play provision: approx. 545 sq m
- Existing amenity POS and informal kick about area: approx.3035 sq m
- Total area: approx. 3580 sq m.

These areas provide a small formal play provision for infants and juniors and although it does not cater for teenagers which would be expected from a development of this size using current standards, the large amenity area provides opportunities for informal recreation and play (kick-about) as well as other use by the community such as dog walking, community functions etc.

The existing provision is considered inadequate for a development of this size, with no formal equipment for teenagers, a deficit which is recognised in this area. For example, using current standards of provision (UDP Policy RST3 and NPFA standards @ 0.8 ha per 1000 for play and 0.4 ha per 1000 for POS and 383.8 persons) a development of this size should provide:

- An area of approx. 2900 sq. m of formal play for infants, juniors and teenagers to include kick-about areas and MUGAs
- and an area of approx. 1450 sq. m of POS
- Total 4350 sq. m

(note: this development was built before the current UDP so these figures can only act as a guide).

The loss of existing space would be seen as an additional loss and would have to satisfy criteria in UDP Policy RST 4 based on robust evidence of need in accordance the NPPF.

#### Required POS Provision: UDP Policy Requirements RST3 and H19

Proposed development:

- Market Housing: 35 x 2 bed (1.7 persons per dwelling), 70 x 3 bed (2.3 persons per dwelling) 24 x 4+ bed (2.8 persons per dwelling) (129 in total): 287.7 persons in total
- Affordable Housing: 42 x 1 bed (1.4 persons per dwelling), 66 x 2 bed (1.7 persons per dwelling), 16 x 3 bed (2.3 persons per dwelling), 6 x 4+ bed (2.8 persons per dwelling) (130 in total): 224.6 persons in total.
- Total persons: 512.3

Based on this total, in accordance with UDP Policies H19 and RST3 using NPFA standards @ 0.8 ha per 1000 population for play and 0.4 ha per 1000 population for POS this site requires:

- Play: 4000 sq m approx. This should include formal play equipment for infants, juniors and teenagers and informal recreational space e.g for kick-about etc.
- POS: 2000 sq m approx.

#### Proposed POS Provision:

The Landscape Strategy: identifies a number of areas as open space, acknowledging that the “existing open spaces do not currently fulfil their potential”.

In particular, the strategy states that the landscape proposals will be designed in consideration of the following UDP policies including: RST3: Standards for outdoor playing, RST4: Safeguarding existing recreational open space and H19: Open space requirements.

However the strategy gives no indication of standards of provision or the total amount of usable POS. All figures used below to calculate how much is being offered in accordance with RST 3 are based on our estimates using GIS.

The strategy indicates that “whilst it is accepted that the majority of open spaces are relatively small, when combined they have the potential to make a positive contribution (both in terms of function and aesthetic). There is little indication of any connectivity between these areas, for either people or wildlife. Sites considered for aesthetic value should not be considered to be POS and are not included in the typology provided by PPG 17 Companion Guide as such. In more detail the following areas are proposed of which should not all be considered suitable as POS:

- Belmont Road open space: 970sq m approx “is considered as a gateway”

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

- Open Space 1: 510 sq m approx. “creates a transition between the adjacent parking (which serves the shops) and a “semi private” pathway which links to a number of properties ..... this is a gateway space rather than a stopping point
- Open space 2: 381 sq m approx. “The open space’s prominent position, central location makes it somewhere likely to attract short stay use, for example a place to have a sandwich or stop for a rest”
- Open Space 3: 400 sq m approx.: “similar to open space 2... its location is quieter, away from the bustle of the shops and well linked to both the new development and adjacent existing housing.... this space can achieve an attractive garden character providing a longer stay space to sit and relax”
- Open Space 4: 360 sq m approx.: “ this space acts as a pedestrian gateway into the development from Goodrich Grove”
- Proposed Play ground: 804sq m approx. “the strategy is to increase the size and improve the setting and play offer” in particular the proposals should look to provide an improved offer and ownership for older children and teens. The eventual approach is likely to be a mix of retaining the best existing equipment and supplementing this with new where required” The overall strategy for play meets with the Play Facilities Study requirements in providing opportunities for natural play and formal play for all ages to be well integrated. However, although recently repainted the equipment is approximately 15 years old and nearing the end of its life span, so should be considered for full replacement. More detail is required as to how this will be achieved, on a space which potentially will provide no opportunity for a kick about or a MUGA given its reduced size.
- The hub community garden: 200 sq m approx. provides an opportunity for a multi use, flexible Community Garden, to be resolved later in consultation with the local community.

Total usable POS and Play Provision.

- Total on site POS provision (Open Space 2 and 3, and Hub Garden): 981 sq m approx
- Total on site Play Provision (Play Ground): 804 sq m approx.

Total unusable POS and Play Provision

- Total Gateway provision (Belmont Rd, Open Space 1 and 4): 1840 sq m approx

This does not meet the standards required of UDP Policies RST 3 and H19.

Applicant Rational for Proposed on site POS and mitigation for loss of POS in accordance with UPP Policy RST4:

- The Design and Access Statement: public open space:
- Planning Statement: PRP Consultants: Loss of Safeguarded Open Space and Allotments (off Goodrich Road): UDP Policy RST4

Both documents make similar references to there being a strong presence of amenity space on the existing estate which currently is either not well looked after or it seems to be within pockets of building not easily accessible or desirable” .... And “the whole balance between amenity space and the existing buildings is incorrect”.

Whilst there is no doubt that the existing provision is run down as identified in the Play Facilities Study, Action Plans and emerging Investment Plan, no evidence is provided to substantiate the latter statements to suggest that the “ balance is incorrect”. Evidence is required in support of loss of open space in accordance with UDP Policy RST 4. Mitigation appears to be based on enhancing the formal play facilities, reducing the informal recreation space and provision of a community hall/hub with the provision of little in supporting evidence to show how this can be achieved.

In accordance with the National Planning Policy Framework provision of what open space, sports and recreational opportunities required in a local area should be based on robust assessments of need. The POS requirements for this site (both on and off site) should therefore be determined in accordance with the Open Space Study undertaken for PPG17 (2006) and the Play Facilities Study and Action Plans and the Playing Pitch Assessment for the Hereford Area (2012), all of which can be viewed on the Herefordshire Council’s website.

PRP consultants are of the opinion that the proposal satisfies both exceptions listed in UDP Policy RST 4 and as such has identified that:

- there is a clear excess of outdoor playing space provision and /or open spaces within the area”.

They conclude that:

- there are a number of outdoor play spaces and open spaces in the immediate area surrounding the application site in the south western part of Hereford, which are well within what is considered in planning terms to be a reasonable distance.

The 3 play areas referred to are / at:

- Ross Road (Walnut Tree Avenue)
- Haylease Crescent (Blackmarston Road)
- Mayberry Avenue (Honddu Close)

Based on robust evidence taken from the Play Facilities Study, Action Plans and emerging Investment Plan, it is our opinion that these areas could not accommodate additional usage in their current condition and are not accessible for younger children and are not suitable for teenagers:

- **Accessibility:** The 3 play areas identified above are within accepted NPFA standard thresholds for access for teenagers ( 9 – 16 year olds) 10 – 15 minute access time walking or cycling but outside accepted thresholds for (0 – 8 year olds) 5 minute walk time.
- **Quantity:** These play areas are identified in the Play Facilities Study as Local play areas catering for Infants and juniors only. They do not cater for teenagers and are outside the threshold for access of the age group they are aimed at. They serve the immediate residential areas and were provided as part of the housing development. There is an identified deficit in provision for teenagers in this area.
- **Quality:** All 3 play areas are owned and maintained by Herefordshire Housing. The Play Facilities Study and Action Plans and recent work in preparation of an Investment Plan has shown all facilities to require immediate investment (subject to the funding) to replace equipment which is now beyond its useful life expectancy and is old and outdated and could fail future ROSPA inspections thus requiring removal.

Estates in South Wye are seen as quite “territorial”, experience of working with other neighbourhood communities in the area to improve the local play and recreation offer reinforce

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

this attitude and it would be difficult for those seen as “outsiders” to use these facilities in any case. These areas have a high proportion of children living in income deprived households, which provides further challenges to ensure that they lead safe and healthy lives, so the provision and access to good quality play areas and recreational spaces becomes even more important in such places.

PRP consultants have also indicated that their proposal satisfies the exception that:

- alternative provision of at least equivalent community benefit is provided in a convenient and accessible location

They state that:

- the scheme has been designed to improve the quality and diversity of open space to be retained as well as providing a new community facility to help to mitigate the loss of open space on site.
- the open space to be built upon does not provide any formal use and the community engagement undertaken revealed that the local community does not particularly value such empty open space, with a much stronger preference for a community hub.
- This is reinforced by the fact that there is a strong but under-utilised presence of green infrastructure on the current estate, .....which has been substituted for pockets of well-designed landscaping, to provide variety of open spaces including seating and picnic areas, for all age groups”.

The applicant has not clearly demonstrated how these small pocket spaces will contribute in a positive way to improve the existing offer.

The existing play area and amenity space is owned and maintained by Herefordshire Housing and is in need of total refurbishment. Its value to the community and existing usage is determined by its quality and its under use should not be seen as a reason for its removal or it not being needed. Poor quality facilities can be seen as uninviting and unsafe areas by local communities (Play Facilities Study 2012). Access to high quality open spaces and opportunities for recreation can make an important contribution to the health and well-being of communities as identified in the National Planning Policy Framework in support of the promotion of healthy communities. Good design is therefore a key aspect of sustainable development and should positively make places better for people and new development should create and sustain an appropriate mix of uses including incorporation of green spaces. Good quality outdoor spaces for play should stimulate imagination, be well designed and allow children to play freely, safely push at the boundaries, learn and experiment. Small spaces are considered to be costly to maintain, offer little in play value or indeed offer little to the wider community in terms of recreation and are considered to be little more than sites left over after planning. Larger, multi functional sites provide greater opportunities for places to be where different generations can meet, binding the community together creating a local neighbourhood facility where families can share leisure time. (Play Facilities Study 2012).

Evidence is required which demonstrates the local community’s acceptance at losing the existing amenity space and more information should be supplied particularly from the community consultation undertaken by PRP consultants. For example, who was consulted, what age groups, what were they asked etc, to understand what the community preference is particularly in respect of providing a community hub to meet the play and recreation opportunities required for this development.

The re-development of this area provides a perfect opportunity to meet some of the identified deficits in the area for teenagers through the retention of this space or equivalent provision

elsewhere on the site. For example, this re-development could provide a much needed opportunity to create a central space linked to the community hub where the whole community can be brought together and this would be our preferred option.

On and off site contributions: s.106 heads of terms

It is noted that there are no heads of terms on line as they are with the Planning Officer currently, therefore we are unable to comment other than state what is required in policy terms.

On site Play Provision Required:

The loss of open space has not been mitigated for using robust evidence. Therefore play provision is required to meet policy requirements RST 3 and H 19 on a development of this size and this would be a play area to accommodate for all ages.

Using the SPD on planning obligations (development costs only) and based on market housing only (discounting the first bedroom) we would expect a play area to the value of £90 – 95,000. This should include total replacement of the existing provision in accordance with the Play Facilities Study, Action Plans and emerging Investment Plan.

Off-site contributions:

If this cannot all be accommodated on site, we would expect an off site contribution on a pro rata basis using the SPD on Planning Obligations to calculate the off site amount. This would be used on identified priorities in the Play Facilities Study, Action plans and emerging Investment Plan on priorities identified at the time, including towards improvement at Newton Farm Skate Park for teenagers.

We are aware that all proposed sites for investment are in the ownership of Herefordshire Housing, and as such any off site contribution would be returned to Herefordshire Housing, but for the specific purpose of improving its play provision in the district.

Sport England Contribution on net gain (over 10 dwellings)

In accordance with the SPD on Planning Obligations a Sport England contribution is asked for from all residential development of over 10. This is in response to the pressure the increased population arising from the development will bring to an aging stock of sports facilities.

In accordance with the SPD on Planning Obligations, the off-site contribution is calculated on the market housing only and would be on the “net gain” only. Using Sport England’s facilities calculator methodology, we would require the following:

- 1 bed - £408
- 2 bed - £496
- 3 bed - £672
- 4 bed - £818

This would be used on priorities identified in the Indoor Sports Facilities Strategy and Playing Pitch Assessment for Hereford on provision in Hereford including the Leisure Centre, and swimming pool and in accordance with priorities at the time.

If more details of the community hub are provided in respect of the indoor sports offer, this could mitigate for or reduce this requirement.



### Future adoption

It is unlikely that any of the proposed sites would be considered for adoption by the Council.

#### 4.6 The Conservation Manager (Ecology) makes the following comments:

I have previously visited the site and have received the following ecological reports:

- Ecological appraisal by Brooks Ecological dated December 2012
- Bat emergence survey by James Johnston Ecology dated 17<sup>th</sup> June 2013

I note that no evidence of bat roosting was found in the buildings that are to be demolished although the presence of pipistrelles foraging and commuting across the area was noted during the activity surveys. Much of the site is amenity grassland with scattered trees and no other evidence of protected species was noted.

The National Planning Policy Framework 2012 states that “*The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity wherever possible*”. It goes on to state that “*when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity*” and “*opportunities to incorporate biodiversity in and around developments should be encouraged*”.

There will be opportunities for native tree and shrub planting as part of the landscaping scheme that will contribute to Green Infrastructure in this part of the city. There is a Local Wildlife Site along the Great Western Way and any planting should enhance this feature. Bat tubes and bricks should be accommodated in the new buildings as well as provision for nesting birds, particularly swifts, house martins and house sparrows.

If this application is to be approved, I recommend the inclusion of the following non-standard conditions:

*The recommendations set out in the ecologists’ reports dated December 2012 and 17<sup>th</sup> June 2013 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme with particular focus on Herefordshire Biodiversity Action Plan Priority Habitats and Species should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.*

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

#### Reasons:

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

To comply with Herefordshire Council’s Policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

#### 4.7 The Strategic Planning Manager makes the following comments:

It is estimated that approximately 220 dwellings will be removed and replaced by 259 dwellings, which would result in a net increase of approximately 40 dwellings on the site and a

change of tenure type from flats to larger dwellings with contained gardens. As a result of the increase of approximately 40 dwellings there is a reduction in open space provision from 3,500Sqm to 550Sqm as well as a large amount of amenity space between the blocks of apartments.

The site currently contains The Oval Neighbourhood Centre, as well as approximately 220 dwellings and associated open space which includes an informal kick-a-bout area and Locally Equipped Area of Play (LEAP).

#### *Community Consultation*

In planning for local neighbourhoods it is important to gain an insight of local input and opinion of the scheme. A Statement of community consultation supports the application, however in the submitted form does not provide a sufficient or robust evidence base to base judgement or decision making on. There are no details as to who was interviewed, how many interviews were obtained as well as what the actual questions which were asked and how these have been formulated into the proposal. The report does not carry through to the application as the consultation statement says that *“The playing facilities here will be enhanced and extended to mitigate the overall reduction of POS in this location.”* Although the supporting planning statement supports this, there is no detail as to how this will occur and what facilities will be provided.

#### *Principle of housing development.*

The site is located within the main built up area of Hereford on an existing brownfield site and as such is a suitable location in principle for residential development, subject to compliance with other relevant policies of the Unitary Development Plan (UDP). Taking this into account, the principle of housing development in this location is in accordance with Policy H1 of the UDP which directs development to sites within the built up area of Hereford. I disagree that the housing component should be awarded “substantial weight” in relation to Hereford’s lack of 5-year housing supply, given the net increase is circa 40 dwellings and there are other key policy issues such as the loss of open space which is important to the health and well-being of these residents is such a deprived neighbourhood as supported by Paragraph 73 of the National Planning Policy Framework (NPPF). Taking this into account, the open space should also be given equal weight to that of the housing.

#### *Regeneration of the Oval Neighbourhood Centre*

It is proposed that improvement works will take place to the Neighbourhood Centre known as the Oval. The Oval Neighbourhood Centre is safeguarded under Policy TCR13, however the proposal does not result in the loss of any retail facilities. Taking this into account, the proposal is consistent with Policy TCR13 of the UDP.

#### *Loss of open space.*

The planning statement refers to allotment gardens being lost, however this is believed to be written in error as no allotment gardens exist in this area. The safeguarded open space is an informal kick-a-bout area and a LEAP. Although the kick-a-bout area is informal, it enables a vast range of uses, is readily accessible and should not be disregarded because it is not a formal space. Open space includes all spaces defined by the Companion Guide to PPG17, private and public which are of public value. The public may value the space more if the site was indeed incorporated into the design of the estate and made more formal, however this is difficult to ascertain as the consultation statement does not provide this level of detail. Although a community hub is provided which may have some indoor sports facilities, this is not comparing like-for-like and there

are no details as to what these sports facilities are. Given the amount of other uses that the community hub provides, there does not appear to be a strong focus on sports provision which would be seen as a suitable replacement. Policy RST4 makes it clear that alternative provision should be of “at least equivalent community benefit” which is in a ‘convenient and accessible location.’ The current open space is accessible to anyone, how will the community have access to play sports or carry out any of the uses in this community hub, are there any costs involved or arrangements which would impinge or cause a greater burden to accessibility, which is a requirement in accessing accessibility in the Companion Guide to PPG17?

It should also be noted that a needs assessment has not been submitted with this planning application which would indicate that the site was surplus to requirements or support the loss of this open space which is supported by Paragraph 73 of the NPPF. Without this evidence base it is difficult to weigh up the benefits of the community hub or the loss of open space, particularly with the consultation statement lacking sufficient detail. As the supporting planning statement identifies, the site lies within quite a deprived area, an area which could be considered to be in more need for open space facilities. The fact that an additional 40 dwellings are being constructed, which are larger and will likely contain more people, compounds the need to increase open space provision rather than to lose a 3000Sqm area and not have any contributions to the improvement of existing infrastructure caused by the impacts of the new development.

It should be noted that the 3 play areas (walnut tree avenue, Haylease Crescent, Mayberry Avenue) are not suitable to be considered under RST4 as sites which could cater for the loss of play area, considering that these sites do not cater for teenagers and are outside of the threshold for this age group. The facilities on these sites are also in immediate need of improvement and investment and as a result would not be able to cater for any increased use without some financial contribution which would be in accordance with Policy H19 of the UDP.

Given the creation of a ‘community hub’ it is questionable why open space provision to the equivalent of what is proposed to be lost wasn’t factored into the regeneration of the oval area and community hub. In undertaking a weighting exercise as described by the planning statement the decision should be based upon a clear and robust evidence base, so it is difficult to ascertain how this was done considering that there is no evidence that supports the site to be surplus to requirements and the lack of information in the Consultation Statement.

#### *New Community Hub*

Policy CF5 of the UDP encourages proposals for the location of new community facilities where they are based upon community needs. The location of a new community hub is considered appropriate, and in accordance with Policy CF5, however there is no information to support a need for such a community facility in this location.

#### *Conclusion*

Although the proposal for housing is in a suitable location, it is considered that the loss of open space and lack of open space provision or contributions as a result of the new development are not in accordance with Policy H19 of the UDP. The application is not supported by a robust evidence base or needs assessment and is therefore contrary to the UDP and NPPF.

4.8 The Environmental Health Manager makes the following comments:

I have no objection to the development but recommend the following conditions

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

1. Road traffic noise and a scheme to protect new dwellings from road noise

I therefore recommend the following condition:

An evaluation of the impact of road traffic noise on the proposed development must be made. This must include noise contours and the identification of noise sensitive locations. Suitable noise attenuation measures where dwellings are found to be in Noise Exposure Category B or higher (PPG 24) must be agreed in writing before the commencement of works.

The development shall not begin until any scheme for protecting the proposed dwellings from noise and from the road including detailed construction methods for noise mitigation has been submitted to and approved by the local planning authority; and all works which form part of the scheme shall be completed before any of the permitted dwellings are occupied.

Reason: To protect the residential amenities of the future occupiers of the properties and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

2. Restrictions during demolition and construction

A detailed Construction Method Statement (CMS) shall be supplied and approved prior to the demolition and commencement of development to minimise noise and nuisance to neighbours:

The CMS shall contain the following:

The methods and materials to be used to ensure that the generation of noise is minimised;  
Choice of plant and equipment to be used;  
The use of prefabricated materials wherever possible;  
Regarding optimum site layout, noise generating activities to be located away from sensitive receptors; and  
Good housekeeping and management, to include:

- a) Review of plant and activities to ensure noise minimisation measures are in place and operating;
- b) Public relations, e.g. provision of telephone numbers for complaints, pre-warning of noisy activities including activities that might generate perceptible vibration, sensitive working hours;
- c) Controlling of site traffic and setting up of access routes away from sensitive receptors; and
- d) Provision of noise monitoring during activities likely to affect sensitive receptors;

Reason: To protect the residential amenities of the future occupiers of the properties and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

3. Construction working hours

4. External lighting - A scheme for the external to be installed upon the site

4.9 The Strategic Housing Manager makes the following comments:

The Housing Needs and Development team fully support the application for the regeneration of the Oval estate which is one of the key priorities in the Council's Local Investment Plan. The regeneration potential has also been recognised by the Homes and Communities Agency and an element of grant has been provided by them to enable the first phase of development.

The Oval estate is one of the most deprived areas in Herefordshire and is amongst the top 10% of neighbourhoods in England when measured against the index of multiple deprivation.

The current homes can only be described as in fair condition, however, none of the properties currently meet the requirements of the current Building Regulations or the Housing, Health and Safety Rating Scheme.

The new development will provide much needed high quality affordable accommodation through a mixed tenure redevelopment, a limited number of open market accommodation and assist in the regeneration of the neighbourhood, improvement of the environment and the economy within the South Wye area. Overall the regeneration will significantly improve the prospects and environment for the Oval and wider community.

Herefordshire Housing Limited have worked and consulted with the community for a number of years to understand what they want and need from the new development and have incorporated their ideas into the proposed plans, the community hub being a major factor. A Steering Group also exists consisting of Herefordshire Housing staff, Herefordshire Council employees and Councillors and tenants from the estate.

The properties will be developed to Lifetime Homes, DQS and a minimum of Code Level 3 for Sustainable Homes and will be occupied by tenants already living in the estate through a decanting process.

## **5. Representations**

### **5.1 Hereford City Council**

**131391/F** - Although we are happy to see regeneration of the area, we regret the loss of social housing units already existing on site.

**131390/O** - We support this application. However, we notice that this is a three storey building and we can't see a lift on the attached plans. We sincerely hope that there is a provision of disabled access to the upper floors.

### **5.2 One letter of representation has been received from Mr and Mrs Crow, 28 Waterfield Road which makes the following comments:**

- Concern about loss of trees next to property
- Concern about the length and width of the alleyway between their property and new houses. Potential for anti-social behaviour
- Concern about all the Housing Association houses being on the Vortex whilst the 'church site' is all private.
- Concern about devaluation of property
- Concern about building / construction noise.

### **5.3 West Mercia Police make the following comments:**

I do not wish to formally object to the proposals at this time. However there are opportunities to design out crime and/or the fear of crime and to promote community safety. I note that this application makes reference to Secured by Design scheme within the Design & Access Statement and I would wish to endorse this. The principles and standards of the initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. The scheme has a proven track record in crime prevention and reduction. The principles and standards of the initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures

- 5.4 The consultation responses can be viewed on the Council's website by using the following link:-  
<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-  
[www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage](http://www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage)

## **6. Officer's Appraisal**

- 6.1 The issues relevant to the consideration of this application are as follows:

- 1) The Principle of development and Housing Land Supply
- 2) Regeneration and Community Engagement
- 3) Access, Traffic and Transportation
- 4) Design, Appearance and layout
- 5) Open Space
- 6) Landscape and Biodiversity
- 7) Drainage
- 8) Section 106 Agreement
- 9) Conclusion

### The Principle of Development and Housing Land Supply

- 6.2 The application site lies within the urban settlement boundary of Hereford City as identified by policy H1 of the Unitary Development Plan. Within this area, the principle of residential development is considered to be acceptable subject to compliance with other policies of the Unitary Development Plan discussed later in this report.
- 6.3 Furthermore 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 the Council to 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. The latest published housing land availability data identifies a shortfall of 649 units which equates to a 4.17 year supply.
- 6.4 In view of this, there is a requirement to release further suitable land for housing that is deliverable within the next five years. The additional units proposed as part of this regeneration proposal would make a contribution to this requirement. The requirements of paragraphs 7, 8 and 14 of the NPPF make clear that the economic, social and environmental roles of sustainable development must be considered as a whole and therefore there is greater emphasis on assessing the relative merits of a sustainable form of development, and weigh these against any policy conflicts and this process is now commonly being described as 'The Planning Balance'.
- 6.5 The proposal involves the demolition of 214 units of accommodation (248 bedrooms) that are all 'affordable'. These would be replaced with 259 dwellings comprising 129 private dwellings (376 bedrooms) and 130 affordable units (246 bedrooms). Whilst there is a loss of affordable housing across the site, there is no significant change in bedroom numbers.
- 6.6 There are, of course, significant benefits associated with this regeneration project which is aimed at transforming the neighbourhood, both physically and in terms of the life chances of its residents. This is identified as a significant benefit of the proposal.

- 6.7 The Council's Strategic Housing Manager identifies the importance of the proposals and fully supports the approach. As does the Homes and Communities Agency, and an element of grant has also been secured to enable the first phase of development which, if approved, should be completed by the middle of next year.

#### Regeneration and Community Engagement

- 6.8 The application is submitted following lengthy pre-submission consultation with the local community in respect of the regeneration of The Oval that has been proactively progressed with the Steering Group. This led to the creation of the community plan. As a result of door to door consultation, 86% of residents said that they wanted the estate to be demolished and re-developed, with only 14% wanting the existing properties to be refurbished.

- 6.9 The community plan identified a desire to see a mix of high quality house types with the aim of transformational change aspired to. This was characterised by the following aims:

- To provide a range of accommodation with a prevalence of family housing incorporating secure private gardens
- Enable those with a preference to remain on the redeveloped estate to do so
- Provide a community hub close to the Oval Shops
- Remove stigma attached to the estate, by establishing a positive gateway to the City that:

*Encourages people to stay in the area and attracts households from a wider range of backgrounds*

*Increases the success of The Oval businesses by undoing negative perception of the area*

*Delivers more energy efficient homes, reducing carbon footprint of the area and addressing fuel poverty (the inclusion of a CHP solution is proposed, initially for the redevelopment but with longer term potential to be extended to the wider area)*

- 6.10 Two public consultations relating specifically to the detail of the planning application and the "decant offer" helped to shape the proposals before submission and it is understood that these were well attended and the proposals were subsequently amended to reflect these requests and comments. The application has not attracted any significant objections from local residents (one letter of representation only).

- 6.11 It is clearly evident that this proposal has strong local support and that its conception and evolution has been led with the principles of localism in mind and as such its development is in line with the thrust of national guidance on regeneration and planning.

#### Access, Traffic and Transportation

- 6.12 As detailed in section 4.2 above, there are a range of concerns raised by the Transportation Manager about the functionality of the proposed layout, as well as some of the legal issues surrounding the use of the highway land as part of the build. These comments were communicated to the applicants and whilst fundamental changes have not been made to the proposals, there have been alterations designed to address these concerns. The majority of these have been to clarify or improve cycle access throughout the site. The applicants have confirmed that as the use of the existing road network is fixed, it was difficult to design a cycle link from The Oval towards the western boundary due to major electric and gas services within the grass verge next to the proposed cycle lane and also due to trees within the verge (root

protection required). Therefore the eventual design as proposed is a 4m one-way road with a 1.1m wide cycle lane. The length of the cycle lane further towards the eastern boundary has also been extended providing a continuous link from East to West. A further cycle lane has also been introduced in the amended scheme. This has been achieved by increasing the footpath width from 2m to 3m providing better cycle linkages from Goodrich Grove to Kilvert Road and from Kilvert Road to The Oval as well as linking to the access points to the Great Western Way now identified on the layout. As such, whilst the constraints of the road network have meant that there was not scope to provide a significant enhancement, the revised proposals have gone some way to addressing the concerns raised and provide enhanced links that would comply with the NPPF guidance in terms of promoting sustainable transportation and improving access to a range of transport modes.

- 6.13 In addition to these cycleway improvements, the proposals also enhance the crossing points from the Oval shops onto Belmont Close. A further cycle park has also been provided near the Oval shops area. The applicant has also confirmed that the bus stop relocation will be subject to discussion with the bus operator but a new location has been identified on the layout in close proximity to the existing one.
- 6.14 Therefore, in accordance with NPPF guidance the opportunities for sustainable transport modes have been improved. The site's location and retention of retail facilities ensures that access to a range of local goods and services, schools and other facilities are within walking distance. The proposed uplift in housing numbers may give rise to additional traffic movements but the road network is capable of accommodating these and residual cumulative impacts would not be severe (as per the test in the NPPF). As such, whilst there are deficiencies in what has been proposed, they are considered, on balance to comply with the relevant policies and guidance.
- 6.15 The specific concerns identified by the Transportation Manager in respect of the capacity of the Asda roundabout are noted but in this particular case, it is considered that the proposal would entail only a relatively small uplift in the number of dwellings together with the promotion of more sustainable modes of transport. In this context it is not considered that there would be any significant implications for the effective operation of the roundabout that would warrant the refusal of planning permission.

#### Design, Appearance and layout

- 6.16 The Government attaches great importance to the design of the built environment, recognising good design is a key aspect of sustainable development and is indivisible from good planning. New development should contribute positively to making places better for people. Paragraph 58 of the NPPF sets out the design requirements of developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
  - optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
  - respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
  - are visually attractive as a result of good architecture and appropriate
- 6.17 The NPPF also states it is proper to seek to promote or reinforce local distinctiveness. Paragraph 64 makes it clear that permission should be refused for development of poor design



that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The proposed development and its design will offer a comprehensive redevelopment of the area, utilising a modern and coherent approach across the area that will 'stand alone' but also blend in size, scale and form with the character of the area. The proposals will establish a strong sense of place, and create an attractive and comfortable place to live and work.

- 6.18 The three storey elements will front Belmont Road and are considered appropriate context. The block of apartments is modern in design and located in prominent positions that are considered to be gateways to the area, but also allow cohesion between the developments to either side of Belmont Road. These are considered to be acceptable in design and siting providing a strong street frontage.
- 6.19 The mix of dwellings has been carefully considered by the applicants and the steering group, with changes made throughout the process. The broad range of dwellings is welcomed and accords with HUDP policies and NPPF guidance. The applicant's confirmation that the redevelopment will conform with Code for Sustainable Homes level 4 is welcomed and the NPPF identifies that significant weight can be attributed to such 'sustainable development' features when considering the development as a whole.
- 6.20 One letter of representation has been received that raises concern about the alleyway between the proposed development on the 'Vortex' site and Waterfield Field. The plans do not show details of this alleyway, its width or boundary treatment but as this is outside of the application site, this cannot be physically altered. Details of the boundary treatment would be required by way of a condition and this could serve to minimise the risk of anti social behaviour and furthermore, West Mercia Police have not raised any specific concern about this issue in their response.
- 6.21 The proposed development offers a comprehensive redevelopment opportunity that in design terms will help establish a sense of place that uses streetscapes and buildings to create an attractive and comfortable sense of place to live, work and visit. The proposal will optimise the development potential of the site; create and continue to ensure community cohesion and be visually attractive as a result of good architecture. As such, the proposals would comply with the requirements of policies DR1 and H13 of the HUDP and the NPPF.
- 6.22 The siting of the community hub has been led by the local consultation and steering group who were keen that this formed part of, and was associated with, the wider retail area. There are no objections in principle and siting, design, access and parking issues can be resolved at the reserved matter stage.

#### Open Space Provision

- 6.23 Part of the application site is designated as land protected by policy RST4 (Safeguarding existing recreational open space). This development would lead to a loss of this land. Development proposals that would result in a loss of what is considered to have recreational value should not be permitted unless there is a clear excess of outdoor playing space provision in the area, taking into account the wider recreational value of such provision or alternative provision of at least the equivalent community benefit is provided in a convenient and accessible location (with reducing the developer obligation to provide new open space within the development).
- 6.24 A detailed analysis of this loss of provision has been provided by the Parks and Countryside Manager at paragraph 4.5 of this report. This identifies what has been offered and concludes that there is conflict with this policy requirement. This policy is consistent with the requirements of paragraph 74 of the National Planning Policy Framework.

- 6.25 The applicant has confirmed their intention to improve the existing play area that lies within The Oval regeneration area and the details of this can be controlled by way of a condition, include timing of provision. There are also smaller areas of open space within the site that are of benefit to the development as a whole.
- 6.26 One of the key requirements of the development that has been communicated from the 'steering group' and through the community consultation events has been the provision of private gardens. All dwellings will have private gardens, something that none of the current flats benefit from. The gardens are considered large in comparison to many of the larger housing developments of recent years and will, in themselves, offer opportunities for play for the residents in a safe environment. This has played an important role in the design approach, and the provision of a 'traditional' housing layout rather than the replacement of apartments with apartments.
- 6.27 The application submission also notes that there are a number of outdoor play spaces in the immediate area that are considered to be within a reasonable walking distance, some of which are in the control and ownership of the applicants.
- 6.28 The provision of the 'community hub' that also forms part of this proposal has been strongly advocated by the applicants and steering group as a necessity for the successful redevelopment of the area. The community consultation events highlighted aspiration, identified proposed services, income stream and activities from the hub, to include:
- Hall with Stage (for sports activities, functions and productions)
  - Community Café with training kitchen and community garden
  - Activity Clubs (knit, stitch and natter / mum and tots / arts etc)
  - IT suite and meeting rooms (training courses etc, job clubs)
  - Information / signposting and counselling services
  - Credit Union point
  - Church Services
- 6.29 It is the opinion of the applicants that the delivery of such a community facility goes beyond the compensatory requirements of policy RST4 and H19 and whilst it will not offer open space, per se, its benefit in terms of contributing to the community and leisure provision, is far in excess of anything offered by the safeguarded open space off Goodrich Grove.
- 6.30 It is also noted that in the applicant's opinion, the implication for providing open space would be the reduction in the number of dwellings to be provided, and less residents would be given the opportunity to remain on the estate following the decant process, which could potentially have a negative impact upon the community as a whole. As it stands the quantum and mix of affordable housing has primarily been driven by a desire to maximise the number of households who can move into one of the dwellings, if this is their preference, of those affected by the demolition programme.
- 6.31 The apparent conflict with the requirements of policies H19, RST4 and RST13 of the UDP and paragraph 74 of the NPPF has been identified above, along with the clear benefits that this development can achieve in terms of community provision and open and private recreation space offers. Whilst it is difficult to argue that the provision on offer would comply in totality with these requirements, this proposal has had a significant amount of local input and has been led by its intended occupants. The conflict, in this instance, must be weighed against the wider benefits that the development will provide and on this basis, it is not considered that a reason for refusal could be sustained in respect of loss of protected open space when balanced with the benefits of the scheme as a whole.

#### Landscape and Biodiversity

- 6.32 The Council's Senior Landscape Officer has provided a detailed analysis of the development proposals in the context of the impact of the development and has concluded that the proposal would be acceptable as long as conditions were imposed to ensure that the protection of those trees to be retained and to ensure the implementation of the landscaping plans. As the proposal is to be phased, a phased landscape implementation would also be required, with emphasis being on landscaping being completed with each phase, rather than once the whole scheme was complete. As such, the proposal is considered to comply with the requirements of policies LA2, LA5 and LA6 of the Unitary Development Plan.
- 6.33 The one letter of representation identifies concern about the loss of a tree adjacent to the Vortex site. This tree is to be retained as part of the proposals and will need to be protected during construction.
- 6.34 The Council's Ecologist has considered the proposals in the relation to the survey reports submitted and biodiversity constraints and has concluded that subject to the imposition of conditions, the proposal would comply with the requirements of policies NC1, NC6 and NC7 of the Unitary Development Plan and NPPF.

#### Drainage

- 6.35 The application submission is accompanied by a Flood Risk Assessment (due to the size of the site) that recommends a SuDS system be utilised on the site. Welsh Water raises no objection to the proposed development. As a detailed drainage strategy has not been submitted, conditions are recommended to ensure that a satisfactory scheme is utilised for surface water on this site and to ensure that flood risk from surface water run-off is managed in accordance with policy DR4 of the UDP and guidance contained within the NPPF.

#### Section 106

- 6.36 Having regard to policy DR5 of the Unitary Development Plan the application would be subject to financial contributions in relation to the uplift in bedroom numbers across the site. The applicants have, at this stage, registered their concern about the viability of the site and have submitted a viability report which is currently being considered by the Council's Planning Obligations Manager. It is intended that the outcome of this will be reported to Committee in the Schedule of Updates and that this will be finalised by officers in conjunction with the local members. The Section 106 Agreement would also need to secure the affordable housing in relation to housing tenure and the provision of the community hub within an agreed timescale (assuming its provision means that the residential element of the scheme cannot provide the required contributions). It is also considered that the Agreement is the appropriate mechanism for securing the applicant's commitment meeting Code Level 4 of the Code for Sustainable Homes.

#### Conclusion

- 6.37 Paragraph 14 of the NPPF requires sustainable developments that accord with the development plan to be approved without delay and where a relevant development plan is absent, silent or relevant policies are out of date, planning 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.
- 6.38 The principle of development is acceptable and in accordance with policy H1 of the Unitary Development Plan and the thrust of NPPF policy that supports sustainably located forms of development that have good access to services and facilities. It is acknowledged that the uplift

in the number of dwellings will contribute towards the Council's deficit of Housing Land Supply and that the Council is under significant pressure in this respect.

- 6.39 The proposed redevelopment and regeneration project will deliver a balanced housing mix of one bedroom bungalows to large family housing contributing to the social vitality of the area and meeting the needs that have been expressly identified for this regeneration area. New employment opportunities both directly through the construction and support of the retail units and this development will undoubtedly meet the economic and social roles of sustainable development.
- 6.40 The proposals do contain deficiencies in respect of access, highways, parking and transport links. In accordance with NPPF guidance the opportunities for sustainable transport modes have been improved over the current situation. The site's location and retention of retail facilities ensures access to local goods and services, schools and other facilities are within walking distance. The proposed uplift in housing numbers may give rise to additional traffic movements but the road network is considered capable of accommodating these and residual cumulative impacts would not be severe (as per the test in the NPPF). As such, whilst there are deficiencies in what has been proposed, they are considered, on balance to comply with the requirements of relevant UDP policies and the guidance contained within the National Planning Policy Framework.
- 6.41 The proposed development would, through its carefully considered design approach, use of materials, traditional layout and commitment to achieving Code for Sustainable Home Level 4 provide a sustainable form of development that will meet not only the needs of this generation but those of the future. The proposal has had a significant input from its current and intended residents and this is reflected in the design, layout, mix of housing and significant support for a community hub. The proposal in terms of size, scale, layout, density and design is considered to comply with the requirements of policies DR1 and H13 of the Unitary Development Plan and with the guidance within the National Planning Policy Framework that seeks to create sustainable, inclusive and mixed communities with a strong sense of place, that are visually attractive and are comfortable places to live, work and visit.
- 6.42 The managed landscape and biodiversity impacts and benefits that can be secured through conditions that protect, enhance and maintain the natural environment and green infrastructure are considered to comply with the requirements of policies LA2, LA5, LA6, NC1, NC6 and NC8 of the Unitary Development Plan and the guidance contained within the National Planning Policy Framework. The key issue lies with the loss of the protected open space and the conflict with policies RST4 and H19 of the Unitary Development Plan. The applicants have, through their submission gone some way to addressing and justifying the conflict with this policy, but nonetheless it cannot be stated that this proposal complies with the requirements of these policies. The National Planning Policy Framework puts significant emphasis on Local Planning Authorities to support growth and boost significantly the supply of housing and states that planning permission should be granted unless there are any adverse impacts that would so significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework, taken as a whole. It is your officers' opinion that the wider benefits of this scheme would outweigh the harm that the loss of this space may have.
- 6.43 The development is considered to be economically, environmentally and socially sustainable and compliant, when assessed as a whole with the NPPF and the relevant Unitary Development Plan Policies. Applying the National Planning Policy Framework test of the presumption in favour of sustainable development, the application is recommended for approval subject to the satisfactory resolution of the viability issues in respect of the Section 106 Agreement.
- 6.44 The two application are recommended for approval with the conditions listed below:

## RECOMMENDATIONS

### 131391/F

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

1. A01 Time limit for commencement (full permission)
2. B01 Development in accordance with the approved plans
3. B07 Section 106 Agreement
4. C01 Samples of external materials
5. K4 Nature Conservation - Implementation
6. G11 Landscaping scheme - implementation
7. G15 Landscape maintenance arrangements
8. G03 – Retention of existing trees (construction)
9. G04 – Protection of trees / Hedgerows
10. G09 – Details of Boundary Treatments
11. G18 – Provision of play area / amenity area
12. G19 – Details of play equipment
13. I55 Site Waste Management
14. I51 Details of slab levels
15. L01 Foul/surface water drainage
16. L02 No surface water to connect to public system
17. L03 No drainage run-off to public system
18. L04 Comprehensive & Integrated draining of site
19. I16 Restriction of hours during construction
20. H18 – On Site Roads – Submission of details
21. H13 – Access, turning and parking
22. H29 – Covered and secure cycle parking
23. H27 Parking for site operatives
24. H26 Access location
25. The development shall not begin until any scheme for protecting the proposed dwellings from noise and from the road including detailed construction methods for noise mitigation has been submitted to and approved by the local planning authority; and all works which form part of the scheme shall be completed before any of the permitted dwellings are occupied.

Reason: To protect the residential amenities of the future occupiers of the properties and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

#### 26. Restrictions during demolition and construction

A detailed Construction Method Statement (CMS) shall be supplied and approved prior to the demolition and commencement of development to minimise noise and nuisance to neighbours:

The CMS shall contain the following:

The methods and materials to be used to ensure that the generation of noise is minimised;

- Choice of plant and equipment to be used;
- The use of prefabricated materials wherever possible;
- Regarding optimum site layout, noise generating activities to be located away from sensitive receptors; and

- **Good housekeeping and management, to include:**
  - a) **Review of plant and activities to ensure noise minimisation measures are in place and operating;**
  - b) **Public relations, e.g. provision of telephone numbers for complaints, pre-warning of noisy activities including activities that might generate perceptible vibration, sensitive working hours;**
  - c) **Controlling of site traffic and setting up of access routes away from sensitive receptors; and**
  - d) **Provision of noise monitoring during activities likely to affect sensitive receptors;**

**Reason: To protect the residential amenities of the future occupiers of the properties and to comply with Policy DR13 of Herefordshire Unitary Development Plan.**

## **27. I33 - External lighting**

### **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. **HN10 No drainage discharge to highway**
3. **HN08 Section 38 Agreement and Drainage details**
4. **HN07 Section 278 Agreement**
5. **HN04 Private Apparatus within the highway**
6. **HN1 Mud on the highway**
7. **HN28 Highways design guide**

### **131390/O**

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

1. **A02 – Time limit for the submission of reserved matters**
2. **A03 – Time limit for commencement**
3. **C04 – Approval of Reserved Matters**
4. **C05 – Plans and Particulars of Reserved Matters**
5. **I16 – Restriction on hours during construction**
6. **L01 – Foul/ Surface water drainage**
7. **L02 - No Surface water to connect to the public system**
8. **L03 – No drainage run-off to public System**
9. **F06 – Restriction on use**

### **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.**

**2. Please note that as the proposal includes the use of the premises for the production and/or sale of food and drink, in accordance with Article 6 EU Regulation 852:2004 on the Hygiene of Foodstuffs, the business will be required to be registered as a food business with the Commercial team in Environmental Health and Trading Standards**

**3. Please note that the development will require a licence for the sale of alcohol**

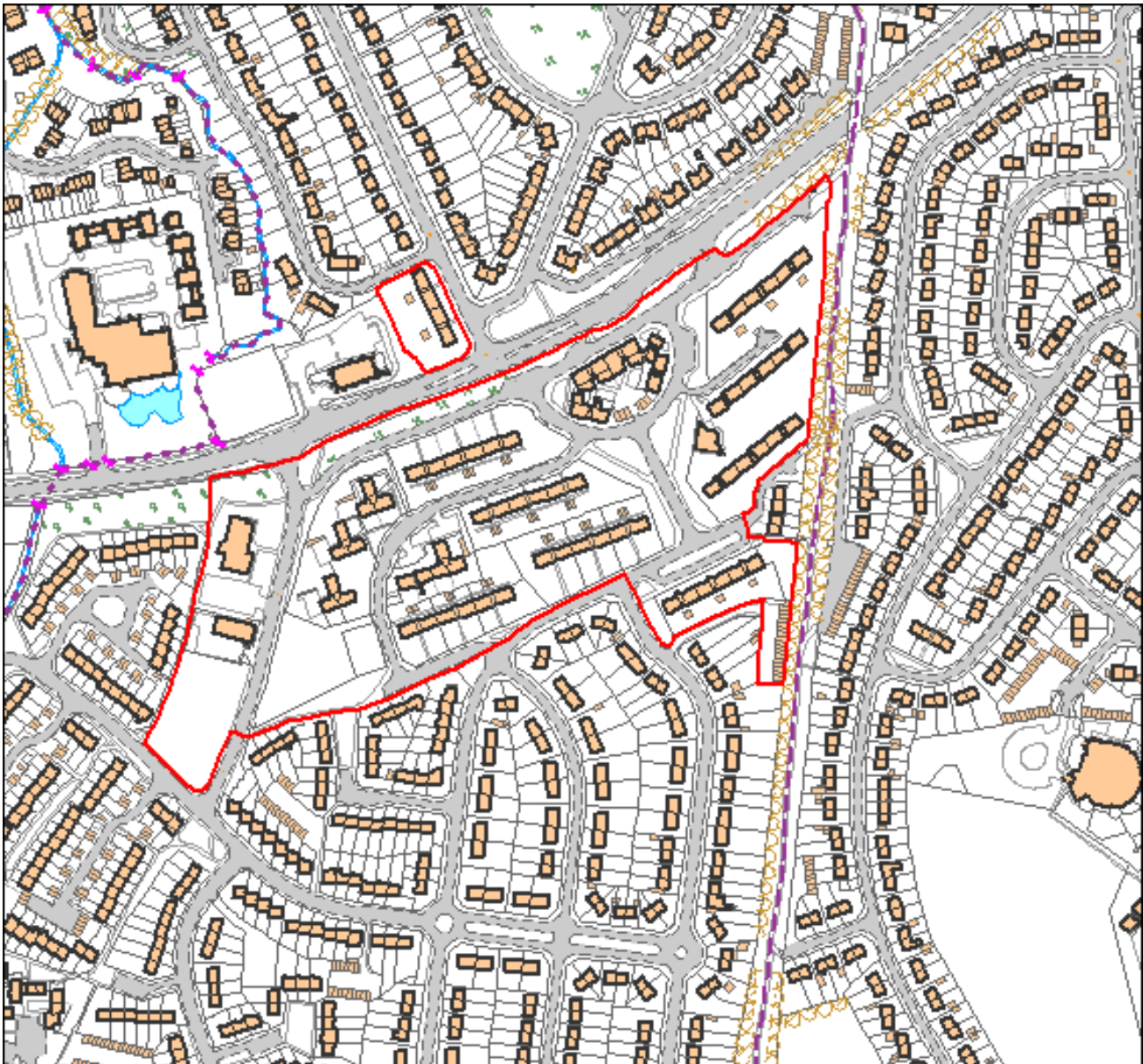
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 131391/F

**SITE ADDRESS :** THE OVAL, HEREFORD

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





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>18 SEPTEMBER 2013</b>
<b>TITLE OF REPORT:</b>	<p><b>N123317/O - CLASS A1 FOOD STORE, PETROL FILLING STATION AND ASSOCIATED PARKING AND SERVICING FACILITIES, RESIZING AND REFURBISHMENT OF TWO CLASS B UNITS AND ASSOCIATED HIGHWAY WORKS AT LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF</b></p> <p><b>For: Mr Barris Liptrott, The Finlan Centre, Hale Road, Widnes, Cheshire, WA8 8PU</b></p>
<b>WEBSITE LINK:</b>	<a href="http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123317&amp;NoSearch=True">http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123317&amp;NoSearch=True</a>

**Date Received: 21 November 2012    Ward: Leominster South    Grid Ref: 350133,258042**

**Expiry Date: 21 February 2013**

Local Members: Councillors RC Hunt and PJ McCaull

## **1. Site Description and Proposal**

- 1.1 The development site amounts to 2.7 hectares of employment land. It consists of an existing factory complex and outside storage areas, sitting within a predominantly industrial area, but in relatively close proximity to residential areas to the north west; the closest dwelling being approximately 250 metres away as the crow flies.
- 1.2 The site is bounded on 3 sides by public highways; beyond which are a series of individual commercial units. Bounding the site to the south is a small brook and further beyond is Leominster Enterprise Park. Beyond the Enterprise Park to the south and east is open countryside, intersected only by the railway line and adjacent A49 trunk road running in a north south direction to the eastern side of Leominster.
- 1.3 Southern Avenue runs along the front of the site and provides the main access road linking the various industrial uses within the vicinity with the rest of Leominster. Continuing in a westerly direction the road leads to Hereford Road, a primarily residential area, with direct access into the town centre. Southern Avenue continues northwards, turning to Worcester Road, through further industrial areas in the direction of the railway station and again to the town centre beyond.
- 1.4 The site is currently occupied by a series of industrial units with three separate occupants. The largest of these is Thomas Panels who occupy the largest premises and have sizable areas of external storage. Two smaller portal framed industrial units are located to the west of Thomas Panels, one fronting onto Southern Avenue with the other located behind. These units do not appear to be in as active use as many of those surrounding and are generally in a poor state of repair.

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

- 1.5 The proposal is made in outline, with all matters except access to be reserved for future consideration, and is for the construction of a retail food store and associated infrastructure, a four pump petrol filling station and the re-development of existing industrial units. There is no specified end user for the store at the present time. Although in outline the proposal is specific about the size of the store, amounting to a gross internal floor area of 4,180 m<sup>2</sup>, with a net retail floor area of 2,926 m<sup>2</sup> and includes the provision of a 246 space car park.
- 1.6 The main access to the retail element of the development remains from Southern Avenue via a new roundabout junction; incorporating new and improved footpaths and cycle ways and a new bus stop to serve the development. The access road sweeps into the site to form a link road running parallel with Southern Avenue enabling the petrol filling station (PFS) to be located to the left and the main customer car park to the right.
- 1.7 The submission includes an indicative layout and elevations of the proposed retail store and these show a building facing onto Southern Avenue with the car park in the foreground. The plans show a contemporary design with a building finished in a combination of timber cladding and glazing in aluminium frames.
- 1.8 The proposal is supported by a range of documents which are listed as follows:
- Design & Access Statement
  - Economic Statement
  - Statement of Community Involvement
  - Preliminary Contaminated Land Assessment
  - Retail Assessment
  - Ecological Survey
  - Transport Assessment
  - Travel Plan
  - Stage 1 Road Safety Audit
  - Flood Risk Assessment
  - Section 106 Heads of Terms

## 2. Policies

### 2.1 National Planning Policy Framework

Paragraph 19 – This reinforces the Government’s desire to support sustainable economic growth and reads as follows:

*The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.*

Paragraph 22 – This advises against the long term protection of land for specific purposes where there is a lack of demand:

*Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.*

Paragraphs 23 to 27 – These paragraphs comments specifically on the need to ensure that town centres retain their vitality. They also comment on matters to be considered when assessing proposals for new retail proposals:

*Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.*

This part of the NPPF goes on to advise that applications should be supported by retail assessments to determine the impact of the proposal on town centre vitality and viability up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made. It concludes by stating that where an application fails to satisfy the sequential test or is likely to have significant adverse impacts it should be refused.

## 2.2 Herefordshire Unitary Development Plan

- S1 - Sustainable development
- S4 - Employment
- S5 - Town centres and retail
- S6 - Transport
- S7 - Natural and historic heritage
- DR2 - Land use and activity
- DR3 - Movement
- DR4 - Environment
- DR5 - Planning obligations
- E5 - Safeguarding employment land and buildings
- TCR1 - Central shopping and commercial areas
- TCR2 - Vitality and viability
- TCR9 - Large scale retail and leisure development outside central shopping and commercial areas
- TCR18 - Petrol filling stations
- T6 - Walking
- T8 - Road hierarchy
- T11 - Parking provision
- NC1 - Biodiversity and development
- NC7 - Compensation for loss of biodiversity
- NC8 - Habitat creation, restoration and enhancement

## 2.3 Herefordshire Local Plan Core Strategy – Deposit Draft

- SS1 - Presumption in favour of sustainable development
- SS4 - Movement and transportation
- SS6 - Addressing climate change
- LO1 - Development in Leominster
- RA6 - Rural economy
- MT1 - Traffic management, highway safety and promoting active travel
- E2 - Re-development of existing employment land and buildings
- E5 - Town centres
- LD3 - Biodiversity and geodiversity
- LD4 - Green infrastructure
- SD1 - Sustainable design and energy efficiency

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

ID1 - Infrastructure delivery

2.4 As part of the evidence base for the completion of the Core Strategy the Council has commissioned a Town Centres Study update and this was completed in December 2012. This is referred to in the following Officer's Appraisal and is considered to be material to the determination of this application.

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

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

### **3. Planning History**

3.1 There is a long planning history relating to the site. The following three applications are the most recent and are considered to be most relevant to the application:

N102032/F – Proposed extension to Unit 5, Southern Avenue – Approved 06/10/10

NC100060/F – Refurbishment and extension of industrial unit - 6, 7 & 8 Brierley Way – Approved 30/04/10

DCNC2008/1261/F – Proposed three buildings to provide nine units for B2 and B8 use – Unit 5, Southern Avenue – Approved 01/08/08

### **4. Consultation Summary**

#### Statutory Consultations

4.1 Highways Agency – No objection.

4.2 English Heritage – No objection.

4.3 Welsh Water – No objection subject to the imposition of conditions to ensure that foul and surface water are drained separately from the site.

4.4 Environment Agency – With specific regard to the proposed petrol filling station the Environment Agency object to the application and have requested the submission of further information. The proposed site is located on a Secondary Aquifer of the Raglan Mudstone Formation bedrock aquifer, and is also located within a Groundwater Source Protection Zone 2 for a Welsh Water public water supply well at Midsummer Meadow to the east of the site near to the A49.

4.5 In the first instance, with reference to the above, we would expect the applicant to demonstrate that this site is the most suitable for the proposed use in this sensitive location i.e. it is unclear if there is a recognised need for a petrol station in this location; and if there may be more appropriate, alternative sites. We would require the applicant to justify that underground storage is essential i.e. that an above ground solution would be impossible.

4.6 The site also lies in close proximity to the River Lugg which is a Site of Special Scientific Interest (SSSI) at this location and also classified as a Special Area of Conservation (SAC) further downstream. Protection of the water environment is particularly important due to the requirements of the Water Framework Directive (WFD). The WFD sets a target of achieving 'good status' or 'good potential' in all water bodies by 2015 and there must be no deterioration in the existing status of water bodies.

- 4.7 On the issue of flood risk, the whole site is located within the 1 in 100 year floodplain whilst the updated map, in conjunction with the submitted site levels, demonstrate that the site lies primarily within the 1 in 1000 year floodplain. The modelled 1 in 100 year flood level at this location is 68.2m AOD.
- 4.8 The topographic site survey indicates that the site levels are 67.9m AOD at their lowest and 68.8m AOD at their highest. The lowest part of the site, including the location for the proposed retail building, is therefore in an area at risk of shallow flooding during the 1 in 100 year flood event.
- 4.9 In order to flood proof the new building we would recommend raising of the finished floor levels 300 - 600mm above the 1 in 100 year plus 20% (allowance for climate change) flood level, including any additional flood proofing. The site layout therefore should, if viable, be re-designed so that the main retail building is located on the higher parts of the site, i.e. FZ1 and on land above the 1 in 100 year flood level of 68.2mAOD with the car parking located on the lower lying ground with existing levels maintained. This would reduce the volume of infill required to raise floor levels and negate the need to provide floodplain storage compensation.

#### Internal Council Consultations

- 4.10 Transportation Manager – Objects to the application on the basis that the site is remote from the town centre, in an unsustainable location and that the overwhelming majority of trips to the site will be by private motor car. Notwithstanding this, the designs of highway improvements are acceptable in themselves, and if you are minded to grant planning permission, they will go some way to mitigate the worst effects of the development's siting, although not enough to compensate for the poor position of the site itself.
- 4.11 Environmental Health and Trading Standards Manager – No objection subject to conditions
- 4.12 Public Rights of Way Manager – No objection
- Conservation Manager
- 4.13 Landscape – No objection subject to the imposition of conditions
- 4.14 Ecology – The existing layout is not acceptable with the service yard too close to the stream, but no objection in principle provided that a sufficient buffer zone of at least 6 metres can be provided in mitigation. It is also recommended that additional biodiversity enhancement measures are required.
- 4.15 Historic Buildings – Raises concerns about the impact of the proposal on the town centre and the potential impact of increased vacancy rates on the historic core.

#### **5. Representations**

- 5.1 Leominster Town Council – Object to the application on the grounds that:
- The site is Class B and not Class A retail
  - It will have a major effect on town centre business
  - Possible flooding
  - Issues surrounding the contamination of the land
  - Leominster Parish Plan has strong support for independent businesses
- 5.2 River Lugg Internal Drainage Board – No objection subject to a requirement that no additional surface water runoff is permitted to the ditch to the south of the application site without the written consent of the Board.

- 5.3 CPRE – Object to the application on the basis that the proposed development seriously threatens the viability of the excellent local shops and consequently the character of the town. Their comments also refer to the ‘Portas Review’ commissioned by the Government in 2011 and its aim to put the heart back into High Streets. This proposal is considered contrary to the aims of the review.
- 5.4 Leominster Civic Society – Object to the proposal on the following grounds:
- Consider that the building of any further supermarkets in the town is likely to seriously damage the economic well-being of the town centre, its local shops and in turn a network of other local businesses.
  - The proposal will have a long-term effect on the character of Leominster conservation area due to the probability of shop closures and consequent lack of investment.
  - The proposal will result in the loss of high quality employment land.
  - Concern that the proposal would lead to a loss of existing employment from town centre shops.
  - Unsustainable location
  - The introduction of a further roundabout and additional traffic will impede traffic flows at peak times.
- 5.5 North Herefordshire Constituency Green Party – Object to the application on the following grounds:
- The proposal will increase car dependency contrary to sustainability objectives.
  - The store is out-of-town and will damage the existing town retail area.
  - The closure of shops will lead to the neglect of historic buildings.
  - The retail impact assessment completed by the applicant’s agent concludes that there will be a substantial impact in terms of loss of trade in the town centre.
  - It will have a particular impact on the Co-Op which plays a pivotal role in the town centre.
- 5.6 Sixty four surveys completed by independent traders in the town centre have been received. The survey asks a number of questions of those completing it, including whether they consider the proposal would have an impact on their business. Forty seven of the respondents considered that the proposal would have an impact on their business, and these impacts are summarised as follows:
- Less people will visit the town centre, causing businesses to close
  - Knock on effect to local producers who supply businesses
  - Unable to compete with supermarket prices
  - A supermarket will sell the same products that are available in town centre in direct competition
  - Free parking at a supermarket will stop people using the town where they have to pay
  - Tourists will be diverted out of the town with a loss of new customers, particularly if the store has a coffee shop
  - The proposal would have a positive impact as it would encourage more people to shop locally
- 5.7 Forty four letters of objection have been received in response to the Council’s statutory consultation period. In summary the points raised are as follows:
- The proposal is contrary to Policy TCR9 of the Herefordshire UDP as projections show that additional retail space is not required in the next 10 years
  - The site is zoned for industry and its loss is contrary to Policy E5 of the Herefordshire UDP

- The proposal will have a detrimental effect on the vitality of the town centre, contrary to Policies TCR1, TCR13 and S5 of the Herefordshire UDP
- The proposal is contrary to recent Government guidance on town centre vitality following the Portas Review
- The proposal will impact upon local business and will either see jobs moved from one employer to another, or will actually reduce employment opportunities
- The developer's suggestion that they would provide bus services between the site and town centre would be commercially unviable.
- The scheme would increase traffic along Etnam Street and Hereford Road, causing congestion and impacting upon highway safety in front of Leominster Infants and Primary schools
- The proposal is unsustainable due to its out of town location and it would increase car dependency, contrary to the National Planning Policy Framework
- The store would not be close enough to most homes in Leominster for people to walk to
- Untenanted business premises would lead to buildings falling into disrepair and impacting upon the town's tourist trade
- Lack of repair of listed buildings in the town centre will impact detrimentally upon its status as a conservation area
- Leominster has sufficient supermarket retail premises already
- The proposal will impact upon flooding issues as a result of further surface water run-off within the River Lugg Special Area of Conservation (SAC)
- A local population of water voles would be adversely affected by the proposal
- The projected 7% (£1.8 million) loss of trade to independent business outlined in the applicant's retail statement does not factor in the loss of business for suppliers and services to that local sector
- The sequential test does not take account of the Dales site at Mill Street when it is well known that it has been promised to Sainsbury's
- The proposals are contrary to the aims of the Leominster Parish Plan which seeks to encourage more shoppers and visitors into Leominster by promoting new and existing independent shops and to seek the democratic consent of the whole community about proposals for new large-scale retail development

5.8 An objection has also been lodged by England & Lyle Planning Consultants, acting on behalf of the Co-Operative Group. In summary the points raised are as follows:

- The applicants have failed to adequately assess the Dales site on Mill Street in their sequential test. It is understood that Dales are proposing to re-locate and that there is an intention to re-develop the site at Mill Street, which include a new retail food store. Whilst the Co-Operative Group would have concerns about any such proposal, it remains apparent that the site is available and it is concluded that the development fails to satisfy the sequential approach to site selection in line with guidance contained in paragraph 27 of the NPPF.
- The applicant's estimate of trade diversion from Hereford of 20% is an over-estimation and the proposed food store would compete to a greater degree with existing stores in Leominster
- The proposal would have a significant impact upon the Co-Operative and would reduce the amount of linked trips between it and other retailers in the town centre
- The proposal may prejudice the prospects of maintaining retail uses within historic buildings in the town, resulting in increased levels of vacancy, undermining the character and appearance of the conservation area and reducing the attractiveness of the town to tourists
- The assessed impact on Leominster town centre would have a significant impact on the overall vitality and viability of the centre, contrary to the NPPF

- The proposal would result in the loss of safeguarded employment land, contrary to Policy E5 of the Herefordshire UDP

5.9 An objection has also been lodged by Barton Willmore Planning Consultants, acting on behalf of Frank H Dale Ltd. In summary the points raised are as follows:

- A sequentially preferable site exists at Dales' site at Mill Street. The company have made clear their intention to re-locate. The site is accessible and well connected to Leominster town centre. The applicant's retail assessment does not adequately assess the merits of the site and consequentially is not sufficiently robust. The proposal is considered contrary to paragraph 27 of the NPPF and Policy TCR9 of the Herefordshire UDP
- An alternative site for the relocation of the existing business at Southern Avenue has not been identified, contrary to Policy E5 of the Herefordshire UDP

5.10 Four letters of support have also been received. In summary the points raised are as follows:

- Leominster only has one large store and there is undoubtedly a need for another store without it impacting upon the town centre
- The site would have good access onto the A49 and new shoppers would be attracted to the town
- Access to Morrisons via Bargates is difficult and the store causes congestion
- The existing businesses on the site are to re-locate so no jobs will be lost
- There are many people on this side of Leominster who could walk to the site, alleviating congestion at peak times

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

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

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

[www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage](http://www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage)

## 6. Officer's Appraisal

6.1 In order to ensure a detailed assessment of this proposal, the Council has commissioned its own independent advice in respect of the retail impact study submitted by the applicant. This has been undertaken by Deloitte, who also completed the Town Centres Study update as part of the evidence base for the Core Strategy. The basis for the advice encapsulates the material planning considerations against which this proposal should be determined, and these are broadly considered to be as follows:

- Whether there are sequentially preferable sites that could meet the identified need for additional retail floorspace within Leominster;
- The impact of the proposal on the vitality and viability of Leominster town centre;
- The likely impact of the proposal upon the historic and architectural heritage of Leominster Town Centre / Conservation Area (e.g. retaining viable uses for the listed buildings within the Town Centre);
- The likelihood or otherwise of linked trips to the town centre;
- Whether the proposal delivers a sustainable pattern of development reducing the need to travel, especially by car;
- Whether the development is otherwise compliant with Central Government advice and Development Plan policy.



The report will consider each of these matters in turn and will also consider other issues including ecological impacts and flood risk.

### Sequential Testing

6.2 The application of a sequential approach and impact tests to non-central retail proposals (and other town centre uses) remains a key policy requirement of the NPPF. It maintains a 'town centre first approach' as the Government is committed to promoting the vitality and viability of town centres and in this respect Policy TCR9 of the UDP is consistent with the NPPF. In addition, town centre sites tend to be in sustainable locations that reduce the need to travel, especially by car. Sites should be selected using the sequential process in the following order:-

- a) sites in the town centre;
- b) sites on the edge-of centre; and
- c) sites out-of centre.

In this case it has been agreed by all parties that the application site is in an out-of-centre location.

6.3 In accordance with the NPPF the applicant's retail impact assessment includes a sequential test to identify possible alternative sites within the Leominster area. It has identified four alternative sites and these are listed below with some basic information about each:

- Burgess Street Car Park – approximately 0.4 hectares in a town centre location and also within Leominster Conservation Area. Surrounded by mixed use types including retail, offices and residential.
- Land to the west of Dishley Street – a car park of approximately 0.2 hectares in an edge of centre location and also surrounded by a mix of uses including a car repair garage, car showroom, dental centre and Spa shop.
- Broad Street Car Park – a 1.2 hectare Council owned surface car park, fire station and retail outlet in an edge of centre location.
- Dales site, Mill Street – 5.2 hectares of employment land in an out of centre location approximately 350 metres north east of the town centre. Residential areas lie to the north and east.

6.4 The first three sites are all, at least in part, within the ownership of the Council. The applicants have commented that the sites at Burgess Street and Dishley Street are of insufficient size to accommodate the development proposed. Although the feasibility of developing these sites does not appear to have been tested, the constraints of each of them are considered to be prohibitive to a development comparable to that proposed, a view confirmed by Deloitte in their advice.

6.5 The site at Broad Street is identified in the Council's Town Centres Study update as one that may be appropriate for development to meet future floor area capacity. Its re-development would require the relocation of the fire station and an agreement with the owners of the retail unit that fronts onto Broad Street to purchase their building and land. It would also require an agreement from the Council to sell the land. The applicant's assessment of the site states that they have contacted the Council's Estates Officer and that it is not available. This can be confirmed by the case officer who has made separate enquiries of colleagues in Property Services. Notwithstanding the lack of a feasibility study for the development of the site, it is reasonably concluded that it is not available.

- 6.6 The site identified as Dales on Mill Street is, like the site that is the subject of this application, in an out of centre location. The Council finds itself in an unusual position in that it is also considering an application on the Dales site for a mixed development of food retail, commercial and residential uses. The application has been through an initial consultation process and a number of objections have been raised by statutory consultees including Network Rail and the Environment Agency. It has also attracted a significant number of objections from third parties for similar reasons to those identified earlier in this report. Dales have a recent planning permission for the relocation of their premises to Leominster Enterprise Park and these matters are considered to be material to the determination of this application.
- 6.7 In separate correspondence the applicant has commented that the technical issues of flooding and proximity to the railway crossing represent considerable problems that do not exist with this application site. They also express the view that the Mill Street site is not well connected to the town centre and doubt whether customers would be encouraged to walk to and from the town centre to make linked trips. However, the applicants retail consultant has failed to properly consider the site at Mill Street. When the original retail assessment was completed it was not clear that the site would become available and the assessment comments on this basis. However an update to the report, completed in April 2013, when the proposals for the Mill Street site were in the public domain, fails to make any mention of the site.
- 6.8 It is your officer's view that in simple geographic terms, the site at Mill Street is considered to be sequentially preferable to this application site, being significantly closer to the town centre. Notwithstanding the opinion of the applicant, its closer proximity to the primary shopping area than the site to which this application relates, would offer greater potential for linked trips to be made, albeit that it is also an out of centre site. It is also immediately adjacent to residential areas and would offer a genuine opportunity for customers to walk to and from the site. Dales have made clear their intention to relocate their premises to Leominster Enterprise Park and have permission to do so. An application has been submitted for re-development of the Mill Street site and it is therefore reasonable to conclude that the site is available.
- 6.9 The fact that the site at Mill Street is considered to be sequentially preferable should not be taken to prejudice the outcome of that application. There are a number of technical matters relating to the site that the applicant is currently actively seeking to resolve, and the proposal is materially different to that being considered here. Deloitte have also been engaged to undertake a similar exercise of the retail assessment submitted. The application will be reported to Committee in due course and must be determined on its own merits.
- 6.10 It is therefore concluded that the submitted sequential assessment is not sufficiently robust and as such is considered to be contrary to the NPPF and policies TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan.

#### Impact Upon The Vitality And Viability Of The Existing Town Centre

- 6.11 The quantitative assessment of convenience goods floorspace needs in Leominster town centre in the Town Centres Study update indicates that there will be a demand for additional floorspace over the Core Strategy plan period as follows:

Year	Floor space capacity (net sq m)
2012	+1,483 to +3,412
2016	+1,670 to +3,842
2021	+1,938 to +4,458
2026	+2,242 to +5,157
2031	+2,571 to +5,912

- 6.12 Although the proposal is only in outline, the supporting documentation to the application indicates that the net floor area of the retail store would be 2,926 m<sup>2</sup>. This falls towards the upper end of the margin for floor space demand in 2012, but well within the parameters shown

for 2016. The size and scale of the proposal is considered by officers to be proportionate to current identified demand for additional convenience floor space. However, the study also assumes that opportunities for provision will exist within the town centre, drawing more shoppers into the town centre and complementing existing independent shops.

- 6.13 Leominster currently has three food retail stores; Morrisons, Aldi and Co-Op. The applicant's retail assessment highlights the fact that both Morrisons and Co-Op are trading well above company benchmark averages (105% and 124% respectively), and suggests that this level of overtrading is due to a lack of genuine choice and competition in the main food shopping sector. It also suggests that their surveys of the stores provide evidence that they are both extremely busy.
- 6.14 Qualitative tests of overtrading include whether the store is excessively busy or uncomfortable for shoppers and include matters such as inadequate shelf space to stock goods, narrow aisles and queuing at tills. These are matters that are difficult to resolve without increasing the floorspace of a store.
- 6.15 The Town Centre Study update advises that, despite the current economic downturn, Leominster town centre appears to be in good health with low vacancy rates and a good mix of national and independent retailers. The assessment completed by the applicant's retail consultant highlights this point. It goes on to state that the proposed store is of a size and scale to compete directly with Morrisons, adding to the level of choice in the town and its surrounding catchment area and enhancing the attractiveness of Leominster as a market town.
- 6.16 The applicant's retail assessment goes on to consider the trade draw of the proposal from its immediate competitors and these are shown as follows:
- 9% (£2.6m) of trade drawn from existing retail facilities in Leominster Town Centre:
- 3% (£0.7m) from the Co-op store, Dishley Street.
  - 7% (£1.8m) from other stores in the town centre.
- 51% (£14.1m) from out-of-centre facilities in Leominster:
- 8% (£2.2m) from Aldi, Dishley Street
  - 40% (£11.1m) from Morrisons, Baron's Cross Road.
  - 3% (0.8m) from other out-of-centre stores in Leominster and others in Zone 3.
- 6.17 The advice provided for the Council by Deloitte accepts the methodology employed by the applicant's retail consultant in the completion of their assessment. It advises that Leominster's convenience shops currently attract 86.2% of Zone 3 (Leominster's identified catchment area) residents' expenditure, of which approximately 44% is captured by Morrisons. The Deloitte advice notes that although Morrisons is the dominant foodstore for residents, other convenience outlets in Leominster attract an almost equal amount (42%) of Zone 3 residents' convenience expenditure. The most popular destination for Zone 3 residents convenience shopping other than Leominster is Hereford's convenience shops, but they attract only 8.3% of Zone 3 residents' expenditure.
- 6.18 Deloitte's report also notes that the retention rate for convenience goods from Zone 3 (Leominster) residents is high (because the town already has a large foodstore, discount food store and town centre Co-Op). The scope for further clawback is therefore limited. The proposed store would provide an alternative to the Morrisons store for Leominster residents, rather than being a new type of facility to which they have not previously had access.
- 6.19 The advice goes on to note that the estimated trade diversion impact on other town centre shops is relatively modest, but considers that this is the most difficult to judge. This is because such facilities are mostly independent shops varying significantly in their operations. The

margins of some of these retailers may be tight so that even small diversions of trade can have serious consequences. In short, irrespective of the application proposals, independent traders are facing challenging times. Deloitte's advice concludes that they are less confident about the resilience of the 'other' shops (as compared with the Morrisons store), but their vulnerability is related to wider factors than the application proposal alone. The economic recession has had a major impact on retailing, particularly in the smaller centres.

- 6.20 The report by Deloitte does express some concerns in respect of the individual impacts assessed for the Aldi and Co-Op stores. It acknowledges the respective floor areas of the two stores as 1,099 sq. m and of the Co-Op 756 sq. m and then comments on the apparent disproportion between the projected trade diversion experienced by each if the development were to be approved. The applicant's retail assessment estimates that the trade diversion from the Aldi store would be £2.2m, as compared to £0.7m for the Co-Op. Deloitte's report accepts that this is justifiable in part because of the higher floor space and the significantly higher turnover attributed to the Aldi store by the 2012 Shopper Interview Survey. However, they are of the view that the difference between the estimates is disproportionate.
- 6.21 The estimated trade diversions result in a 2018 trade impact on Aldi of 18.4% and 10.7% on the Co-Op. Aldi is a discount trade offer which because of its business model generally claims to have some resilience to competition from large foodstores. Deloitte are therefore of the view that the impact on the Co-Op could be a little more than indicated in the retail assessment and the impact on Aldi correspondingly less.
- 6.22 Aldi and Co-op are both well placed in relation to the town centre and there is clear evidence to show that their customers will undertake linked trips to other shops. A diversion of trade from both may have further implications for other independent retailers in the town centre beyond those identified in the applicant's retail assessment.
- 6.23 The Deloitte advice concludes that despite its relative health, there can be no doubt that Leominster is vulnerable to the changes in retailing that are taking place. Concern is therefore expressed that the introduction of a second large foodstore in Leominster outside the town centre, in a location that is unlikely to generate significant linked trips, could significantly undermine the shopping role and function of the town centre.
- 6.24 It is therefore considered that the proposal is contrary to the NPPF and Policies S5, TCR1, TCR2 and TCR9 of the UDP.

### Linked Trips

- 6.25 Whilst highway matters and sustainability are dealt with later, the issue of linked trips is so intrinsically linked to the issue of impact upon the viability and vitality of the town centre that it is addressed at this stage of the report.
- 6.26 The application site is a walking distance of approximately 1.25 kilometres to the town centre boundary, 700 metres to the railway station and 450 metres to the closest residential area. The routes are generally flat but it is considered that the walking distance is such that people are very unlikely to make linked trips with the town centre. Whilst a financial contribution may be made via a Planning Obligation under Section 106 of the Act that may make these routes more attractive, they could never bring the site physically closer to the town centre.
- 6.27 In their critique of the applicant's retail assessment, the Council's consultant has stated that the benefits of the proposal from linked trips to the town centre are likely to be marginal. The proposed store is a similar distance from the town centre as the existing Morrisons store. With very limited clawback and the bulk of the store's turnover being diverted from Morrisons, there is no reason why residents should make additional visits to the town centre. Any 'linked trip' benefits arising would have to be from new shoppers who currently do not visit the town

(mostly from outside the town's acknowledged catchment area). Hence it is considered that any benefits would be very limited.

- 6.28 Therefore it is considered that the store would become a destination in its own right with shoppers unlikely to visit the town centre. Notwithstanding this, any linked trips that might be made are most likely to be undertaken as a separate car trip which is in itself unsustainable. The proposal is therefore considered to be contrary to the aims of the NPPF to promote sustainable development and Policies S1, S5, S6, DR2 and DR3 of the Herefordshire UDP.

#### Impact upon Heritage Assets

- 6.29 Leominster's town centre is also designated as a Conservation Area and contains many listed buildings. Intrinsic to its character are the retail uses. Given the view formed above that the proposal would have an adverse impact upon the viability and vitality of Leominster town centre, it is submitted that there would be a secondary negative impact upon the character of the Conservation Area. Clearly to retain retail uses within existing premises, many of which are listed, the businesses must remain viable.
- 6.30 Chapter 12 of the NPPF relates to the historic environment. It requires that local planning authorities should take into account the desirability of sustaining and enhancing heritage assets and of new development making a positive contribution to local character and distinctiveness. Paragraph 128 of the NPPF states:

*"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected..."*

It goes on to say;

*"The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."*

- 6.31 The potential trade diversion from retail premises within the town centre, and the edge of centre stores of Aldi and Co-Op which promote linked trips to independent retailers, will mean that there is a prospect of existing retail businesses ceasing trading. This would lead to the vibrancy of Leominster town centre declining. If one does not have viable uses for listed buildings they are likely to fall into disrepair. Whilst alternative uses may be found, these would be of a fundamentally different character. It would be detrimental to the Conservation Area and may lead to it becoming a heritage asset which is at risk.
- 6.32 The potential impact upon Leominster Conservation Area was raised as an issue at pre-application stage and it was advised that this should be addressed in any formal submission. The documents submitted in support of the application do not specifically make mention of any potential impacts and it is therefore considered that the proposal is contrary to the NPPF and Policy S7 of the Herefordshire UDP.

#### Highway Safety and Sustainability

- 6.33 From a highway capacity point of view it is considered that the local highway network can satisfactorily accommodate the proposed development. Similarly it is considered that the vehicular means of access and associated visibility splays are adequate.
- 6.34 However, good planning involves the proper integration of land-use planning and transportation planning. It is now a fundamental of the planning system, reflected in both Central Government advice and Development Plan policy, that development should be located so as to reduce the need to travel especially by way of the private motor vehicle. Such sustainable patterns of development also respond to issues of climate change. Ideally one

should locate such developments in close proximity to the existing commercial core and transport nodes.

- 6.35 The proposed development is located in a position that is not realistically accessible by modes of transport other than the private motor vehicle. Leominster railway station is some 700 metres away and the site is within walking distance of a limited proportion of the town's residential areas, particularly when compared to the geographical relationship between Morrisons on Barons Cross Road and the Buckfield residential estate opposite.
- 6.36 As a consequence it is considered that the location of the proposal is such that it would increase reliance upon the private motor vehicle, contrary to the guiding principles of the NPPF and Policies S1, S5, S6, DR2 and DR3 of the Herefordshire UDP.

#### Loss of Employment Land & Other Employment Issues

- 6.37 The site is currently used for employment purposes, is located within an area that is designated as safeguarded employment land by Policy E5 of the UDP, and is rated as 'good' in the Council's Employment Land Study 2012. It has a good vehicular access and is divorced from residential properties to such a degree that a general industrial use can satisfactorily take place without any detriment to amenity. It is well located in terms of access to the wider road network with direct access to the A49(T).
- 6.38 As stated earlier in the report, an operator for the proposed food store has not been identified. Consequently the Economic Statement accompanying the application is unable to give a specific forecast of the numbers of new jobs likely to be created. However, it relies on advice given in the Homes and Communities Agency Employment Densities Guide which estimates that 172 full time equivalent new jobs in Leominster would be created. This figure is based on the net internal area of the store.
- 6.39 The Economic Statement goes on to consider the current availability of employment land and space in Leominster. It identifies that there is either 3.06 or 7 hectares of land available, dependent upon the availability of plots amounting to 3.94 hectares which have been sold subject to contract, and other areas within the locality that would bring the potential availability to 8.25 hectares. The report concludes that there is an ample supply of employment land in Leominster, that there are a large number of vacant employment premises and that the proposal would not prejudice the Council's employment land strategy.
- 6.40 The statement also includes correspondence from the directors of Thomas Panels & Profiles Ltd who currently occupy the main factory premises and an outside storage area amounting to 1.82 hectares in total. The buildings have been adapted to suit their particular requirements over time but the business has now outgrown the site and it needs to re-locate if it is to expand in the long term. The correspondence states:
- "Our preferred location is Leominster; this town is an ideal location for us. At present there is little industrial land of any size available which we are working hard to secure. In 5 years time, suitable land is likely to be less available in Leominster and this would force us to leave the town and seek relocation in another area."*
- 6.41 As referred to earlier in this report, Dales have recently secured planning permission for the relocation of their existing business at Mill Street to a large site on the Leominster Enterprise Park. This accounts for the potential availability of land referred to in the Economic Statement and means that only 4.31 hectares of land are currently available.
- 6.42 Policy E5(2) states that any retail use within designated employment sites should be ancillary to an otherwise acceptable Part B or other employment generating use. The application is contrary to this policy as it would replace the entire employment use.

- 6.43 The clear inference of the Economic Statement is that the loss for employment use is justified as there is adequate provision elsewhere within the town. However, the statement made by the directors of Thomas Panels directly contradicts this as they are quite clear that there is insufficient land available within the town to meet their aspirations to expand. The loss of their site to a retail use would, in your officer's opinion, significantly impinge upon the Council's ability to meet future demand for employment land.
- 6.44 Paragraph 6.4.26 of the UDP states that retail development within employment sites could detrimentally impact future employment development. The proposed development would have a detrimental impact upon both the employment opportunities on the existing site and, alongside the shortage of good quality employment land in Leominster, a detrimental impact upon the wider economic development of the area.
- 6.45 Paragraph 22 of the NPPF advises that the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose should be avoided. However, this has not been demonstrated. Whilst the current economic climate is not ideal for business growth, the up-take of plots on Leominster Enterprise Park is good. Dales have secured a permission to relocate, and the current occupants of the site to which this application relates are also looking to expand their business. These are considered to be clear indicators of demand within the town.
- 6.46 In conclusion, the loss of the land to retail use is unwarranted. Its loss would unacceptably erode the ability of the Council to ensure adequate provision of employment land moving forward and the application is therefore contrary to Policies E5 and S4 of the Herefordshire UDP.

#### Impact of the Petrol Filling Station

- 6.47 The Environment Agency has been the only consultee to comment in detail about this aspect of the proposal, and has expressed concerns about its potential impact upon a Secondary Aquifer and Groundwater Source Protection Zone. The concerns lie with the introduction of underground storage tanks (USTs). They suggest that there is historic evidence that USTs do leak and contaminate the underlying aquifer, supply wells, boreholes and nearby watercourses. They recommend that the petrol filling station should be designed to the highest of modern protection measures specification in order to protect groundwater resources in the underlying aquifer(s) and the nearby watercourse, including measures for the protection of controlled waters from the possibility of any future USTs and associated fuel lines to dispensing pumps leaking.
- 6.48 The Environment Agency comments refer to guidance in their recently revised Groundwater Protection: Policy and Practice (GP3) which states that:
- "We will object to storage of hazardous substances below the water table in principal or secondary aquifers", unless:*
- "there is evidence of overriding reasons which indicate a) the activity cannot take place on unproductive strata (elsewhere); and b) the storage must be below ground."*
- 6.49 The applicant's agent has submitted a further response to the Environment Agency's request for further information which is based, in part on the sequential testing undertaken in relation to the retail assessment, concluding that geological conditions are similar across three of the four sites and that it reasonable to include a petrol filling station as part of the proposal in order for the scheme to compete equally with the existing Morrisons store. It also advises that there are no operational petrol filling stations within 1km of the application site.
- 6.50 The further response goes on to advise that concerns raised about the pollution of groundwater and watercourses would be addressed by the installation of double skin tanks and pipework, the encasement of tanks in a concrete surround, a leak detection system and

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

the use of a staff training manual to explain the site-specific environmental risks associated with the petrol filling station for future operators, together with actions to be taken in the event of a pollution incident.

- 6.51 The applicant's agent suggests that the relocation of the store would require it to be located closer to the Leominster Compensation Ditch and that this could result in a greater risk to controlled waters in the event of a fuel spillage.
- 6.52 The Environment Agency has yet to respond to the applicant's most recent response. Their technical advice about the impact of USTs on groundwater and watercourses will ultimately determine whether the proposed petrol filling station is acceptable, or if there is a fundamental objection to its inclusion in the scheme. A further verbal update will be provided based upon the additional advice received from the Environment Agency

#### Flood Risk

- 6.53 The issue of flood risk is clearer and the applicant has gone some way to satisfying the comments raised by the Environment Agency. The update report suggests that the proposed site layout should be retained as submitted, but incorporating the Environment Agency's recommendation that the finished floor level should be raised a minimum of 300mm above the 1 in 100-year plus 20% flood level.
- 6.54 Some concerns have been raised by others about a perceived increased risk from surface water flooding. However, the site is currently hard surfaced and this area is not significantly increased by this proposal. The applicant has indicated that a sustainable drainage system would be installed should planning permission be granted and the flood risk assessment submitted in support of the application indicates that this would be a feasible approach, subject to further detailed design. This is considered to be a reasonable approach given that this is an outline application.

#### Ecological Impacts

- 6.55 The application is supported by an ecological survey. It covers all aspects of ecological interest across the site, but a separate report focuses specifically on the potential presence of otters and water voles in the locality and particularly the Leominster Compensation Ditch which bounds the site to the south.
- 6.56 The report advises that no evidence of otters was to be found, but confirmed the likely presence of water voles. Accordingly the mitigation strategy included with the report advises that a buffer zone of at least 3 metres from the water's edge should be maintained, with an actual recommended buffer of 5 metres preferred.
- 6.57 The Council's Ecologist expresses some concern that, with only a 3 metre buffer zone, there will be some disturbance to water vole habitat during and post-construction. It was recommended that additional mitigation and compensation measures are required, with a minimum buffer zone of at least 6 metres throughout to provide sufficient protection, including the retention of the existing hedgerow and some additional native-species planting set back from the bank.
- 6.58 The application has been made in outline and only access is to be determined at this stage. If the application were to be approved a condition could reasonably be imposed to require a 6 metre buffer strip along the Leominster Compensation Ditch, along with one requiring a detailed ecological mitigation and compensation plan.

#### Draft Heads of Terms

- 6.59 Discussions have continued between the applicants and the Council regarding the level of contributions required, particularly in respect of improvements to pedestrian links to the application site. A detailed schedule of works have been agreed, but due to the transition of responsibilities for highway works from Amey to Balfour Beatty, a detailed costing for these

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



works has not been provided and therefore an agreed Heads of Terms is not available. If Committee were minded to approve the application it is recommended that any permission should be subject to the completion of a legal agreement under Section 106 of the Town & Country Planning Act.

- 6.60 However, given the recommendation is for refusal, a further reason for refusal is required on the ground that there is no completed legal agreement under Section 106 of the Town and Country Planning Act 1990 and as such the proposal is contrary to policy DR5 of the Herefordshire Unitary Development Plan 2007 and the Local Planning Authority's adopted Supplementary Planning Document entitled 'Planning Obligations' (April 2008).

### Conclusion

- 6.61 In the light of the above appraisal it is considered that the proposal is contrary to both Central Government advice and Development Plan policy. Furthermore whilst the emerging policies of the Draft Core Strategy can only be given very limited weight at this stage, consideration has been given to the consistency of these policies in relation to the saved policies of the Herefordshire Unitary Development Plan and the NPPF. It is considered in particular, that draft policy E5 would continue to support the need for sequential testing of sites whilst policies SD1, SS1 and SS6 promote the presumption in favour of sustainable development and developing sites that are located in sustainable locations where there is a genuine choice of non-car based means of access. The fundamental objections to the proposal as outlined in recommended grounds of refusal 1-5 (inclusive) cannot be overcome by way of an amendment to the submitted scheme or through negotiation.

## **RECOMMENDATION**

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

- 1. The Local Planning Authority does not consider the submitted sequential assessment to be robust and as such is considered to be contrary to the National Planning Policy Framework and policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 2. The applicant has failed to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Leominster Town Centre contrary to the National Planning Policy Framework and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 3. Given reason for refusal 2 above, the Local Planning Authority consider that the proposed development would be likely to adversely affect the character of the Leominster Conservation Area contrary to the National Planning Policy Framework and policy S7 of the Herefordshire Unitary Development Plan 2007.**
- 4. The proposal would result in the loss of good quality employment land. The applicant has not demonstrated that there is a surplus of such land or that removal of the existing use from the site would give rise to substantial benefits to residential or other amenity issues. Furthermore, the proposal is not a minor or incidental activity associated with another use that is compliant with policy. The proposal is therefore contrary to the National Planning Policy Framework and policies S4 and E5 of the Herefordshire Unitary Development Plan 2007.**
- 5. The proposal is considered to be in an unsustainable location that would increase reliance upon the private motor vehicle, contrary to the guiding principles of the National Planning Policy Framework and policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.**

6. The proposed development would necessitate a planning obligation compliant with the criteria set out in the Supplementary Planning Document - 'Planning Obligations' to secure contributions toward sustainable transport infrastructure, including enhanced pedestrian and cycle links to the Leominster Town Centre, to mitigate against the impact of the development. A completed Planning Obligation has not been deposited and as such the proposal is contrary to Policy DR5 of the Herefordshire Unitary Development Plan 2007 and the Council's Supplementary Planning Document entitled 'Planning Obligations' (April 2008).

**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 and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 123317/O

**SITE ADDRESS :** LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF

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





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>18 SEPTEMBER 2013</b>
<b>TITLE OF REPORT:</b>	<p><b>131631/F - ERECTION OF 3 RESIDENTIAL DWELLINGS AND ASSOCIATED LANDSCAPING AND ACCESS WORKS INCLUDING A SCHEME OF LANDSCAPE ENHANCEMENT AND THE REINSTATEMENT OF A PUBLIC FOOTPATH AT LAND AT THORNY ORCHARD, COUGHTON, ROSS ON WYE, HEREFORDSHIRE</b></p> <p><b>For: GB Garages per Hunterpage Planning, Thornbury House, 18 High Street, Cheltenham, Gloucestershire, GL50 1DZ</b></p>
<b>WEBSITE LINK:</b>	<a href="http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131631&amp;NoSearch=True">http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131631&amp;NoSearch=True</a>

**Date Received: 14 June 2013**

**Ward: Kerne Bridge**

**Grid Ref: 359879,220884**

**Expiry Date: 28 August 2013**

Local Members: Councillor J G Jarvis

## **1. Site Description and Proposal**

- 1.1 Planning permission is sought for the erection of three detached dwellings on land at Thorny Orchard, Coughton near Ross-on-Wye. The application site is a triangular parcel of land that extends to 0.6ha. It comprises sloping land on the south-east side of the Coughton - Howle Hill road, and is a prominent hillside position in open countryside within the Wye Valley Area of Outstanding Natural Beauty; a landscape that should be afforded the highest level of protection.
- 1.2 In 2004 planning permission was granted by the then Southern Area Planning Sub-Committee for the *"Erection of a building for the storage and repair of agricultural, horticultural and automotive plant and machinery"* (DCSE2004/0220/F). This planning permission has been implemented and is extant. Significant and visually prominent ground-works have been undertaken. The approved buildings, although not yet started, could therefore be built in accordance with this permission. This fall-back position is a material consideration in the determination of this application.
- 1.3 In executing the work necessary to form the approved access pursuant to DCSE2004/0220/F, footpath WA50 was undermined and made unsafe. It has remained closed since February 2008.
- 1.4 Following the 2004 permission the site was sold and the new owner applied in 2008 for planning permission to erect a retaining wall to enable reinstatement of the footpath (SE2008/1992/F). The applicant went bankrupt, the work was never undertaken and the site was once again put up for sale. The footpath remained closed.

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479

- 1.5 The current applicant purchased the site in the belief that the extant 2004 planning permission had the effect of authorising his intended use of the site as a garage workshop and MOT test centre. Against this backdrop the applicant submitted an application for a new garage workshop, MOT test centre with associated office space and new retaining wall to support the public footpath – DMS120480/F. This application has attracted a significant level of opposition and a decision has been held in abeyance. Opposition centred on the principle of development within the AONB and the level of traffic associated with a garage workshop and MOT test centre. Correspondents observed that the 2004 permission was intended to allow the relocation of a local agricultural contractors business, not the establishment of a new garage in an unsuitable location in open countryside within the AONB.
- 1.6 The Council's position, having secured legal advice, is that it can be argued that the 2004 permission does not establish a lawful use of the site that would enable a commercial garage/MOT Centre to be carried on. The applicant has a contrasting legal opinion but neither has been formally tested but in either context the extant 2004 permission allows for significant earthworks and the construction of a storage/workshop building with no planning control over external storage within the AONB.
- 1.7 The current proposal is thus put forward as an alternative to the garage workshop/MOT test centre and the extant planning permission and alongside three detached dwellings includes a scheme to restore the public footpath and degraded landscape. The application acknowledges that the site is in the open countryside and would not ordinarily be considered appropriate for housing development, but relies instead on the specific circumstances surrounding this case; principally the damaging effect of the 2004 permission on the intrinsic natural beauty on the AONB.
- 1.8 In the context of what is a complicated legal position, the application is considered a means by which an acceptable conclusion to the planning history associated with this site can be found. It would enable the harm to the nationally important landscape to be minimised and the landscape insofar as possible restored. Furthermore the contentious garage workshop proposal would be avoided.

#### The Current Proposal

- 1.9 In recognition of the local opposition to the garage workshop proposal and evident frustration at the harm to the protected landscape caused by partial implementation of the 2004 permission, the applicant has proposed the erection of three detached dwellings on the site within the red line area associated with the 2004 permission. The submitted Design and Access Statement describes the site as terraced, prominent and visually unattractive. The twin objectives of the scheme are described as the reinstatement of the footpath with a viable scheme that repairs the nationally important landscape through appropriate re-grading and planting.
- 1.10 The proposal is for three detached four-bed dwellings with integral garages. The bulk of the units are at the lower level with a narrow pitched roof structure above. Facing materials are stone at the lower level with timber cladding to the upper floor, all under a slate roof. At the rear of the units the footpath is reinstated via a timber crib wall, which is planted so that it greens over with time. Beyond Plot 3 the land is re-graded to something approaching its original level. The existing vehicular access is narrowed and a bell-mouth junction with the public highway is formed. Owing to the manufactured levels that exist, the lower floor of the dwellings will not be visible in public views from the west.
- 1.11 The application is accompanied by the following documents:-
- Design and Access Statement
  - Planning Statement

- Landscape and Visual Impact Assessment
- Preliminary Ecological Appraisal
- Badger Survey

## 2. Policies

### 2.1 Herefordshire Unitary Development Plan

- |     |   |   |
|-----|---|---|
| S1  | - | Sustainable development   |
| S2  | - | Development requirements  |
| S7  | - | Natural and historic heritage                                       |
| H7  | - | Housing in the countryside outside settlements                      |
| DR1 | - | Design  |
| E8  | - | Design Standards for employment sites                               |
| LA1 | - | Areas of Outstanding Natural Beauty                                 |
| LA2 | - | Landscape character and areas least resilient to change             |
| LA5 | - | Protection of trees, woodlands and hedgerows                        |
| LA6 | - | Landscaping schemes   |
| T6  | - | Walking   |
| NC1 | - | Biodiversity and development  |
| NC8 | - | Habitat creation, restoration and enhancement                       |
| NC9 | - | Management of features of the landscape important for flora & fauna |

### 2.2 National Planning Policy Framework

### 2.3 Herefordshire Local Plan – Core Strategy 2011 – 2031 (draft)

- |     |   |  |
|-----|---|--|
| SS1 | - | Presumption in favour of sustainable development               |
| SS6 | - | Environmental quality and local distinctiveness                |
| RA2 | - | Herefordshire's villages                                       |
| RA3 | - | Herefordshire's countryside                                    |
| MT1 | - | Traffic management, highway safety and promoting active travel |
| LD1 | - | Landscape and townscape  |
| LD2 | - | Biodiversity and geo-diversity                                 |
| LD3 | - | Green infrastructure   |
| SD1 | - | Sustainable design and energy efficiency                       |

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

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

## 3. Planning History

- |     |                 |   |
|-----|-----------------|---|
| 3.1 | DCSE2003/1002/F | Proposed building for the storage and repairs of agricultural, horticultural, automotive and plant machinery - Withdrawn 22.10.03                 |
|     | DCSE2003/2157/F | Retention of existing replacement hay barn, hardstanding and terrace – Approved 5 <sup>th</sup> November 2003                                     |
|     | DCSE2004/0220/F | Proposed building for the storage and repairs of agricultural, horticultural, automotive and plant machinery - Approved 13 <sup>th</sup> May 2004 |
|     | DCSE2006/1861/S | Building for hay storage (extension to existing): Prior Approval not Required 18 <sup>th</sup> April 2006   |

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479

DCSE2008/1992/F Construction of retaining wall: Approved 12<sup>th</sup> November 2008

DMS120480/F Proposed new garage workshop, MOT test centre with associated office space and new retaining wall to support the public footpath: Received 28<sup>th</sup> May 2012.

#### 4. Consultation Summary

##### 4.1 Conservation Manager (Landscapes):

Principle: There are three matters of principle that I would like to clarify in relation to the existing site condition, the previous permissions and the extent of development.

- 1) The site is visible as a scar on the hillside from Coughton and further away. It has a negative landscape impact. The adjacent public footpath is unsafe due to the steep gradient of cut on the boundary. The concrete block wall at the entrance is particularly unsightly.
- 2) The previous permissions on the site are for a large shed for storage and repairs, a second building for hay storage and construction of a retaining wall. These would have some landscape impact, not in-keeping with the location.
- 3) The permitted building footprints did not extend further north than the overhead power lines. Residential development within the red line of the previous permissions could therefore be suitable, provided it allowed for landscape enhancement of the remaining site. In landscape terms there is no justification in extending built form across the site (proposed plot 3), into land that was never intended to be built on. Although this north-west area has had some ground levels changes, they are less severe and therefore more likely to regenerate naturally.

LVIA: The submitted LVIA is welcome and follows recommended guidance. It identifies the correct landscape character issues, particularly in reference to the Wye Valley AONB and the local type of Principal Wooded Hills (I disagree that the site has anything in common with principal settled farmlands). The visual assessment covers a good number of viewpoints and picks up the key public viewpoints, particularly from the network of surrounding public footpaths.

Landscape masterplan: This is a clear, well presented drawing.

- The upper area provides a transition zone of open grassland between the woodland and the site. This will not be split into garden areas, other than the demarcation of post and wire fence.
- The hedge along the access road will help to soften views of this hard surfacing and provide some screening of the lower building levels. There is no indication of the intended height for this hedge.

Existing trees: It is accepted that the existing trees are likely to have adapted to the existing ground levels, therefore as stated in the proposals, it is preferable to retain the ground levels within the root areas as existing. The LVIA text states that the Leyland cypress trees along the roadside boundary will be removed, to be replanted with native species. This is welcome.

Management: *If the application is to be approved then a landscape and biodiversity management plan should be provided.* This should particularly include the grazing details, maintenance of communal areas, establishment and long term care for the crib wall planting (which is key to softening the visual impact of the development).



Overall landscape impact: The three buildings will significantly extend built development beyond that previously permitted. The buildings will be visible from surrounding public footpaths, with a medium visual impact as identified in the LVIA. External lighting will be restricted, but the glazed elevations will be visible on the hillside after dark. The introduction of two dwellings, designed as proposed to meet the site constraints and with the associated sensitive landscape design set out here, would be noticeable in views and out of character with the hillside woodland setting, but would not necessarily be conspicuous. Two dwellings could therefore offer an improvement over the existing site conditions and be more subtle than the agricultural buildings previously approved. The spread of development though the third dwelling will have to be weighed against other planning issues.

#### 4.2 The Traffic Manager: No objection subject to conditions.

In terms of number, vehicle movements associated with this proposal will be less than the extant planning permission. There is also less likelihood of large, slow moving vehicles stalled in the highway whilst attempting the turn into the site. This is considered a benefit given the nature of the highway.

In response to the Parish Council proposal to reposition the access downhill, I would comment that due to the land fill and the level difference between the road and the site, it is difficult to see any alternative to the existing access.

The access onto the u70416 is substandard in visibility and has the potential to be improved. From a 2.4m 'x distance' visibility is currently 25m in either direction. This must be improved to the maximum achievable, which is calculated at approximately 55 metres in each direction. A condition should be imposed on any forthcoming permission.

The internal layout is for three properties and the access drive does not require adoption. If desired there is scope to reduce the carriageway to a shared private drive as per the Council's Highways Design Guide yet still provide for parking, turning and access for deliveries, refuse and removals.

The parking ratio is low, 2 parking spaces per property does not comply with HC Design Guide. Given the rural location and lack of bus service serving the site, there is a dependence on cars and a need to accommodate visitor parking. This should be incorporated into the Shared Private Drive layout which could be designed to accommodate visitor parking. If the integral garages are to be used for parking numbers, the internal dimensions of the garages must be 6m x 3m minimum per space to allow for other use such as cycle parking and storage.

Any works adjacent to the public highway will need to be to HC Specification for works in the highway.

#### 4.3 Public Rights of Way Manager:

Further detail of the dimensions of the reinstated footpath as part of this development should be provided. A drawing previously provided during informal discussions by Coombes Everitt Architects (Draw No. 006 Date 11.12.2012) showed a usable path width of 3.0m which reflects the previously available width and would be acceptable. We understand that the construction of the retaining wall will now be a timber crib wall rather than a gabion design. The design and construction detail of the wall and safety fence will have to be approved separately by Herefordshire Council following its Approval in Principle processes.

Subject to those details we have no objections to the proposals but would request that conditions or equivalent are placed on any permission to the following effect:

1. That construction of the retaining wall and reopening of the footpath is completed at an early stage of the development, certainly prior to occupation of any of the proposed houses.
2. That responsibility for the future maintenance of the retaining wall and associated safety fence clearly lies with the owners of the site and their successors in title.

#### 4.4 Conservation Manager (Ecology):

The site is in a sensitive area and is bounded to the south east by native, broad-leaved woodland which is also designated as a Local Wildlife Site. There is a large and active badger sett along the roadside boundary that will need to be retained and protected during and post construction, subject to temporary closure of part of the sett during construction; a licence from Natural England will be required for this.

External lighting is an important concern, especially given the existence of local populations.

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

*The recommendations set out in the ecologist's reports dated 03 April 2013 and 13 June 2013 should be followed. Prior to commencement of the development, a full working method statement and habitat protection scheme should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved. This should include details of external lighting and avoid light-spillage to woodland areas.*

*Prior to commencement of the development, a habitat enhancement and management scheme should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.*

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

#### Reasons:

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

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

- 4.5 Land Drainage Engineer: No objection subject to a condition requiring final agreement of soakaway designs.

## 5. Representations

### 5.1 Walford Parish Council:

Many Parish Councillors felt uncomfortable that they were being encouraged to comment favourably on an application which would not have been acceptable if it had been submitted outside of the historical context, but which was being promoted as a means of resolving failings of previous planning decisions and the actions of Herefordshire Council officials.

However, The Parish Council has resolved to make the following comments:

Walford Parish Council did not support the application; their decision was based on a majority of 5 votes to 4.

- 1) The original decision (DCSE2004/0220/F) championed and pushed through by the Ward Councillor at the time was clearly contrary to existing planning policy and was a bad decision. At the time Ross Town Council was also asked by HC to provide a view and they supported it on the grounds of provision of employment for local people, a factor that was known to carry weight at the time, but has clearly never been realised.
  - *The original decision was wrong.*
- 2) There are plenty of Market properties of the proposed size available for purchase in this area. There is no need for more in this Parish. If any development for accommodation takes place then it might have some justification if it was for affordable homes.
  - *Building more Market properties of the proposed size is not justified.*
- 3) It is important that decision-making bodies are consistent. An application last year in a nearby location to create a dwelling out of an existing structure was turned down by HC on the grounds that:

“The building is located in an unsustainable open countryside location within an Area of Outstanding Natural Beauty. The proposed use would individually and cumulatively have a detrimental impact upon the character and amenity of this protected landscape area.”

  - *Granting of this application would be inappropriate on the grounds that this application clearly transgresses these criteria.*
- 4) The dramatic loss of indigenous flora and fauna in the UK is well documented. Loss of habitat is the biggest factor. The latest figures point to a 95% decline of natural meadows since the 1930s. This loss has to be countered and organisations such as Parish Councils and District Councils must take a role in trying to redress the environmental imbalance. Whatever happens they should not be making it worse.
  - *Parish and District Councils should be trying to prevent the loss of wildlife habitat, not make the situation worse, which this development would.*
- 5) In 2006 this PC published a Parish Plan. After extensive consultation with the community the overriding wish expressed by the local people and reflected in the Plan was that the natural beauty and rural character be protected and not diminished in any way. We do not believe that this requirement has changed and the PC would be going against its own endorsed Plan in supporting this application as well as ignoring the heartfelt wishes of our community.
  - *The development goes against what our community has stated as its highest priority, the protection of the Parish’s natural beauty.*

Should the application be given consent by Herefordshire Council Planning Committee (against the wishes of the Parish Council) they wish to make the following comments:

Particular concerns were raised about the existing access to the site, by both Councillors and members of the public. In the creation of the existing access, the original entrance was moved up Sharman Pitch and is now adjacent to a blind bend, on a narrow and busy road, which also has a steep gradient. There is a strong view that the entrance design should be re-visited, in order to make access safer, by moving the existing access down Sharman Pitch, to its original position.

5.2 Six letters of objection has been received. The content is summarised as follows:

- The proposal is contrary to Section 11 of the NPPF in that it promotes a sizeable residential development within the AONB. On this basis the proposal is also contrary to saved UDP policies LA1 and S7;
- The application over-emphasises the visual impact of the original ground-works, which are now largely 'greening over'. The negative impact of the current site should not be used to justify a new development;
- The proposal is contrary to saved UDP policy H7 and paragraph 55 of the NPPF in that it promotes isolated housing in the countryside;
- The development is not needs led and the properties are larger than those envisaged by emerging Core Strategy policies RA2 and RA3;
- The footpath restoration should be sought independently and not used as a bargaining tool;
- Access to the site is too near the bend and an accident is inevitable;
- The impact on the large badger sett must be considered.

5.3 The Planning and Design and Access Statements accompanying the application review the planning history and confirm that the applicant purchased the site in the belief that the extant permission would allow him to carry on a commercial garage enterprise from the site. However, this position has been reviewed in the light of local opposition to the undetermined application DMS120480/F and the current application is promoted as a more satisfactory alternative; albeit one that is contrary to adopted policies. It is confirmed that the scheme has been designed to deliver low-density high quality housing that will blend into the landscape, enable restoration across the rest of the site and make the reinstatement of the public footpath economically viable. The scheme would also substantially reduce the number of vehicular movements to and from the site by comparison with the proposed garage/workshop proposal.

It is concluded, therefore that the outcome will be more sympathetic to the AONB landscape than either the fulfilment of the 2004 permission or the garage/workshop proposal (S120480/F) and in this manner more consistent with UDP policy LA1 and guidance set out in the National Planning Policy Framework at paragraphs 109, 111 and 116 – all of which refer to development in AONBs.

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

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

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

[www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage](http://www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage)

## 6. Officer's Appraisal

The principle of development and the materiality of the 'fall-back' position

6.1 The application is for the erection of three dwellings in an open countryside location within the Area of Outstanding Natural Beauty (AONB). Planning permission exists for the erection of a building for the storage and repair of agricultural, horticultural and automotive plant and machinery. The legacy of this decision remains in the shape of the significantly degraded landscape and undermined footpath WA50. However, and irrespective of the merits of that decision, planning permission exists and the building approved under that permission could be constructed; the Council having confirmed that the permission has been implemented.

6.2 Therefore, although officers have some sympathy with the view that this decision and the subsequent closure of the public footpath should not be used as justification for residential development, this disregards the fact that a fall-back position exists and potentially it might successfully be argued as permitting the establishment of a commercial car workshop, garage

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479

and MOT test centre in what is locally considered an inappropriate location. Moreover, fulfilment of the 2004 permission will not address the harm to the AONB landscape that has been caused already, but will compound the harm through the erection of a large, isolated and uncharacteristic agricultural building.

- 6.3 There is no doubt that the current application is contrary to adopted planning policies. Saved UDP policy H7 only permits residential development in the open countryside where one or more of the exceptions criteria are met. This is not the case here. Likewise, emerging Core Strategy policy RA3 sets out the instances where development can take place beyond the identified settlements. The current proposal does not satisfy any of those criteria and is also contrary to the advice given at paragraph 55 of the National Planning Policy Framework (NPPF), which advises local planning authorities to avoid new isolated homes in the countryside unless one of the special circumstances identified exists. In this case the proposal does not satisfy any of the special circumstances and the applicant does not seek to argue that this is a sustainable housing site that would help meet the acknowledged housing land supply deficit.
- 6.4 As such, if having regard to the provision of the Development Plan in accordance with S38(6) of the 2004 Act, the principle of development is unacceptable. As such, it is necessary to consider whether there are any material considerations that warrant a departure from policy.
- 6.5 In this case, the fall-back position (i.e. the ability to exercise a planning permission that might be considered less desirable than the current proposal), is a material consideration to which weight may be attached. The likelihood of the 2004 permission being fulfilled has to be taken into account when apportioning weight. In this case, officers consider the likelihood of the fall-back position being relied on to be linked to the outcome of this application; with the probability of the fall-back being taken up increasing if this application is refused. In this context officers understand the Parish Council's perspective at being asked to comment favourably on something that is obviously contrary to adopted planning policies; but such is the legacy of the 2004 permission and the commercial reality of the situation. The applicant has made an investment in acquiring the site and if unsuccessful with this application is bound to examine the fall-back position as an option or place the site back on the market. It is clear that reinstatement of the footpath could be enforced via the existing enforcement notice served under the Highways Act and that this is not dependent upon the grant of planning permission for three dwellings. Although true this would not conclude the planning history on the site and the debate as to whether the 2004 permission does act to allow a commercial garage operation. As such, the decision before Members can be taken in the knowledge that the reinstatement of the footpath can be enforced separately and the decision can thus be expressed as a choice between the fulfilment of the 2004 permission (with the consequent harm to the landscape and attendant doubt around the lawful use of the site) and the current proposal for three dwellings.

#### Landscape and Visual Impact

- 6.6 The Parish Council comments in relation to the original decision are noted at 5.1 above. The officer recommendation was for refusal on the basis that the proposal was inconsistent with landscape protection and employment policies. The development that has been initiated as a consequence of the 2004 permission is difficult to equate to landscape protection policies within an AONB and the landscape is de-graded. Completion of the development, irrespective of the eventual end use, would do nothing to ameliorate this harm.
- 6.7 The Conservation Manager (Landscapes) concludes that the existing situation is a scar on the landscape with the block wall at the entrance particularly unsightly. It is also considered that the building permitted in 2004 was not in keeping with the character of the area. Concern is expressed in relation to the spread of development northwards via the third dwelling. It is not the case, however, that the third dwelling is beyond the 2004 application site; rather the

boundary to plot 3 is coincidental with the original red line. The Conservation Manager also recognises the positive benefit of replanting the roadside boundary with native species and the potential for this to shield from view the lower level of the proposed dwellings. The re-grading of the northern area of the site and forming an open area of grassland for the transition from woodland to site without unnecessary demarcation is also considered beneficial.

- 6.8 Although concern is expressed at the third dwelling, the Conservation Manager is satisfied that the design of the houses is appropriate to the context and more 'subtle' than the agricultural appearance of the approved building. On balance, officers agree that the proposal is more responsive to the prevailing landscape character than the fulfilment of the 2004 permission would be. The re-grading to more natural contours of the previously excavated land is considered a significant benefit, as is the intended retention of the footpath via a timber crib wall, the cavities of which are planted so that the 'face' of the wall greens over in time. The long-term management of this will require the formulation of a management plan.
- 6.9 The design of the houses is also such that the greater bulk of the lower-level will be screened by the existing bund and proposed planting. Although the glazed element of the upper storey will be visible from below the site, the houses are designed to reduce this impact by presenting a comparatively narrow gable to the west. The use of timber cladding and natural slate on the upper parts of the dwellings is also considered appropriate against the woodland backdrop.
- 6.10 Overall, officers consider that relative to the fulfilment of the 2004 permission, the current proposal represents an opportunity for enhancement of the landscape quality of the site and a development that is more appropriate within its context than the 2004 scheme. The proposal also offers further opportunity to secure additional landscaping and revisit the reinstatement of the footpath. In this manner officers consider that by comparison with the 2004 permission, the current proposal is more consistent with the objectives of saved UDP policy LA1 and paragraph 109 of the NPPF insofar as it presents the opportunity to enhance the quality of the landscape and remediate and mitigate the currently despoiled and degraded landscape.

#### Ecology

- 6.11 The Council's Ecologist has assessed the submitted ecological appraisal and badger survey. Subject to compliance with the recommendations of each, no objection is raised. Insofar as badgers are concerned, the retention of the northern third of the site as undeveloped land will allow for foraging routes to be unaffected, although temporary closure of the main sett entrances and use of active annexe sett will be required under licence from Natural England. The likelihood of impacts upon protected species is considered low, particularly with retention of all existing trees to the northern boundary and supplementary planting of native species hedgerow along the western boundary. The recommendations also include provision of bird and bat boxes within the development. The scheme is considered to accord with the NPPF requirement to enhance biodiversity, a principle also expressed in saved UDP policies NC8 and NC9. On this issue, officers consider that by comparison with the 2004 permission, the scheme is beneficial as regards the provision of wildlife habitat.

#### Traffic

- 6.12 The extant permission moved the point of vehicular access uphill. The visibility from this entrance is described as substandard but capable of significant improvement. In the context of the extant permission, a relocation of the access cannot be insisted upon and is not, according to the Traffic Manager, feasible given the change in level between the highway and the site itself – this being a consequence of the earthworks already undertaken.
- 6.13 The reduction in the number of vehicle movements associated with the current proposal is also material to the issue of highway safety. Fulfilment of the 2004 permission or the 2012 proposal would each lead to significantly higher traffic volumes than the current proposal,

which given the narrowness of the road is highly undesirable. In addition, the likelihood of larger vehicles accessing the site, during day and night, is remote by comparison to an agricultural contractor or garage use.

- 6.14 Officers conclude that subject to conditions to maximise achievable visibility and the redesign of the shared drive in line with the Traffic Manager's comments the proposal is in accord with saved UDP policy DR3, NPPF guidance and emerging Core Strategy policy MT1.

#### Design

- 6.15 In the context that residential development at this location is contrary to adopted UDP policy and inconsistent with the NPPF presumption in favour of sustainable development, the design approach is critical. In this respect the landscape masterplan and architectural design of the dwellings is considered appropriate within the context. Whilst not considered innovative or exceptional, officers consider the design approach to be well-considered. The orientation of the dwellings is such that the massing and prominence of the upper floor has been reduced. There are no near neighbours to be affected by overlooking or loss of privacy and the layout within the site results in satisfactory living conditions for future occupiers. Officers consider the proposal to represent good design and a unified approach to landscaping and the built environment. In terms of its design the proposal is considered consistent with saved UDP policy DR1, emerging Core Strategy Policy SD1 and guidance set out at Chapter 6 of the NPPF.

#### Conclusions

- 6.16 The application for residential development at this location is contrary to policy. The five year housing land supply notwithstanding, development at this site is not considered to represent sustainable development as envisaged by adopted and emerging policy and nor does the site conform to the Council's interim protocol concerning the release of housing land to meet the identified deficit.
- 6.17 Against this, however, officers conclude there are significant material considerations that weigh in favour of the proposal. These are as follows:
- The proposal would replace the implemented 2004 permission with a scheme that by comparison is more appropriate in the AONB context;
  - The proposal offers the ability to revisit the comprehensive landscaping of the site and restore some of the harm caused to the AONB as a consequence of earlier ground-works;
  - The proposal results in a more appropriate use within the context by addressing the doubt that persists regarding the lawful use of the site;
  - The proposal would result in far fewer vehicular movements on a relatively narrow but busy unclassified road;
  - The proposal represents an opportunity to enhance biodiversity relative to the fulfilment of the 2004 permission;
  - The proposal would result in a more visually appealing development within the AONB.
- 6.18 Whilst the perspectives of the Parish Council and individual objectors are noted, the points raised overlook the materiality of the fall-back position. Planning permission exists and it is, in your officer's opinion, unrealistic to suppose that enforced reinstatement of the footpath will conclude the planning history on this site. In this context an architecturally designed, low density housing scheme is considered acceptable and beneficial to the long-term appearance of this part of the AONB landscape.
- 6.19 Having regard to the materiality of the fall-back position and the benefits of this scheme relative to the fulfilment of the 2004 permission or the undetermined 2012 application, officers recommend the application for approval subject to conditions.

## RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. **A01 Time limit for commencement (full permission) (12 months)**
2. **B03 Amended plans**
3. **C01 Samples of external materials**
4. **F14 Removal of permitted development rights**
5. **Prior to the first occupation of any of the houses hereby approved, Public Footpath WA50 shall be reopened in accordance with a scheme to be submitted to and approved in writing by the local planning authority.**

**Reason: To secure the re-opening of the footpath.**

6. **H03 Visibility splays**
7. **H06 Vehicular access construction**
8. **H11 Parking - estate development (more than one house)**
9. **H13 Access, turning area and parking**
10. **H20 Road completion in 2 years**
11. **H21 Wheel washing**
12. **H27 Parking for site operatives**
13. **H29 Secure covered cycle parking provision**
14. **The recommendations set out in the ecologist's reports dated 03 April 2013 and 13 June 2013 should be followed. Prior to commencement of the development, a full working method statement and habitat protection scheme should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved. This should include details of external lighting and avoid light- spillage to woodland areas.**

**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.**

15. **Prior to commencement of the development, a habitat enhancement and management 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 comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.**



**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. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.
- 3. **HN01 Mud on highway**
- 4. **HN05 Works within the highway**
- 5. **HN10 No drainage to discharge to highway**

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>18 SEPTEMBER 2013</b>
<b>TITLE OF REPORT:</b>	<p><b>131519/CD - INSTALLATION OF 2 NOS FULLY GLAZED DRAUGHT LOBBIES AND ASSOCIATED ALTERATIONS TO LANDSCAPING; INSTALLATION OF BICYCLE STANDS AND REPLACEMENT OF GLAZED DOORS TO GROUND, FIRST AND SECOND FLOORS TO NORTH EAST ELEVATION AT THE COURTYARD THEATRE, 93 EDGAR STREET, HEREFORD, HR4 9JR</b></p> <p><b>For: The Courtyard Theatre per Property Services Herefordshire Council, Plough Lane, Hereford, HR4 0LE</b></p>
<b>WEBSITE LINK:</b>	<a href="http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131519&amp;NoSearch=True">http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131519&amp;NoSearch=True</a>

**Date Received: 5 June 2013**

**Ward: Three Elms**

**Grid Ref: 350774,240571**

**Expiry Date: 31 July 2013**

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

## **1. Site Description and Proposal**

1.1 The Courtyard Theatre is of modern construction and lies off Edgar Street. It is directly opposite the football ground and bounded by residential development to the north and south. To the west beyond the car park is Beaumont Gardens, an area of open space which acts as a buffer between subject premises and properties that front Penhaligon Way.

1.2 The application seeks approval for the following:

Parts of the existing patent glazing and sliding doors to the ground, first and second floors to the north east elevation are to be replaced with new glazing and sliding doors. Windows to the first and second floors are to be top hung outward opening with restrictors and have trickle vents to provide background ventilation with top and bottom fixed glazing. The doors to the ground are to be sliding with fixed side glazing.

2 no. new fully glazed draft lobbies are to be fitted, one to the main entrance to the south west elevation and one to the north west elevation. These new structures are to be fully glazed with aluminium frames finished with a powder coat. The access to the new lobbies will be via automatic glazed doors with a level access.

New bicycle shelters formed with a steel powder coated frame to provide cover to new bicycle hooped stands. There will be a requirement to carry out associated landscaping to accommodate the new bicycle shelter.

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Further information on the subject of this report is available from Edward Bannister on 01432 260126

## 2. Policies

### Unitary Development Plan

- 2.1 S1 - Sustainable development
- S11 - Community facilities and services
- DR1 - Design

### Draft Core Strategy

- 2.2 SS1 - Presumption in favour of sustainable development
- SS6 - Addressing climate change
- SC1 - Social and community facilities
- SD1 - Sustainable design and energy efficiency

### National Planning Policy Framework (2012)

- 2.3 Also of importance is the National Planning Policy Framework (NPPF), published in March 2012, which established a clear presumption in favour of sustainable development.

Paragraph 12 states that the NPPF does not change the statutory status of the development plan as the starting point for determining applications. It goes on to advise that proposals which accord with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

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

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

## 3. Planning History

- 3.1 None of relevance.

## 4. Consultation Summary

- 4.1 The Theatres Trust – supports the application in principle because the two glazed lobbies will reduce drafts entering the building, creating a more comfortable indoor environment for those attending the theatre. The proposed additions are minor in nature, are sympathetically designed within the context of the building, and do not adversely harm its function or appearance. We would therefore advise you to grant planning permission and attach any appropriate conditions accordingly.

## 5. Representations

- 5.1 Hereford City Council – No objections.
- 5.2 Highways Agency – No objections.
- 5.3 One objection has been received. The reasons are that the building is an exemplar and any alterations demand significant care. The proposal fails to do this by not paying attention to the simple but modular basis of the original building and the lean to roofs are wrong on a cuboid building and the details are clumsy and ill conceived.

- 5.4 The consultation responses can be viewed on the Council's website by using the following link:-  
<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-  
[www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage](http://www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage)

## 6. Officer's Appraisal

- 6.1 Criterion 1 of Policy DR1 of the Unitary Development Plan (UDP) is clear that all development will be required to:
1. Promote or reinforce the distinctive character and appearance of the locality in terms of layout, density, means of access and enclosure, scale, mass, height, design and materials.
- 6.2 It is primarily against this policy that the proposal is to be considered, but the extent to which the UDP is up-to-date and relevant needs to be considered, as its replacement, the Draft Core Strategy, has now reached the stage where it forms a material planning consideration. Policy SD1 of the Draft Core Strategy is considered to be relevant in this case and this policy largely continues the thread of Policy DR1 by requiring that developments *'make a positive contribution to the architectural diversity and character of the area through appropriate layout, siting, scale, height, proportions and massing, orientation, use, architecture detailing, landscaping and materials'*.
- 6.3 Paragraph 216 of the NPPF provides the context for giving weight to the relevant policies of draft plans and it is clear that additional weight can be attached to these where there are not any significant unresolved objections. There would not appear to be any significant unresolved objections to Policy SD1 according to our consultation records, but in spite of this, Policy DR1 should still be used as the basis for determining this application because it mirrors Policy SD1, which itself was drafted in the spirit of the NPPF.
- 6.4 Policies SS1, SS6 and SC1 of the Draft Core Strategy are also relevant. It would appear that there are significant unresolved objections to Policy SS1 (presumption in favour of sustainable development) and so it should not be given any weight in reaching a decision. Policies SS6 and SC1, like SD1, are not considered to be subject to any significant unresolved objections. Therefore they carry weight. Policy SS6 on climate change is satisfied because the proposal encourages alternative modes of travel and the reduction in carbon emissions through the provision of bicycle shelters and improvements to the existing fenestration. The proposal is also in accordance with Policy SC1 (social and community facilities) as it seeks to enhance the existing facilities.
- 6.5 The objection that has been raised essentially relates to the lean-to approach adopted for the new draft lobbies, which it is submitted does not relate well to the modular design of the building. This concern is noted although the applicant has advised that this approach is required in order to handle rainwater running down the vertical face of the principal building. In visual terms the proposed additions are considered to be of relatively modest scale such that they will not have a significant impact upon the overall composition of the building and the proportions of the new glazing do at least reflect the panel system used on the principal building. On balance it is recommended that this application be approved.

**RECOMMENDATION**

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.**

**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.**
- 2. **N19 Avoidance of doubt - Approved Plans.**

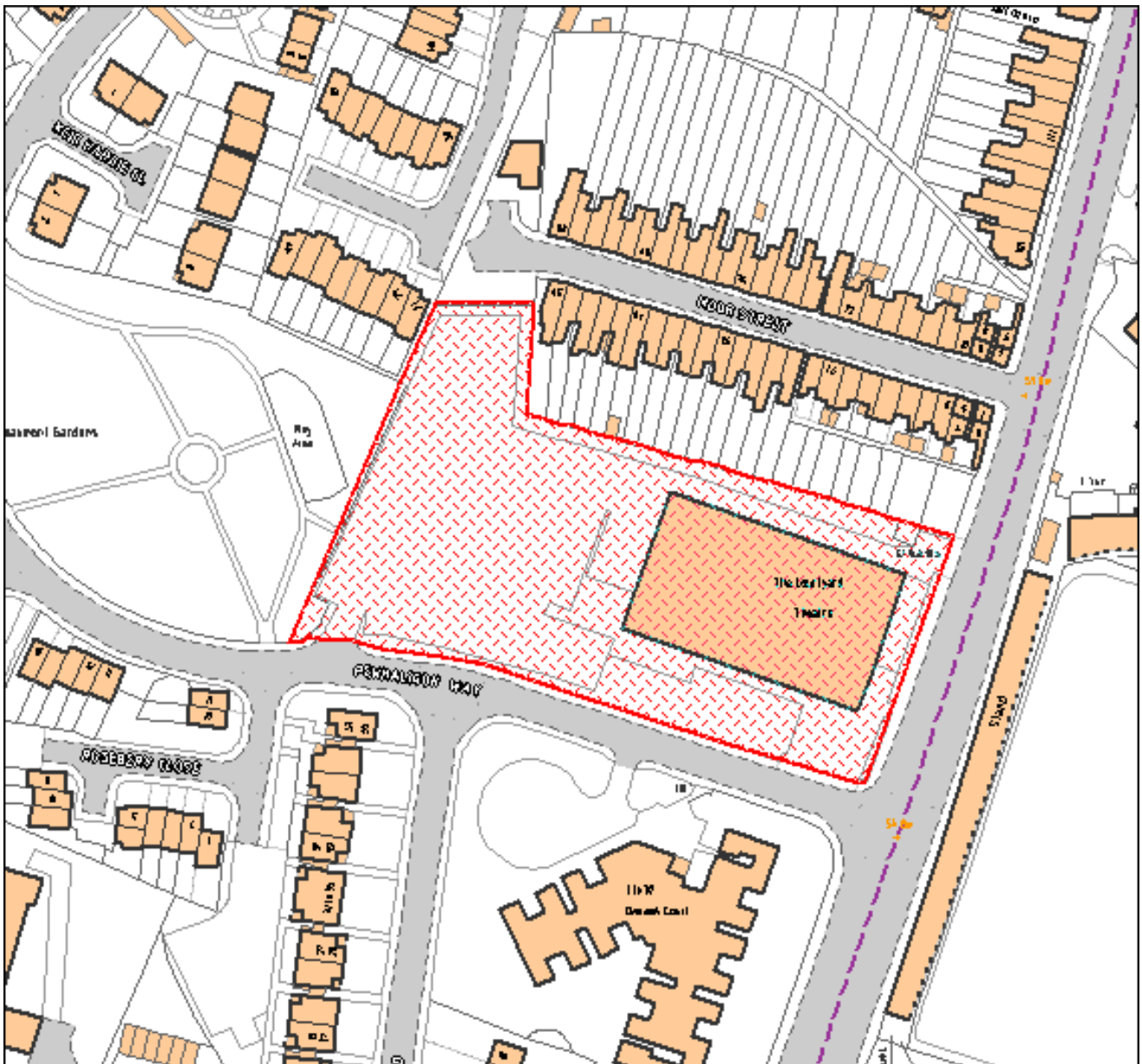
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 131519/CD

**SITE ADDRESS :** THE COURTYARD THEATRE, 93 EDGAR STREET, HERFORD, HR4 9JR

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