

# AGENDA

## Planning Committee

Date: **Wednesday 2 April 2014**

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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 and car parking advice.

**(Please also note that consideration of agenda items 11-12 will commence no earlier than 1.00pm)**

For any further information please contact:

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If you would like help to understand this document, or would like it in another format or language, please call 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 AN Bridges**

**Councillor EMK Chave**

**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 J Norris**

**Councillor GR Swinford**

**Councillor PJ Watts**

**Councillor DB Wilcox**

## AGENDA

### VISITING BROCKINGTON - POLICE REQUEST - CAR PARKING

There is a pay and display car park at Brockington.

However, please note that if this is full the police have requested that anyone seeking to park in the vicinity of Brockington parks with consideration for the local residents and does not obstruct a driveway, the footpath or the highway.

Please avoid parking on Hafod Road itself.

#### 1. APOLOGIES FOR ABSENCE

To receive apologies for absence.

#### 2. NAMED SUBSTITUTES (IF ANY)

To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.

#### 3. DECLARATIONS OF INTEREST

To receive any declarations of interest by Members in respect of items on the Agenda.

#### 4. MINUTES

To approve and sign the Minutes of the meeting held on 12 March 2014.

#### 5. CHAIRMAN'S ANNOUNCEMENTS

To receive any announcements from the Chairman.

#### 6. APPEALS

To be noted.

#### 7. 140285/0 LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE, HR7 4NJ

Hybrid application – part outline for 76 dwellings (35% affordable) and a business centre for B1 uses, with all matters except access to be reserved. Part full, for the development of a single B1 business unit and the means of access thereto.

#### 8. 132924/O LAND AT GADBRIDGE ROAD, WEOBLEY, HEREFORDSHIRE, HR4 8SN

Site for erection of 40 dwellings 1, 2, 3 and 4 bed units and associated parking.

#### 9. 133251/F THE HEREFORD ACADEMY, MARLBROOK ROAD, HEREFORD, HR2 7NG

Continued variation of condition 21 of Planning Permission DMS/112675/F dated 22/11/2011.

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**10. 133262/O LAND REAR OF WESTBURY, CUSOP, HAY-ON-WYE**

69 - 82

Site for erection of 3 detached dwellings.

*(The Committee will adjourn following consideration of this item and reconvene no earlier than 1.00 pm to consider the remaining items listed below.)*

**TO BE CONSIDERED AFTER 1.00PM**

**11. 132851/O LAND SOUTH OF HAMPTON DENE ROAD, HEREFORD**

83 - 108

Residential development (up to 120 dwellings), access, parking, public open space with play facilities and landscaping.

**12. 132221/O TALBOTS FARM, THE RHEA, SUTTON ST NICHOLAS, HEREFORDSHIRE, HR1 3BB**

109 - 118

Site for proposed dwelling.

**13. DATE OF NEXT MEETING**

Date of next site inspection – 22 April 2014

Date of next meeting – 23 April 2014

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### **YOU HAVE A RIGHT TO: -**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- 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.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

### **Public Transport Links**

- Public transport access can be gained to Brockington via the service runs approximately every 20 minutes from the City bus station at the Tesco store in Bewell Street (next to the roundabout junction of Blueschool Street / Victoria Street / Edgar Street).
- 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.**

### **FIRE AND EMERGENCY EVACUATION PROCEDURE**

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You should then proceed to Assembly Point **A** which is located in the circular car park at the front of the building. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.

HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 12 March 2014 at 10.00 am**

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

Councillors: PA Andrews, AN Bridges, EMK Chave, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, RI Matthews, FM Norman, J Norris, GR Swinford and DB Wilcox

**In attendance:** Councillors JW Millar and PM Morgan

**144. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors RC Hunt, Brig P Jones and JG Lester.

**145. NAMED SUBSTITUTES**

There were no substitute members present at the meeting.

**146. DECLARATIONS OF INTEREST**

**Agenda item 9: Sollers Hope Farm, Sollers Hope Court, Herefordshire.**

Councillor PGH Cutter declared a non-pecuniary interest as a Member of the Wye Valley AONB Joint Advisory Committee.

Councillor BA Durkin declared a non-pecuniary interest as a Member of the Wye Valley AONB Joint Advisory Committee.

Councillor J Hardwick declared a non-pecuniary interest as a Member of the Wye Valley AONB Joint Advisory Committee.

**Agenda item 11: 13214/F Land to the South of Eastfields Farm, off U94021, Bodenham, Hereford.**

Councillor J Hardwick declared a non-pecuniary interest as he knew the applicant.

**147. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 19 February, 2014 be approved as a correct record and signed by the Chairman.

**148. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman reported that a seminar for all Councillors on the 5 year housing land supply had been arranged for the afternoon of 22 April.

**149. APPEALS**

The Planning Committee noted the report.

It was asked why in the case of application 130182/F the appeal had been dismissed but an award of costs had been made against the Council. The Development Manager explained that the Planning Inspector had accepted some of the grounds for refusal of planning permission advanced by the Council and hence had dismissed the appeal. However, he had not accepted some of the other grounds for refusal and had therefore made a partial award of costs against the Council

It was requested that Members be informed at regular intervals of the cumulative costs being awarded against the Council at appeals.

**150. 132230/O LAND ADJACENT TO CROSS FARM, CREDENHILL, HEREFORDSHIRE, HR4 7DJ**

The Principal Planning Officer gave a presentation on the application, which had been deferred by the Committee on 12 February 2014, highlighting the updates to the previous report.

In accordance with the criteria for public speaking, Mr P Burridge, Vice-Chairman of Credenhill Parish Council spoke on the Scheme.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor RI Matthews, the local ward member, spoke on the application.

He commented on a number of issues including:

- The offer of the applicant's agent set out at paragraph 6 of the report responded to the local community's wish to see a bus layby established to improve highway safety. The owner of the land required for the layby had indicated that they would release the necessary land.
- He referred to a number of e-mail exchanges with Council officers and the police which he asserted emphasised the highway safety issues at the location and the extent to which these would be mitigated by the provision of a bus layby. He reiterated that evidence from the Safer Roads Partnership recorded more accidents in the location than had been reported to the Committee. He therefore supported the use of all the S106 money to provide a bus layby. If this were not agreed he requested that the Committee refuse the application on highway safety grounds.

The debate opened and the following principal points were made:

- The principle of the development had to be supported given the Council's lack of a 5 year housing supply.
- The site visit had proved useful in assessing vehicle and pedestrian movements and the need for improved highway safety was clear.
- The provision of the bus layby would address the concern about highway safety and all the Section 106 money should be allocated for that purpose.
- The Transportation Manager had not objected on highway safety grounds. It was questioned whether allocating all the Section 106 money for the provision of a bus layby was therefore necessary and the best use of those monies and whether, for example, the Parish Council could help to fund the layby instead. The report stated that there was a risk that the scheme to provide the layby might not be achieved and that in that event after 5 years the Section 106 money, if allocated solely for the layby, would be returned to the applicant.



- The Development Manager commented that it would be open to the Committee to provide in the Section 106 Agreement that if the layby scheme did not come to fruition the section 106 monies would be redirected to other purposes as set out in the original draft Heads of Terms provided.

The local ward member was given the opportunity to close the debate and supported the approval of the application on the basis outlined by the Development Manager.

**RESOLVED: That subject to the completion of a Section 106 agreement (in accordance with the Heads of Terms attached as amended in accordance with the provision listed after condition 27 below ) planning permission be granted subject to the following conditions:**

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **A05 Plans and particulars of reserved matters**
5. **B01 Development in accordance with the approved plans**
6. **C01 Samples of external materials**
7. **H01 Single access - no footway**
8. **H09 Driveway gradient**
9. **H18 On site roads - submission of details**
10. **H19 On site roads - phasing**
11. **H21 Wheel washing**
12. **G15 Landscape maintenance arrangements**
13. **H29 Secure covered cycle parking provision**
14. **Before any other works hereby approved on the application site are commenced, the access shall be modified and constructed in accordance with details shown on drawing number 6991-600 Rev B and with engineering details agreed in relation to condition above. Reason: In the interests of highway safety and to conform with the requirements of DR3 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.**
15. **K4 Nature Conservation - Implementation**
16. **L01 Foul/surface water drainage**
17. **L02 No surface water to connect to public system**
18. **L03 No drainage run-off to public system**
19. **I51 Details of slab levels**

- 20. **G09 Details of Boundary treatments**
- 21. **G10 Landscaping scheme**
- 22. **G11 Landscaping scheme - implementation**
- 23. **G04 Protection of trees/hedgerows that are to be retained**
- 24. **G14 Landscape management plan**
- 25. **G15 Landscape maintenance arrangements**
- 26. **I16 Restriction of hours during construction**
- 27. **I20 Scheme of surface water drainage**

In addition the Section 106 Agreement will provide that the Section 106 monies be allocated solely for a bus layby in the first instance but, if the layby scheme does not come to fruition within 5 years of receipt of the sum, the section 106 monies will be redirected to other purposes as set out in the original Draft Heads of Terms.

**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 to discharge to highway**
- 3. **HN08 Section 38 Agreement & Drainage details**
- 4. **HN01 Mud on highway**
- 5. **HN28 Highways Design Guide and Specification**
- 6. **HN13 Protection of visibility splays on private land**
- 7. **N11C General**
- 8. **N14 Party Wall Act 1996**

**151. 131680/O LAND OFF TUMP LANE, MUCH BIRCH, HEREFORDSHIRE**

The Senior Planning Officer gave a presentation on the application, which had been deferred by the Committee on 11 December 2013, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

In accordance with the criteria for public speaking, Mrs A Cooke, Chair of Much Birch Parish Council spoke in opposition to the Scheme. Mr K James and Ms R Rigby, residents, spoke in objection.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor J Norris, the local ward member, spoke on the application.

He commented on a number of issues including:

- He was critical of the application, remarking on an absence of consultation and that he had not been kept informed of any negotiations following the Committee's decision to defer the application..
- The application failed to address the request that there should be a footpath to the A49 to Much Birch. This footpath was vital.
- He had sought without success to find a solution with the landowner.
- The design of the affordable housing was poor.
- The site was a greenfield site.
- He disputed the Transportation Manager's comment at paragraph 4.2 of the report that the proposed footpath linked to Wormelow.
- The Conservation Manager (Landscapes) did not support the proposal as set out at paragraph 4.3 of the report.
- He questioned the statement in paragraph 4.5 of the report that the Housing Association had held various consultation events with the community.
- Contrary to the applicant's agents response at paragraph 5.5 of the report there was not a shortfall of pupils in Much Birch primary school. The school was full.
- A further deferral was not an option. He therefore requested that the Committee refuse the application.

The debate opened and the following principal points were made:

- The application should be refused on the grounds of highway safety and inadequate pedestrian access to Much Birch, the main village which residents of the development would wish to access. It was likely that the occupants of the affordable housing provided for in the development would have to walk their children to school. The development was unsustainable. The principle of the development, the National Planning Policy Framework and the absence of a 5 year housing land supply did not outweigh these concerns.
- It was suggested that landscape impact, drainage and biodiversity, identified alongside highway safety and pedestrian access at paragraph 6.1 of the report as key considerations in the determination of the application, also represented grounds for refusal.
- The design of the affordable housing was poor.
- There was a need for traffic management measures in Tump Lane and, although not within the remit of the planning application, it was important that they were not overlooked.

The local ward member was given the opportunity to close the debate and requested that the application be refused.

The Development Manager commented that when first presented to the Committee officers had recommended refusal of the application on the grounds of pedestrian safety and that the development was unsustainable with no safe means of pedestrian access. He considered that this could still be advanced as a ground for refusal by the Committee if that was the Committee's view. The Conservation Officer (Landscapes) had not supported the application and whilst Planning Officers had not considered this to be a ground for refusal this was a matter of balance and it was within the Committee's discretion to attach greater weight to the Conservation Officer's views.

He did not consider that drainage and biodiversity represented grounds for refusal given the responses from statutory consultees set out in the report.

The Legal Officer commented that refusal on two grounds supported by good evidence was a sound approach, rather than seeking to identify numerous grounds which were not supported by strong evidence.

**RESOLVED: That planning permission be refused and officers named in the scheme of delegation be authorised to finalise the reasons for refusal in accordance with the following grounds advanced by Members, namely: highway safety and pedestrian access, the development being therefore unsustainable; and landscape impact.**

#### **INFORMATIVE**

**The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and by identifying matters of concern with the proposal and clearly setting these out in the reason(s) for refusal. Members of the planning committee which took the decision to refuse planning permission have stated the concerns in clear terms and these are considered so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.**

#### **152. 132959/F SOLLERS HOPE FARM, SOLLERS HOPE COURT, SOLLERS HOPE, HEREFORDSHIRE, HR1 4RW**

The Senior Planning Officer gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes, including a recommended additional condition.

In accordance with the criteria for public speaking, Mr M Perlman, a resident, spoke in objection. Miss C Harness, the Applicant's agent spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor BA Durkin, the local ward member, spoke on the application.

He commented on a number of issues including:

- Farmers did need to diversify. However, he noted that the Land Agent had raised concerns about the viability of the proposed scheme. Two schemes for a 12,000 bird egg production unit on the site had previously been refused.

- He was an enthusiast for the AONB and the AONB Unit had concerns about the Scheme. The NPPF paragraph 14 and footnote 9 and paragraph 115 provided grounds for refusing the application.
- The AONB unit had accepted that the building would be well screened. However, it was concerned about the impact on the local character of the landscape and the detrimental impact on the experience of visitors to the area.
- The highway infrastructure was poor. Even with the proposed restriction on the size of vehicle servicing the development to 26ft a significant size of passing place would be needed to permit a tractor and trailer to pass in the opposite direction. Six passing places were proposed and he was concerned about the cumulative impact on the AONB.
- This was a large intrusion on the AONB and an attractive hamlet.
- There was concern that the development might contribute to an increased risk of flooding.
- The development would create odour, noise and nuisance.

The debate opened and the following principal points were made:

- Farm diversification should be supported.
- The restrictions on access were acknowledged. However, this was to be expected given the location of most farms.
- Unsurfaced and unmaintained passing places had in effect already been created by general use. The creation of properly constructed passing places would be of benefit to all road users.
- The proposed restriction on lorry size was necessary.
- The Conservation Manager (Landscape) had commented in the report that, “the change in visual impact would be negligible.”
- There was debate as to whether the flood risk would be increased.
- In response to questions officers commented that the Section 106 Agreement would ensure that passing places would be constructed to the appropriate standard and would enable the Council to ensure that the egg production Unit could not begin operating until the passing places had been constructed. The Agreement would also limit the size of the lorries collecting eggs to 26ft. No control could be exercised over vehicles already servicing the site. Enforcement would be reliant on local monitoring. The design of the free range area would be subject to condition and had not been indicated on plans. The area could be easily accommodated within the landscape and standards were specified by the Department for Food and Rural Affairs.
- Some concern was expressed about the viability of the scheme but it was noted that that was a matter for the applicant and not a material consideration for the Committee.
- Concern was expressed about the effect on the AONB and the impact of the number of such developments across the County as whole. It was unfortunate that other avenues for farm diversification were not being explored.

- There would be smell.
- Concern was expressed about the visual impact of the fencing that would surround the Unit.
- Account should be taken of the reduced scale of the application.
- There were no material grounds for refusing the application.
- The firm involved in the egg collection had high environmental and animal welfare standards.
- The Development Manager emphasised that the fundamental principle was that the proposed use of the land did not itself require planning permission. The applicant could also build fencing 2m high across the farm without permission if he wished. Because an application had been submitted for the egg production unit there was an opportunity to exercise some control over the development through conditions.

The local ward member was given the opportunity to close the debate. He reiterated his concerns and requested that the Unit should not be permitted to operate until passing places and flood alleviation measures were in place. He also requested that there should be conditions to manage the highway management implications of any construction works.

**RESOLVED: That subject to the completion of a Section 106 Agreement restricting the type and size of vehicles delivering feeding stuffs and collecting eggs from the site and securing the provision of 6 passing places, planning permission be granted subject to the following conditions:**

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **H17 Junction improvement/off site works**
4. **H21 Wheel washing**
5. **H30 Travel plans**
6. **E01 Site investigation - archaeology**
7. **G02 Retention of trees and hedgerows**
8. **G10 Landscaping scheme**
9. **G11 Landscaping scheme - implementation**
10. **C09 Details of cladding (agricultural and industrial buildings)**
11. **F02 Restriction on hours of delivery**
12. **The development hereby approved shall be for the housing of free range egg laying hens only.**

**Reason: In consideration of the location for the proposed development and its close proximity to dwellings outside the control of the applicant and to comply with Policy DR2 of the Herefordshire Unitary Development**

**Plan.**

- 13. All manure moved off site will be so in covered and sealed trailers.**

**Reason: In consideration of the amenity of the surrounding area and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.**

- 14. I55 Site Waste Management**

- 15. I32 Details of floodlighting/external lighting**

- 16. Diversion of public right of way SHI 7 that crosses the site shall be legally completed before any work commences on site.**

**Reason: In order to ensure that the public right of way is not obstructed and to conform with the requirements of Policy T6 of the Herefordshire Unitary Development Plan.**

- 17. No development approved by this permission shall be commenced until a scheme for the provision, and implementation, of compensatory flood storage and/or flood relief works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the construction of the poultry unit and in accordance with the approved programme and details.**

**Reason: To ensure no increase in flood risk post development and to comply with Policy DR7 of the Herefordshire Unitary Development Plan.**

- 18. Prior to the commencement of the development hereby approved, details with regards to the installation of water tight manhole covers to be installed in the area of land indicated to flood in the 1 in 100 year event will be submitted to and approved in writing by the Local Planning Authority. The approved covers shall be installed prior to the first use of the egg production unit and retained in perpetuity.**

**Reason: In order to prevent the ingress of flood water into the surface attenuation system and to comply with Policy DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.**

#### **INFORMATIVES:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. 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. HN01 Mud on highway**
- 3. HN04 Private apparatus within highway**
- 4. HN07 Section 278 Agreement**

5. **HN05 Works within the highway**
6. **HN21 Extraordinary maintenance**
7. **HN26 Travel Plans**

**153. 133325/F ROYAL GEORGE INN, LYONSHALL, KINGTON HR5 3JN**

The applicant withdrew this application in advance of the meeting.

**154. 132141/F LAND TO THE SOUTH OF EASTFIELDS FARM, OFF U94021, BODENHAM, HEREFORD, HR1 3HS**

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr D Jackson, of Bodenham Parish Council, spoke in opposition to the Scheme. Mr B Corbett, the Applicant's agent, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JW Millar, the local ward member, spoke on the application.

He commented on a number of issues including:

- The way in which the use of the former farmhouse had been dealt with and the current breach of Regulations referred to at paragraph 6.4 of the report had caused residents and the Parish Council to have some concern about the current application.
- He acknowledged the rationale of the Planning Officer's report.
- He suggested that the concerns of the local community could be addressed by deferring consideration until an alternative site nearby had been considered. If the application were to be approved enforceable conditions should be attached to ensure that what was proposed in the application was delivered in practice.

The debate opened and the following principal points were made:

- There were no material reasons to refuse the application and planning guidance should be followed.
- Concern was expressed about the way in which the ownership of the former farmhouse had been arranged in breach of a planning condition, as described at paragraph 6.5 of the report.
- The Development Manager commented that if the Committee was concerned, occupancy of a new dwelling could be restricted to someone working on the farm and the property could be tied to the farming enterprise by a Section 106 Agreement. This could prevent the selling away or transferring of the property to other persons not connected to the business.
- He considered that a suggestion that, if not required for an agricultural worker the property should become affordable housing in perpetuity, would represent a different proposal to the application before the Committee and it would be inadvisable to consider attempting such a course.



The local ward member was given the opportunity to close the debate. He welcomed the proposed action to address some of the Parish Council's concerns.

**RESOLVED: That planning permission be granted subject to a Section 106 Agreement to tie the property to the farming enterprise and the following conditions:**

1. **A01 Time limit for commencement (full permission)**
2. **B02 Development in accordance with approved plans and materials**
3. **F14 Removal of permitted development rights**
4. **F27 Agricultural occupancy**
5. **G12 Hedgerow planting**
6. **L01 Foul/surface water drainage**
7. **L02 No surface water to connect to public system**
8. **L03 No drainage run-off to public system**

**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. **W01 Welsh Water Connection to PSS**

**155. 132536/F LAND ON LEDBURY ROAD WEST OF WILLIAMS MEAD, BARTESTREE, HEREFORDSHIRE**

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

In accordance with the criteria for public speaking, Mr G Davies, Vice-Chairman of Bartestree and Lugwardine Parish Council spoke in opposition to the Scheme. Ms L Rowberry, a resident, spoke in objection. Mrs S Griffiths, the Applicant's agent, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor DW Greenow the local ward member, spoke on the application.

He commented on a number of issues including:

- Maintaining the separation between the two villages of Bartestree and Lugwardine was important. The report stated at paragraph 4.6 that the scheme proposed would occupy the one remaining clear and undeveloped area between the two villages.
- The Conservation Manager (Historic buildings and Conservation) had commented that the development would be contrary to policy HBA4.
- An application for 50 houses was too big. The Strategic Housing Land Availability Assessment had identified 25 units on this site. An allocation of 190 houses had been identified for Bartestree and Lugwardine over 20 years. Several applications were pending which could mean the area having 118 houses built within two years.
- Some recent applications for small infill housing developments had been supported locally.
- He criticised the proposed location of the affordable houses within the development.
- There were concerns about highway safety and pedestrian safety.
- The Conservation Manager (Landscapes) had expressed several reservations about the development including questioning whether its sustainability had been demonstrated as defined in UDP policies S1 and S2.
- There was a concern that flooding would be increased.
- There was no public open space provided within the development itself.
- Better applications would come forward which would command local support. The views of local people should not be overridden simply because of the absence of the 5 year housing land supply.

The debate opened and the following principal points were made:

- The Conservation Manager (Landscapes) and the Conservation Manager (Historic Buildings and Conservation) had both been scathing about the development.
- The housing land supply situation was acknowledged. However, whilst the Home Farm, Belmont appeal had concluded that the Council was not meeting the 5 year housing supply the appeal had been dismissed on the grounds that the development was inappropriate in the setting. Herefordshire was characterised by the fact that, outside the City and the Market Towns, settlements had not converged. Policy LA 3 was clear that convergence did not have to be supported. The strength of local opposition to the development and the convergence it brought between Bartestree and Lugwardine was clear. The Conservation Manger at point 4.6 on page 106 of the agenda papers had concluded that, "In principle it is considered that the development of the greenfield site for housing would be detrimental to the legibility and character of Bartestree and Lugwardine."
- The development was overbearing and the impact too severe. It was questioned whether such big blocks of development were sustainable.
- Members advanced several grounds for refusing the application considering that these did outweigh the presumption in favour of development within the NPPF: LA3, LA2, DR1, LA5, LA6, HBA4, Pedestrian Access, Negative Effect on footpath LU6F1, Water Pressure issues, the lack of certainty about the future management of the Sustainable Urban Drainage System (SuDS) pond, Absence of Open Space in the

development, There was not a sufficient mix of homes as required by the NPPF (paragraph 56), and MT1

- The NPPF provided that if the land was grade 1 or grade 2 agricultural land it should not be built upon. The grading needed to be clarified to establish whether this represented an additional ground for refusal.
- It was accepted that concerns about drainage had been satisfied.
- In response to a question the Development Manager commented that in terms of school provision the Education service had identified capacity issues but had not objected to the development.
- In response to questions about the standard of the access onto the A438, the Principal Planning Officer explained the approach that had been taken to the definition of the visibility splays and confirmed that this was to the higher Design Manual for Roads and Bridges standard.
- In relation to the absence of open space within the development, the Principal Planning Officer commented that the provision of off-site contributions to support/enhance local recreational facilities was regarded as the most appropriate approach by the Parks and Countryside team
- The Development Manager commented that the issues of landscape character and avoiding convergence between Bartestree and Lugwardine were material considerations, as was the impact upon the setting of the adjacent listed building. Whilst officers had weighed this in the planning balance in the report and recommended approval it was open to the Committee to reach the view that the impact of the development outweighed the benefits. He suggested that if this was the Committee's conclusion, policies LA2, LA3 HBA4, DR1, H13 and HBA9 would be defensible grounds for refusal. The agricultural land classification would be examined and consideration given to including this in the reasons for refusal.
- The Legal Officer commented that she was satisfied that the reasons for refusal, as commented upon by the Development Manager, were supported by expert opinion. She further noted that there were some distinctions between the site at Home Farm, Belmont and the site before the Committee. She reiterated that the 'planning balance' should be considered in reaching a decision.

The local ward member was given the opportunity to close the debate and reiterated his request that the application be refused.

**RESOLVED:** That planning permission be refused on the grounds set out below and officers named in the scheme of delegation be authorised to finalise the drafting of the reasons for refusal for publication: policies LA2, LA3 HBA4, DR1, H13 and HBA9.

#### **INFORMATIVE**

**The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and by identifying matters of concern with the proposal and clearly setting these out in the reasons for refusal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.**

**156. 132221/O TALBOTS FARM, THE RHEA, SUTTON ST NICHOLAS, HEREFORDSHIRE, HR1 3BB**

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr M Winnell, of Sutton St Nicholas Parish Council spoke in opposition to the Scheme. Mr K Lawton, a resident, spoke in objection. Mr C Goldsworthy, the Applicant's agent spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor KS Guthrie, the local ward member, spoke on the application.

She disagreed with a number of points made by the Planning Officer, commenting that the laneway had deteriorated and there would be an increase in traffic and adding that the application may be a case of one house too many and contrary to a number of policies. She requested that a site visit be undertaken in order for Members to reach an informed decision on the matter.

**RESOLVED: That consideration of the application be deferred pending a site visit.**

**157. 131899/F HEREFORD LEISURE CENTRE (RACECOURSE), 37-39 HOLMER ROAD, HEREFORD, HR4 9UD**

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr S Humphreys, the Applicant's agent spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors PA Andrews and EMK Chave, two of the three local ward members, spoke on the application. Both indicated their support.

The Committee noted the advice that it had to consider the application before it and that questions of land ownership that had been raised were a separate issue.

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

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. No development shall take place until details or samples of materials to be used externally on walls and roofs have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.  
Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy DR1 of the Herefordshire Unitary Development Plan and National Planning Policy Framework.**
- 4. Prior to the first use of the building hereby permitted, the improvements identified in the drawing entitled "Job - Golf Range Visibility Splay" at Hereford Leisure Centre, Dated July 2010 shall be implemented in full.**

**Reason: In order to ensure that vehicles accessing and existing the site ensure the safety of users on the A49 having regard to Policy DR3 of the Herefordshire Unitary Development Plan.**

5. **Prior to the first use of the building hereby permitted the car parking approved under application number DMS/100824/F on the 28 September 2010 shall be implemented in full.**

**Reason: To prevent indiscriminate parking on the highway in the interests of highway safety having regard to Policy DR3 of the Herefordshire Unitary Development Plan and National Planning Policy Framework.**

6. **None of the existing trees and/or hedgerows on the site other than those specifically shown to be removed on the approved drawings (plan received 30 July 2010) shall be removed, destroyed, felled, lopped or pruned without the prior approval in writing of the Local Planning Authority.**

**Reason: To safeguard the amenity of the area and to ensure that the development conforms with Policy DR1 of the Herefordshire Unitary Development Plan and National Planning Policy Framework.**

7. **No development shall take place until a scheme of hedge planting has been submitted to and approved in writing by the Local Planning Authority as per the scheme detailed in the letter dated 29 July 2010 and plan received 30 July 2010. All hedge planting shall be carried out in accordance with those details and shall be carried out concurrently with the development hereby approved and shall be completed no later than the first planting season following the completion of the development.**

**The hedges shall be maintained for a period of 5 years. During this time, any shrubs that are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period.**

**Reason: In order to maintain the visual amenity of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan and National Planning Policy Framework.**

8. **The floodlighting/external lighting hereby permitted shall not be switched on outside of the following times: - 7.15 am - 9.45 pm Mondays to Fridays, 7.15 am - 5.30 pm on Saturdays and Sundays.**

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

9. **The proposed floodlighting shall be carried out strictly in accordance with the proposed plan (UKS6328 - Berm Lighting) and the details supplied in the Abacus Lighting Limited Technical Report received on 9 April 2010.**

**Reason: In the interests of local amenity having regard to Policy DR15 of the Herefordshire Unitary Development Plan and National Planning Policy Framework.**

- 10. Notwithstanding condition 9, no light source shall be visible from outside the extremities of the application site or produce more than 1 Lux of horizontal or vertical illuminance at any adjacent property boundary.**

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

**INFORMATIVES:**

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

**158. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**Appendix 1 – Schedule of Committee Updates**

The meeting ended at 3.35 pm

**CHAIRMAN**

# **PLANNING COMMITTEE**

**Date: 12 March 2014**

## **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.**

## SCHEDULE OF COMMITTEE UPDATES

**8 131680/F - PROPOSED ERECTION OF 12 AFFORDABLE DWELLINGS, COMPRISING A MIXTURE OF 2 AND 3 BED HOUSES AT LAND AT TUMP LANE, MUCH BIRCH, HEREFORDSHIRE**

**For: Markey Builders (Gloucester) Ltd per BM3 Architecture Ltd, 28 Pickford Street, Digbeth, Birmingham, West Midlands B5 5QH**

### ADDITIONAL REPRESENTATIONS

Two additional letters received. One letter reiterates concerns already raised with regard to the danger to schoolchildren using a road that is 5m wide in places and 4.8m at pinch points

The second letter addresses points raised in applicant's letter summarised in Section 5.6 of this report.

- Site referred to at Orleton, not comparable. Only 6 properties or so on lane (Kitchen Hill Road). Nearly 80 dwellings and large hotel access Tump Lane
- Facilities are not regularly accessed from Orleton site, as is the case with Tump Lane . Also Tump Lane has accesses onto two important 'A' roads. Kitchen Hill Road has only access to the B4361 road
- Proposed footpath does not link existing footpath to Wormelow. There is still a shortfall of some 60 feet at end of road making it unsafe for any purpose.

### OFFICER COMMENTS

Whilst acknowledging the Planning Committee's desire to secure a continuous footpath link the full length of Tump Lane, this has not proven deliverable and the applicant has requested determination of the application in its original form. On balance, it is considered that the provision of much needed affordable housing and the proposed improvements to footpath links enable a positive recommendation to be made.

### NO CHANGE TO RECOMMENDATION

**9 P132959/F - CONSTRUCTION OF A 6,000 BIRD "FREE RANGE" EGG PRODUCTION UNIT. CHANGE OF PUBLIC RIGHT OF WAY TO REFLECT O.S. MAP. AT SOLLERS HOPE FARM, SOLLERS HOPE COURT, SOLLERS HOPE, HEREFORD, HR1 4RW**

**For: Mr Powell per Mr Anthony Lee, Badger Farm, Willowpit Lane, Hilton, Derby, Derbyshire, DE65 5FN**



## **ADDITIONAL REPRESENTATIONS**

A response has been received from the Land Drainage Manager indicating no objections in principle on flooding and drainage grounds, subject to the provision of watertight manhole covers in the area of land indicated to flood in the 1 in 100 year plus Climate Change event.

## **OFFICER COMMENTS**

It is recommended that a condition is attached to any permission securing the provision of water tight manhole covers in the area of land indicated to flood in the 1 in 100 year plus Climate Change event.

In response to comments made on the Site Inspection, officers are seeking further clarification in response to the means of securing the necessary attenuation within the applicant's ownership. An update on this issue will be reported verbally.

## **CHANGE TO RECOMMENDATION**

Add condition:

Prior to the commencement of the development hereby approved, details with regards to the installation of water tight manhole covers to be installed in the area of land indicated to flood in the 1 in 100 year event will be submitted to and approved in writing by the Local Planning Authority. The approved covers shall be installed prior to the first use of the egg production unit and retained in perpetuity.

Reason: In order to prevent the ingress of flood water into the surface attenuation system and to comply with Policy DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

**12 132536/F - DEVELOPMENT OF 50 NEW DWELLINGS OF WHICH 18 WILL BE AFFORDABLE. AT LAND ON LEDBURY ROAD WEST OF WILLIAMS MEAD, BARTESTREE, HEREFORDSHIRE,**

**For: David Wilson Homes (Mercia) Ltd per Unit 6 De Salis Court, Hampton Lovett, Droitwich Spa, Worcestershire, WR9 0QE**

## **ADDITIONAL REPRESENTATIONS**

Five additional letters of objection and an email have been received. Some of the content is already summarised in the published report before Members. Additional or further highlighted material considerations are summarised as follows:

- Significant concern is expressed in relation to the treatment of foul and surface water drainage. Property in Lumber Lane has very nearly been inundated on two

occasions, the most recent in mid-February 2014. The proposed erection of 50 dwellings on higher ground will increase this risk unacceptably;

- Concern is expressed in relation to the condition and capacity of an existing pipe in third party ownership between the site and Lumber Lane and the future maintenance of the surface water drainage arrangements;
- It is suggested that this is fundamental to the granting of permission which should not be granted until it has been determined what work needs to be done to make the culvert fit for purpose;
- The development is too close to properties in Williams Mead and the adjacent grade II listed Prospect Cottage;
- The development would lead to coalescence with Lugwardine;
- Water supply is already compromised during periods of peak demand.

## **OFFICER COMMENTS**

### Water supply and surface water drainage

Conditions 15 & 16 address the issue of water supply. Condition 20 requires the submission of a detailed design strategy prior to commencement of development and the consultation response from the Land Drainage Manager confirms that the proposed attenuation basin has been designed to accommodate a 1 in 100 year plus 30% for climate change event. The outfall from the system will be attenuated to green-field equivalent rates and it is concluded there is no increased risk of flooding as a consequence.

The agent has confirmed that any spillages of potentially contaminative material on the estate road would be protected by deep sealed trapped road gullies and the highway authority would be responsible for their maintenance. If contaminants did enter the surface water system the proposed attenuation basin would act as an interceptor and dilute any contaminants acting as a buffer until such time as the maintenance provider cleaned the pond/system. It is also stated that drainage calculations are based on the site being wholly impermeable, when in reality there will be the opportunity for infiltration of rainwater falling on gardens. As such the calculations are based on the worst-case scenario.

It has been confirmed that due to the extent of landownership within the control of the applicant, surface water run-off could be further attenuated to achieve a 5 litre/second outfall and this is the recommendation of the Council's Land Drainage Engineer. This would represent betterment when considered against existing Greenfield run-off rates (9 litres/second) since it would reduce the volume of water currently flowing through the pipe referred to by the adjacent landowner. The discharge rates through existing infrastructure and overland flows together with future management arrangements for the attenuation pond would need to be addressed as part of the discharge of Condition 20.

### Boundary treatments

In response to a query over boundary treatments adjacent Williams Mead the agent has confirmed that no wall or fencing is proposed along this boundary edge. It is intended the existing hedgerow will provide the boundary. In terms of its maintenance the responsibility for maintaining one side of the hedge will be with the householders in Williams Mead and the other half was with the application site landowner.

## **NO CHANGE TO RECOMMENDATION**

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 APRIL 2014</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**

None

## **APPEALS DETERMINED**

### **Application 131104/O**

- The appeal was received on 4 September 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 G Adams
- The site is located at Land adjoining Millbrook Gardens, Lea, Ross-on-Wye, Herefordshire
- The development proposed was Erection of four dwellings and associated garages. Construction of new vehicular access and access road and associated works.
- The main issue(s) were: (1) the effect of the proposed development on the character and appearance of the appeal site and surrounding area; (2) the effect of the proposed access and parking provision on highway safety on the B4222 and the proposed access road; and (3) the effect of the proposed development on the ecology of the site in respect of the proposed partial removal of the roadside hedgerow and the water quality of the adjacent watercourse to the north and west of the site.

### **Decision:**

- The application was Refused under Delegated Powers 10 July 2013
- The appeal was Dismissed on 3 March 2014

**Case Officer: Simon Withers 01432 260612**

### **Application 131296/O**

- The appeal was received on 13 November 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 Graham Davies
- The site is located at Land adjoining Maund Bryan Cottages, Bodenham, Hereford, HR1 3JB
- The development proposed was Proposed two storey dwelling
- The main issue(s) were: whether or not the proposals conflict with the development restraint policies of the development plan and the National Planning Policy Framework (the Framework) with specific regard to isolated dwellings in the countryside; whether or not the proposal complies with local and national planning policies designed to achieve more sustainable patterns of development, with particular reference to sustainable transport; the effect of the proposal on the adjacent Maund Common Local Wildlife Site (formally known as Special Wildlife Site); and whether the issue of the 5 year housing land supply, outweighs any harm identified.

#### **Decision:**

- The application was Refused under Delegated Powers on 31 July 2013
- The appeal was Dismissed on 4 March 2014
- An Application for the award of Costs, made by the Appellant against the Council, was Dismissed

**Case Officer: Mr Matt Tompkins on 01432 261795**

### **Application 130874/F**

- The appeal was received on 16 September 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 E Everall
- The site is located at Ashley Moor Farm, Ashley Moor, Orleton, Ludlow, Herefordshire, SY8 4JJ
- The development proposed was Single storey extension to holiday let to form second bedroom with en-suite
- The main issue was: the effect of the proposal on the character and appearance of the host building and on the setting of Ashley Moor Farmhouse, a Grade II listed building.

#### **Decision:**

- The application was Refused under Delegated Powers on 17 June 2013
- The appeal was Dismissed on 17 March 2014
- An Application for the award of Costs, made by the Appellant against the Council, will be the subject of a separate decision.

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

### **Application 123592/O**

- The appeal was received on 17 September 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 Wakeley
- The site is located at Land off Breinton Lee, Kings Acre Road, Hereford
- The development proposed was Proposed Outline permission for a residential development of 15no. dwellings with associated infrastructure including alterations on A438 and drainage and landscaping with all matters reserved except for access.
- The main issue(s) were: (1) whether the appeal site is at risk of flooding and if so whether the proposed drainage strategy and any proposed mitigation measures would address the risk of flooding; (2) the effect of the proposal on highway safety; (3) the effect of the proposals on protected species and their habitat; (4) whether the proposals for the outdoor playing space and public open space would meet the requirement of Policy H19 of the Herefordshire Unitary Development Plan.

#### **Decision:**

- The application was Refused at Planning Committee against Officer Recommendation on 17 July 2013
- The appeal was Allowed on 18 March 2014
- An Application for the award of Costs, made by the Appellant against the Council, is the subject of a separate decision.

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

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

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



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 APRIL 2014</b>
<b>TITLE OF REPORT:</b>	<p><b>P140285/O - HYBRID APPLICATION - PART OUTLINE FOR 76 DWELLINGS (35% AFFORDABLE) AND A BUSINESS CENTRE FOR B1 USES, WITH ALL MATTERS EXCEPT ACCESS TO BE RESERVED. PART FULL, FOR THE DEVELOPMENT OF A SINGLE B1 BUSINESS UNIT AND THE MEANS OF ACCESS THERETO AT LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE, HR7 4NJ</b></p> <p><b>For: Mr Harrison per Mr John Wilson, 66 Stratford Road, Shirley, Solihull, West Midlands B90 3LP</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140285">https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140285</a>

**Date Received: 3 February 2014**

**Ward: Bromyard**

**Grid Ref: 365195,255414**

**Expiry Date: 6 May 2014**

Local Members: Councillors JG Lester and A Seldon

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

- 1.1 The application site is on the eastern side of Tenbury Road (B4214) at the northern end of Bromyard. The boundary of the site, adjacent to Tenbury Road, is largely characterised by a roadside hedge of indigenous species. Within or immediately to the rear of this hedge are seven trees of amenity value. These trees are protected by a Tree Preservation Order (TPO).
- 1.2 An industrial estate is located to the south-east, with the Polytec factory; a general industrial premises, being closest. The application site and industrial estate are separated by a bund and an extant planning permission for it to be re-modelled has been granted under application reference DMN111900/N. The eastern boundary of the site largely follows the line of the former railway in a general arc. The land slopes down from west to east towards the River Frome. Between the application site and the River Frome is an attractive riverside meadow.
- 1.3 The site is located approximately 500 metres from the town centre. Beyond the application site on the western side of the Tenbury Road and to the north built development is of a sporadic nature. To the north beyond the River Frome is the Bromyard Rugby Club.
- 1.4 The proposal is a hybrid application for a mixed use development of 76 dwellings; 35% of which will be affordable, and B1 commercial. This is submitted in outline with all matters except access reserved for future consideration. The proposal does however, include detailed plans for the erection of one business unit. The plans show a building with a footprint of 150 square metres with a hipped roof and a height to the ridge of 6.7 metres.

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

1.5 The plans show two proposed points of access to the site. The first is located at its south western corner and will require the removal of one of the trees that are covered by a TPO. This is intended to serve the commercial element of the proposal. The second access is located 120 metres further north and will serve the residential element of the scheme.

1.6 The application is submitted with the following documents:

- Design & Access Statement
- Planning Statement
- Ecology Survey
- Flood Risk Assessment
- Noise Assessment
- Transport Assessment
- Tree Survey Report
- Draft Heads of Terms Agreement

A copy of the Draft Heads of Terms Agreement is appended to this report.

## 2. Policies

### 2.1 National Planning Policy Framework

The following sections of the NPPF are considered to be relevant to this proposal:

Introduction	-	Achieving Sustainable Development
Section 3	-	Supporting a Prosperous Rural Economy
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment

### 2.2 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and Historic Heritage
S8	-	Recreation, Sport and Tourism
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
DR10	-	Contaminated Land
DR13	-	Noise
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H2	-	Hereford and the Market Towns: Housing Land Allocations
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density

H19	-	Open Space Requirements
E8	-	Design Standards for Employment Sites
T6	-	Walking
T7	-	Cycling
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees, Woodlands and Hedgerows
NC1	-	Regard for and Retention of Biodiversity
NC6	-	Protection and Enhancement of Herefordshire's Biodiversity Action Plan Priority Habitats and Species
NC7	-	Habitat Mitigation and Compensation Measures
NC8	-	Habitat Creation, Restoration and Enhancement Measures

### 2.3 Supplementary Planning Guidance

Supplementary Planning Document - Planning Obligations (April 2006)

### 2.4 Herefordshire Local Plan Core Strategy – Deposit Draft

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure delivery

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 The site has a long planning history. The following applications are considered to be of particular relevance to this application:

130907/O – Outline application for up to 127 dwellings – Refused 11<sup>th</sup> July 2013

111900/F - Retrospective planning application for the retention of an existing bund and its remodelling with appropriate engineering works and landscaping of the remodelled bund – Approved 4<sup>th</sup> April 2012

111899/O - Outline application for up to 127 dwellings – Refused 2<sup>nd</sup> July 2012 on grounds relating to noise, lighting and land use. The applicant appealed against the Council's decision and the Inspector concluded that all three reasons for refusal were unreasonable and that the

proposed development was NPPF compliant. Whilst the Inspector was entirely satisfied with the package of noise mitigation measures, which included mitigation measures at source, it was concluded that an effective legal mechanism was not in place to secure their provision and long-term maintenance upon the Polytec site.

NC09/2844/O – Erection of 175 dwellings with garages, sports pavilion and pitches, community/ youth building, landscaping and associated works – Refused 17<sup>th</sup> March 2010

#### **4. Consultation Summary**

##### Statutory Consultations

4.1 Welsh Water – No objection subject to the imposition of conditions. They comment that there are no problems envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from the site.

4.2 Environment Agency – Comments awaited

##### Internal Council Consultations

4.3 Transportation Manager – Comments awaited

4.4 Conservation Manager (Ecology) – No objection subject to condition

4.5 Housing Manager – Supports the application but advises that housing need and demand has changed in Bromyard. There is now a greater demand for intermediate housing over social rented and the Draft Heads of Terms Agreement should be amended to reflect this.

4.6 Environmental Health and Trading Standards Manager

Contaminated Land – No objection subject to conditions.

Noise – It appears that proposed site of the dwellings will be subject to acceptable levels of noise if the separation distance and barrier as identified in the application are implemented. If planning permission is to be granted I would recommend that in addition to the above measures that there is a requirement that the single industrial unit included in this application is built prior to the commencement of the housing element of the application.

4.7 Parks & Countryside Manager - In accordance with Policy RST3 of the Unitary Development Plan 0.8ha per 1000 population of children's formal/informal play is required and 0.4ha per 1000 population of public open space is required. For the development proposed this would equate to a minimum standard of 0.14 ha (1400sq m) of children's play (formal and informal) and 0.07ha (700sq m) POS. It is noted that public open space is provided as a buffer and green corridor to separate the housing from the employment land and there is also an area shown off-site, including areas for a Sustainable Urban Drainage Scheme (SUDs) and a balancing pond. It is noted that at the Reserved Matters stage further landscape detail is required in order to help shape these areas.

4.8 Schools Organisation and Capital Investment Officer - The educational facilities provided for this development site are Bromyard Early Years, St Peters Primary School, Queen Elizabeth Humanities College, St Mary's RC High School and Bromyard Youth. With the exception of the Queen Elizabeth Humanities College, all schools currently have capacity issues in some of their year groups.



The Childcare Sufficiency Assessment highlights that within the Bromyard area 6% of parents are unable to seek work and 19% unable to take a better job due to childcare issues. Early mornings and evening were highlighted as gaps in childcare as is shift pattern timing.

The Bromyard Youth Service would like to continue to provide a service at the Heritage Centre and are working with Mobile Youth Led Opportunities (MYLO) to seek to expand its youth facilities to encourage more youth to attend.

## **5. Representations**

5.1 Bromyard & Winslow Town Council support the application.

5.2 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 There are three key differences between the current proposal and those previously considered by the Council and these are as follows:

- The introduction of commercial B1 uses on land immediately adjacent to the bund.
- The scale of the residential development proposed. The number of dwellings has been reduced from 127 to 76.
- Changes in the noise mitigation measures proposed

6.2 Although they are distinctly separate issues, the three are inextricably linked to each other and their significance is considered in detail in the following paragraphs.

6.3 The proposal relates to a parcel of land allocated for housing by Policy H2 of the UDP. The use has been established as one that is acceptable by the Inspector's decision in relation to application reference 111899/O, and therefore the principle of residential development on the land is not in question.

6.4 As stated above, the site is allocated for housing and the provision of commercial development as part of the application is contrary to policy. However, there are a number of factors that are material to the determination of the application that may be considered to carry significant weight to allow a decision to be made that is, on face value, contrary to policy H2 of the UDP.

6.5 Policy H2 advises that the site has an estimated capacity of 87 dwellings and the supporting text to it is clear that, as a gateway to the town, development on the site should be of a high quality. The supporting text also advises that a landscaped buffer strip of 0.8 hectares should be designated between the existing industrial estate and any new development in order to mitigate any potential nuisance generated by industrial processes.

6.6 The noise assessment submitted as part of the current application identifies two different noise sources from the Polytec site – production noise arising specifically from the factory, and yard and storage area noise from the movement of materials and finished goods to the storage area. The impact of the first noise source has used the noise measurements from the Polytec factory to create a model of noise exposure across the site, plotting this as a series of contours based on current conditions. Its impact is mitigated by ensuring the residential

development is located beyond the 40 dB contour that delineates an acceptable level of noise in a residential context.

- 6.7 The noise generated from yard noise is proposed to be mitigated by the erection of a 4.5 metre acoustic barrier along the shared boundary between the Polytec factory and the application site. Earlier applications indicated that this would need to be constructed to a height of 6 metres and the reduction in height is justified by the applicants noise consultant on the basis that dwellings are now proposed significantly further away from the noise source and that the intervening B1 commercial development will serve to further deaden this noise.
- 6.8 As a direct consequence of plotting the noise contours the buffer between the industrial estate and proposed residential development has increased from the 0.8 hectares envisaged by the supporting text of the UDP, to an area in the region of 1.6 hectares.
- 6.9 One of the concerns raised in the refusal of the most recent application (130907/O) related to the lack of employment land in Bromyard, and that the erection of dwellings on the site should be matched with the requisite provision of employment land. The current proposal provides a mix of residential and employment provision. The scheme is specific that the commercial units to be provided are for purposes defined by Class B1 of the Town & Country Planning Use Classes Order and it is accepted that such uses are compatible with residential uses.
- 6.10 Although the reason for refusal did not specify that employment uses should be provided within the site, the proposal as shown enables the provision of housing on the site and utilises the area of land that is less suited to residential use due to potential issues relating to noise nuisance. The scheme allows the requirements of policy H2 to be substantially met; the figure of 87 units is an estimated capacity and provides an acceptable employment use on the remaining land. This is not considered to compromise policy H2 and serves to address the reason for refusal based on the lack of employment land in the town.
- 6.11 In light of the constraints to development of the site and the previous concerns raised about the lack of employment land to support additional residential development in the area, the proposal represents a reasonable compromise. The commercial units proposed are compatible with the adjoining residential use and they provide an acceptable transition from the B2 uses on the existing industrial estate. The applicant has demonstrated a commitment to providing the employment element of the scheme by submitting a hybrid scheme with detailed plans of one of the commercial units and an agreement to the imposition of a condition to the effect that it will be constructed and available for use prior to the occupation of any of the dwellings permitted.
- 6.12 The provision of a mixed use scheme across the site is a sustainable form of development as it will offer the potential for people to live and work within the same locality. The small scale of the commercial units proposed will offer a real opportunity for new or developing local businesses to locate in the area and this is considered to represent a sustainable form of development that accords with the NPPF. The scheme also ensures that the housing provision required by policy H2 of the UDP is met and that the environmental concerns relating to proximity to neighbouring industrial uses are addressed.
- 6.13 Access has previously been considered in earlier applications and, albeit that the position of the access closest to the town centre has shifted slightly, the current proposal is otherwise the same. Although the loss of one of the seven trees covered by a TPO is regrettable, the revised access position has been determined by the commercial element of the scheme. It has enabled the development to move forward in a manner that is acceptable to all parties and its loss is considered to be acceptable to ensure the development of the site and the significant environmental benefits and the improvement to the setting of the town that this will bring about. Its loss can be mitigated through new planting elsewhere within the scheme – a

public open space is proposed between the commercial and residential areas and some specimen planting in this location could be accommodated.

- 6.14 In conclusion, the scheme is considered to represent a sustainable form of development that is compliant with the National Planning Policy Framework. It provides the level of housing required by policy H2 of the Herefordshire Unitary Development Plan, ensures that environmental impacts upon new dwellings are mitigated by distancing them from existing industrial processes in accordance with policies DR2 and DR4, whilst introducing new commercial uses in the intervening area that are more compatible with residential use. The Draft Heads of Terms Agreement accords with the Council's adopted Planning Obligations Supplementary Planning Document and, subject to the completion of a Section 106 Agreement based on its contents, the application is recommended for approval.

## **RECOMMENDATION**

**That officers named in the scheme of delegation be authorised to issue planning permission subject to:**

**The completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms appended to this report.**

**The conditions set out in this report and any varied or additional conditions considered necessary by officers:**

- 1. C02 - A02 Time limit for submission of reserved matters (outline permission)**
- 2. C03 - A03 Time limit for commencement (outline permission)**
- 3. C04 - A04 Approval of reserved matters**
- 4. C05 - A05 Plans and particulars of reserved matters**
- 5. C06 - B01 Development in accordance with the approved plans**
- 6. Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-**
  - Full details of foul sewerage disposal arrangements**
  - Full details of surface water drainage arrangements**
  - Full details of land drainage arrangements**

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

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

- 7. With regard the details required to be submitted pursuant to condition 6 above, no surface water or land drainage run-off shall be discharged, either directly or indirectly, to the public sewerage system.**

**Reason: To protect the integrity of the public sewerage system, to prevent hydraulic overloading of the public sewerage system and ensure no detriment to the**

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

environment, in accordance with policies DR4 and DR6 of the Herefordshire Unitary Development Plan 2007.

8. With regard the details of foul sewerage disposal arrangements required to be submitted pursuant to condition 4 above, no more than 7 litres per second shall be discharged into the public sewerage system, thus requiring an on-site pumping station. The scheme shall be implemented with this restricted flow and thereafter maintained as such.

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

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

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice.

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

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified.

Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

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

10. The Remediation Scheme, as approved pursuant to condition number 7 above, shall be fully implemented before development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

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

11. No building operation shall take place until the re-graded bund permitted by planning permission DMN/111900/N has been completed. Thereafter this bund shall remain in-situ and be maintained in accordance with the approved details.

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

12. The recommendations set out in the ecologist's reports dated February 2013 and June 2010 shall be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, an update assessment and full working method statement should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.

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

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

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

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

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

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

**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.

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

15. Prior to the start of construction of any dwelling house hereby permitted a detailed scheme for the future maintenance of a continuous and imperforate 4.5 metre high timber acoustic fence, sealed at the base, with a density of at least 15 kg/m<sup>2</sup> shall be submitted for approval to the Local Planning Authority. The fence shall then be erected prior to the first occupation of any dwellings along the alignment shown on the drawing number 0609\_11/d/2.02 and thereafter be retained and maintained in accordance with the approved scheme.

**Reason:** To ensure that the occupiers of the dwelling houses hereby permitted do not suffer an undue level of noise in accordance with policy DR13 of the Herefordshire Unitary Development Plan 2007.

16. No development shall take place until a Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the provisions of the approved Plan.

Reason: In the interests of pollution prevention and efficient waste minimisation and management so as to comply with Policies S10 and DR4 of Herefordshire Unitary Development Plan.

17. The two new vehicular means of access hereby permitted shall be provided prior to commencement of any building operation hereby permitted.

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

18. Prior to the commencement of the development of the B1 commercial unit as shown on approved plan 0609\_11/d/3.01 details of the materials to be used externally on walls and roof shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with the surrounding area and that the development complies with the requirements of Policy DR1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

19. The B1 commercial unit and its associated infrastructure as shown on approved plan 0609\_11/d/3.01 shall be constructed and capable of occupation for employment purposes prior to the first occupation of any of the dwellings hereby approved.

Reason: To ensure that the employment use hereby permitted is brought into use and to secure a mixed form of sustainable development in accordance with Policy S1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

20. The commercial units shall be used solely for purposes within Class B1 of the Town & Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In order to protect the residential amenity of the adjacent dwellings that are also permitted and to comply with Policy DR2 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

#### **INFORMATIVES:**

1. A written Land Drainage Consent will need to be obtained from the Board under the terms of the Land Drainage Act 1991 and the Flood and Water Management Act 2010.
2. The details of layout required to be submitted pursuant to condition 1 should follow the advice contained within 'Manual for Streets 2' and include the vehicle parking and cycle parking facilities as set out in the Herefordshire Council 'Highways Design Guide for New Development (July 2006)'.
3. N11C General

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

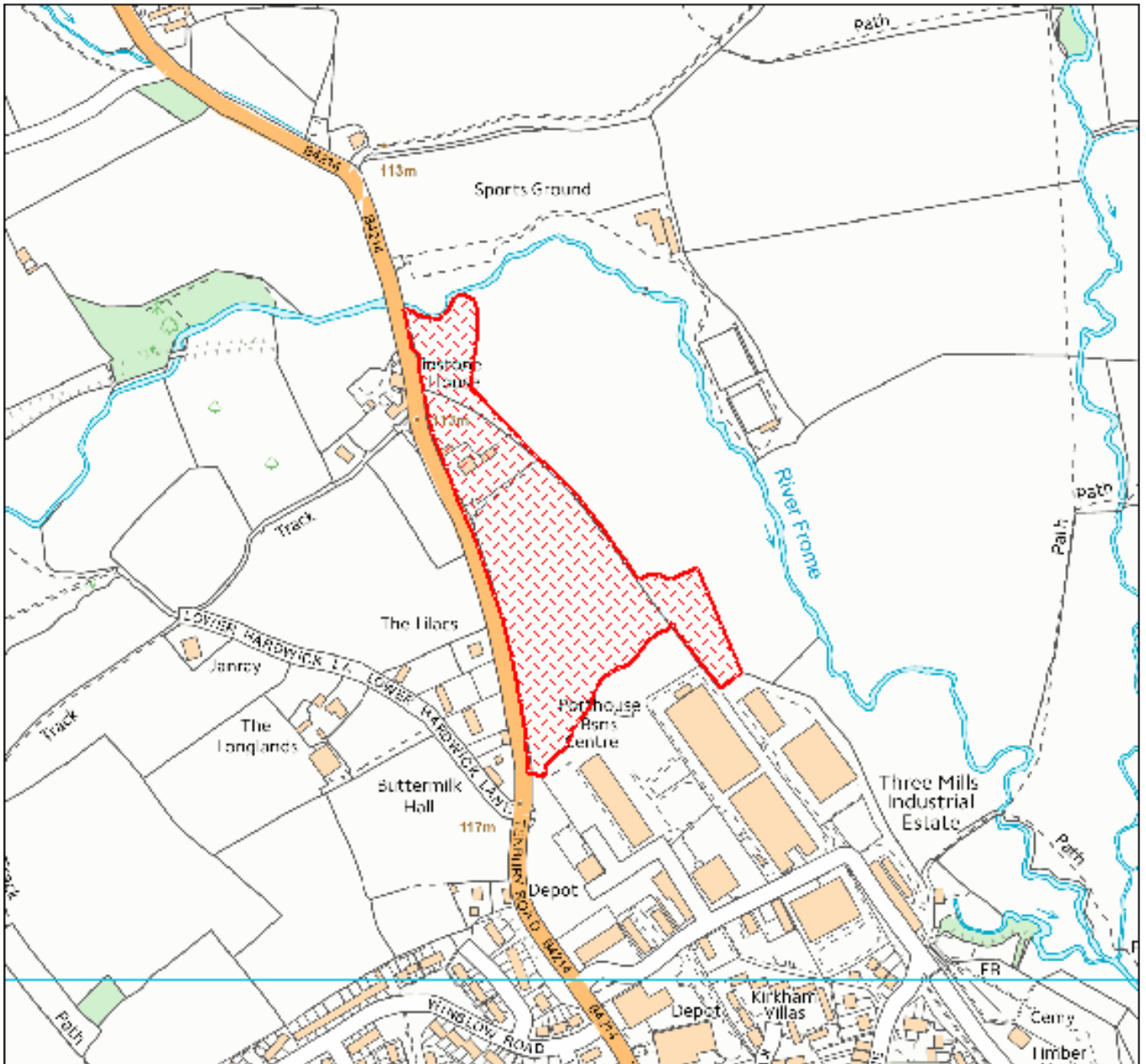
4. **HN01 Mud on highway**
5. **HN04 Private apparatus within highway**
6. **HN05 Works within the highway**
7. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, 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.**

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 140285/O

**SITE ADDRESS :** LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE, HR7 4NJ

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

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

Planning Application: 140285/O

Proposal: Hybrid application – Part outline for 76 dwellings (35% affordable) and a business centre for B1 uses, with all matters except access to be reserved. Part full for the development of a single B1 business unit and means of access thereto.

Site: Porthouse Farm, Tenbury Road, Bromyard, Herefordshire

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

**£1,809.00** (index linked) for a 2 bedroom open market unit

**£2,951.00** (index linked) for a 3 bedroom open market unit

**£4,953.00** (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced educational infrastructure at Bromyard Early Years, St Peters Primary School, St Marys RC High School, Bromyard Youth Service and the Special Education Needs Schools.

The sum shall be paid on or before first occupation of the 1<sup>st</sup> open market dwelling house, and may be pooled with other contributions if appropriate.

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

**£ 2,092.00** (index linked) for a 1 bedroom open market unit

**£ 2,457.00** (index linked) for a 2 bedroom open market unit

**£ 3,686.00** (index linked) for a 3 bedroom open market unit

**£ 4,915.00** (index linked) for a 4 bedroom open market unit

**£ 6,143.00** (index linked) for a 5 bedroom open market unit

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

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

- Dropped crossings in the Town. All along routes used by residents of the development to shops and schools.
  - Improved cycle parking in the town centre and schools.
  - Improvements to the junction from the B4214 into Porthouse Industrial Estate. The footway to be diverted to the open grass area on the town side. This is on the route from the development to town/schools.
  - Provision/improvements to proposed Greenway along old railway.
  - Old Road Footway
  - Extension of footway on the A465 towards the garage and Panniers Lane
  - Enhancement of southerly visibility at junction of Winslow Road with Tenbury Road (B4214)
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£627.00** (index linked) per head of population (the population shall be calculated by multiplying the total number of open market and affordable dwellings by 2.3 which is the assumed occupancy of each dwelling) to be spent for the enhancement / provision of outdoor sports facilities in consultation with local sports clubs. The sums shall be paid on or before the occupation of the 1<sup>st</sup> open market dwelling. The monies may be pooled with other contributions if appropriate.
4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£292.00** (index linked) per head of population (the population shall be calculated by multiplying the total number of open market dwellings by 2.3 which is the assumed occupancy of each dwelling) to be spent to support the existing indoor sports provision in Bromyard and surrounding area. The sums shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling. The monies may be pooled with other contributions if appropriate.
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of
- £120.00** (index linked) for a 1 bedroom open market unit
  - £146.00** (index linked) for a 2 bedroom open market unit
  - £198.00** (index linked) for a 3 bedroom open market unit
  - £241.00** (index linked) for a 4+ bedroom open market unit

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

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £120.00 (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Bromyard. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.
7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £100.00 per open market dwelling which will be used to provide for public art within the development or within the vicinity of the development. The sum shall be paid on or before the occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.

8. The developer covenants with Herefordshire Council that 35% of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
9. Of those Affordable Housing units, at least 24% shall be made available for social rent with the remainder 76% being available for intermediate tenure.
10. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
11. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
  - 11.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 11.2 satisfy the requirements of paragraphs 12 & 13 of this schedule
12. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-
  - 12.1 a local connection with the parish of Bromyard; or
  - 12.2 in the event there being no person having a local connection to the parish of Kingsland a person with a connection to or Grendon Bishop, Bredenbury, Wacton, Edwyn Ralph, Norton, Linton, Avenbury, Stoke Lacy, Little Cowarne, Pencombe and Grendon Warren
  - 12.3 in the event there being no person with a local connection to any of the above parishes any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 12.1 or 12.2 above.
13. For the purposes of sub-paragraph 12.1 or 12.2 of this schedule ‘local connection’ means having a connection to one of the parishes specified above because that person:
  - 13.1 is or in the past was normally resident there; or
  - 13.2 is employed there; or
  - 13.3 has a family association there; or
  - 13.4 a proven need to give support to or receive support from family members; or
  - 13.5 because of special circumstances

14. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
15. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
16. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4, 5, 6 and 7 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
17. The sums referred to in paragraphs 1, 2, 3, 4, 5, 6 and 7 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
18. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
19. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.
20. The Children's Play Area and amenity public open space area shall be provided on-site prior to the occupation of 50% of the open market dwellings. The Children's Play Area and public open space shall either be;
  - 20.1 maintained by the developer for a period of one year and then transferred to Herefordshire Council at a cost of £1 provided that the play area and open space are to an acceptable standard as agreed by Herefordshire Council. At the time of transfer the developer shall pay Herefordshire Council a 15 year maintenance sum in accordance with the Tariff for Calculation of Commuted Sums 2011or;
  - 20.2 maintained by the developer though a Management Company Arrangement



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 APRIL 2014</b>
<b>TITLE OF REPORT:</b>	<b>P132924/O - SITE FOR ERECTION OF 40 DWELLINGS 1, 2, 3 AND 4 BED UNITS AND ASSOCIATED PARKING AT GADBRIDGE ROAD, WEOBLEY, HEREFORDSHIRE, HR4 8SN</b>  <b>For: Mr Barnes per Mr Harris, Stoneycroft Planning &amp; Development Consultants, 11 Paulbrook Road, Bridgnorth, Shropshire, WV16 5DN</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=132924">https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=132924</a>

**Date Received: 28 October 2013**

**Ward: Golden Cross  
with Weobley**

**Grid Ref: 340605,251704**

**Expiry Date: 3 February 2014**

Local Member: Councillor M J K Cooper

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

- 1.1 The application site is located on the east edge of the village, immediately adjacent to residential development at Bearcroft, on a minor road out of the village (C1093), Gadbridge Road. The village hall, childrens play area and sports pitch are directly opposite, whilst a doctors surgery and dental practice are also located on Gadbridge Road. The village is also served by primary and secondary schools while the historic core of the village lies approximately 300 metres to the east and contains a number of local shops, pubs and restaurants. In addition to the residential area of Bearcroft, the site is also opposite further residential development at Apple Meadow.
- 1.2 The site forms a roughly rectangular parcel of grazing land amounting to approximately 1.3 hectares, and has hedgerows boundaries to the north, south and east, with the rear gardens of some of the dwellings on Bearcroft to the west. From a high point in the north east corner of the site, the levels fall away by just over 2 metres westwards and southwards. A footpath runs across part of the site frontage as far as the village hall and it lies within a 30mph zone.
- 1.3 The site lies beyond the settlement boundary for the village and therefore is considered to be open countryside where Policy H7 of the Herefordshire Unitary Development Plan (the UDP) would apply. It is within the Conservation Area for the village; which is wide ranging and encompasses the whole of the village, both its historic core and modern residential development to the south and east, and agricultural land that surrounds.

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

1.4 The application is made in outline and is for the erection of 40 dwellings and associated infrastructure. Access, landscaping and the scale of development are to be determined at this stage, with layout and appearance reserved for future consideration. The application is supported by the following documents:

- Design & Access Statement – (including a Draft Heads of Terms Agreement)
- Heritage Statement
- Phase 1 & 2 Ecological Survey
- Flood Risk Assessment
- Transport Statement

1.5 The Transport Assessment has been amended since its original submission to take account of concerns raised by the parish council about traffic movements. All references to highway matters are based on this most recent report.

## 2. Policies

### 2.1 National Planning Policy Framework

The following sections are of particular relevance:

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

### 2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design
DR2	-	Land Use Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
H4	-	Main Villages: Settlement Boundaries
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
T8	-	Road Hierarchy
LA3	-	Setting of Settlements
NC1	-	Biodiversity and Development
HBA6	-	New Development Within Conservation Areas

### 2.3 Herefordshire Local Plan Core Strategy – Deposit Draft

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land For Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy

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

RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

#### Neighbourhood Planning

- 2.4 Weobley Parish Council has successfully applied to designate the Parish as a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The area was confirmed on 7<sup>th</sup> August 2013. The Parish Council will have the responsibility of preparing a Neighbourhood Development Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this early stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy.
- 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 None identified

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 Welsh Water – No objection subject to conditions to ensure that surface water does not discharge to the public sewer.

#### Internal Council Consultations

- 4.2 Transportation Manager – The traffic counts show that the flows will be well within the capacity of the network. Even the 11:00am peak of 90 vehicles should not cause disruption. Consequently no objections are raised subject to conditions.
- 4.3 Conservation Manager
- Ecology – No objection subject to condition
- Archaeology – The site has low archaeological potential and therefore there is no objection to the proposal.
- 4.4 Strategic Housing Manager – On the basis of the information provided within the Draft Heads of Terms Agreement the applicant has complied with the affordable housing requirements in relation to numbers, mix and tenure, standards and local connection criteria.

- 4.5 Parks & Countryside Manager – The Draft Heads of Terms Agreement complies with policy, both in terms of off-site public open space and sports facilities requirements. The open space proposed as part of the landscaping scheme is too small to provide a useable play or recreation space and its future maintenance needs to be considered as it would not be adopted by the Council. Such area can make good community garden areas and this may be taken into account.
- 4.6 Schools Organisation and Capital Investment Officer - The educational facilities provided for this development site are Conningsby Early Years, Weobley Primary School, Weobley High School, St Marys RC High School and Weobley Youth. With the exception of Weobley Primary School, all schools currently have capacity issues in some of their year groups.
- 4.7 The Childcare Sufficiency Assessment highlights that within the Conningsby Early Years area 2% of parents are unable to return to work and 22% are unable to take a better job due to childcare issues. Demand gaps have been noted for full day care with a particular demand gap for variable hours. Supply gaps have also been noted for holiday care and baby care.
- 4.8 The youth service within Weobley delivers one session per week using their mobile service. However with more resource the youth service would like to provide additional activities and services in the evening.

## **5. Representations**

- 5.1 Weobley Parish Council strongly objects to this application and make the following comments:
1. At a public meeting held to discuss the application the overwhelming view of the residents attending the meeting was that this application must be refused because of the traffic implications and the Parish Council endorses this view, for the following reasons:
    - Gadbridge Road is a narrow unclassified road and there are already approximately 160 houses feeding onto this road. Its junction with High Street and Hereford Road is particularly hazardous for vehicles exiting and entering and for pedestrians crossing.
    - It has been noted that the traffic data in the application has been taken from surveys done in 2004. Since then the traffic situation has deteriorated considerably in Weobley as a whole, but especially in this particular part of the village.
    - The doctor's and dentist surgeries are also located along this road, with almost no parking provision for patients. Both surgeries serve a wide catchment area, and many patients have to come by car, which results in severe parking problems and traffic congestion outside the surgeries during the daytime.
    - This road also carries regular daily traffic to and from surrounding villages and a significant flow of large agricultural tractors and machinery during the daytime adds to the traffic chaos.
    - The village hall is also located along this road and is well used. It has the added attraction of an excellent play area which results in a good deal of foot traffic of children and young people to the site, which is directly opposite the entrance to the development. In addition elderly residents access this road on foot or by mobility scooter from the sheltered housing at Burton Gardens, to attend the surgeries or visit the local shops. It is feared that an increase in traffic could impact even further on road safety issues for pedestrians.

A development of 40 houses would significantly add to the traffic flow along this road and it is likely that it will also further exacerbate the traffic congestion. Some residents of



Bearcroft and Apple Meadow park along the Gadbridge Road rather than using the parking provision within the developments and there is no reason to suppose that residents of the new development will not do likewise.

The Parish Council insists that an up to date traffic survey and report is commissioned by the developer using information recorded now and not over the Christmas period in order to provide an accurate assessment of the true traffic impact of this development.

2. The Parish Council is aware of the requirements of the draft Core Strategy and of the need for 14% target growth in the main villages within the Leominster area, which for Weobley would be 61 houses in the period up to 2031. But we believe that for Weobley this should be a phased process with modest growth taking place gradually over the 18 year period. There is already a development of 8 affordable homes approved for Pepperplock and an application has been submitted for 15 dwellings on land adjacent to the Primary School. If you include other "infill" proposals and add this current application then it seems that we will be meeting our required numbers for growth within the next year or so, rather than over the stated period of 18 years. The impact of such a relatively large amount of development on our small rural community over such a small period of time will, we feel, be detrimental rather than beneficial. Already some of our local amenities are struggling to cope with demand and the infrastructure of the village, as we have noted above, is not suited to such a rapid influx of new residents.
3. The Parish Council is concerned about the element of affordable/social housing within the application. You will of course be aware that Weobley already has around 10% more affordable homes than the county's average. As the Pepperplock development for 8 affordable homes has now been approved and the development for the land by the Primary School also includes 5 affordable homes, it seems that Weobley has met the required number of affordable homes identified by the most recent housing needs survey. The Parish Council feels strongly that no more affordable homes should be built in Weobley . So will there be a demand or necessity for the additional 14 social/affordable houses now proposed?
4. As there is no demonstrated need for the additional 14 social/affordable homes the Parish Council suggests that consideration should be given to reducing the density - perhaps to 30 houses - and the Section 106 payment be increased in lieu of building affordable homes.
5. If the application were to be approved the Parish Council would want the Section 106 money to be spent directly in Weobley, at the direction of the Parish Council and would suggest that part of this money is spent on widening Gadbridge Road from the rear of the last house on Bearcroft to at least the entrance of the proposed development.
6. The Parish Council needs to know what extra provision has been included in the proposal for connecting to the sewage works and what contribution to upgrade these facilities has been included?
7. Weobley is an important tourism destination for Herefordshire and therefore it is important that any growth should be steady and organic to maintain its pleasant environment and surroundings.
8. Weobley Parish Council established a Heritage Trail in 2012 to encourage visitors to spend more time in the village, as the trail is followed on foot. Pedestrians following the trail have to cross the road by The Throne, at the junction of Gadbridge Road, Hereford Road and High Street. The Parish Council has already highlighted this as being a difficult and dangerous junction, which will be made more dangerous by the increased traffic generated by this development.

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

9. The Throne stands immediately on the corner of the junction with Gadbridge Road and is a Grade 2\* listed building. It may well be adversely affected by the increase in traffic and the possibility of damage due to the increasing likelihood of a traffic accident at this junction.
10. The Parish Councillors wish to raise their concerns that there was no pre-planning consultation with either the Parish Council or, we understand, the Ward Councillor, prior to this application being submitted.

5.2 Thirty eight letters of objection have been received from local residents. In summary the points raised are as follows:

- Highway safety
  - a) the development will increase congestion along Gadbridge Road and at its junction with High Street / Hereford Road
  - b) there will be a conflict between pedestrians, cyclists and traffic
  - c) there is insufficient capacity within the existing road network
  - d) the applicant should be required to complete an up-to-date traffic survey
- Concerns about surface water flooding and waterlogging of the field. This will be exacerbated by further development
- Insufficient capacity within the existing sewerage system
- The proposed density is too high and should be reduced
- Concerns about the indicative design
- The development will have a detrimental impact on the residential amenity of properties that border the site
- The proposal will have a detrimental impact on the conservation area
- Increased pressure on local services, particularly the doctors surgery and dental practice
- No need for further affordable housing in the village. Needs have been met by recent permissions elsewhere
- The proposal will have detrimental ecological impacts

5.3 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 issue of the Council's lack of a five year housing land supply has been well rehearsed over recent months by other applications and appeal decisions for residential development on land outside of settlement boundaries identified by Policy H4 of the Herefordshire Unitary Development Plan (the UDP). This application is submitted on the same basis and relates to a site that was considered to have low constraints when assessed under the Council's 2012 Strategic Housing Land Availability Assessment.

6.2 In order to establish a degree of consistency in the absence of housing policies that are considered to be up-to-date with the National Planning Policy Framework (NPPF), the Council has adopted an interim protocol for the consideration of applications that would otherwise be contrary to Policy H7 of the UDP. It accepts that appropriate residential development outside the development boundaries of main settlements may be permitted to help address the housing shortfall, subject to all other material planning considerations, and specifies that sites

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

should be located adjacent to main settlements defined by Policy H4 of the UDP. This approach is consistent with the NPPF which presumes in favour of sustainable development.

- 6.3 In simple geographic terms the site is compliant with the interim protocol as it is immediately adjacent to Weobley's settlement boundary. The village has a wide range of services and, in accordance with the NPPF, is considered to be one that is sustainable and appropriate for further development. This is reflected by the fact that it has been identified in the emerging policies of the Core Strategy as a village that is appropriate for proportionate growth. The determination of this application therefore rests with other material planning considerations and whether they outweigh the Council's lack of a five year housing land supply.

#### Highway Matters

- 6.4 The principal objection to the application from the parish council and local residents relates to the intensification of traffic movements along Gadbridge Road and the detrimental effect that this will have on highway safety, particularly in light of the fact that the road is used by patients attending the doctors and dental surgeries. These facilities have limited off-street parking and therefore the majority of patients have to park on the road. They were initially concerned that the Transport Statement submitted with the application was based on figures dating back to 2004. In response the applicant commissioned a new traffic count and responded to further concerns raised by local residents and the parish council by re-positioning equipment to a location on Gadbridge Road between its junction with Hereford Road / High Street and the doctors surgery.
- 6.5 The results of the traffic survey, conducted between 23<sup>rd</sup> – 29<sup>th</sup> January 2014, show that the average speeds of vehicles passing along Gadbridge Road are 21.7 mph and 21.5 mph eastbound and westbound respectively. The survey also finds that the peak flows are at 11:00am (90 vehicles per hour) and 4:00pm (71 vehicles per hour).
- 6.6 The Transport Statement then goes on to consider the projected traffic increases likely to be associated with the development proposed. This is based on TRICS (Trip Rate Information Computer System) data, a nationwide database that is used to make assumptions for trip rates for transport planning purposes. The database is well established and is an accepted model that has been used in the assessment of numerous other applications across the county. The TRICS data suggests that the development would generate the following peak traffic movements:
- 8:00am to 9:00am - 5 in 8 out
  - 4:00pm to 6:00pm - 9 in 6 out
- 6.7 Gadbridge Road is a well-used public highway in a primarily residential area. The survey shows that traffic speeds are low; well below the 30mph speed limit, and this is probably due to the nature of road and the fact that there is on-road parking which effectively acts as a traffic calming measure. There is not a high incidence of accidents along the road, the only reported accident being in 2005 at the Gadbridge Road/Hereford Road junction and attributed to driver error.
- 6.8 Although a peak figure for traffic movements of 90 may initially appear high, this actually equates to 1½ per minute. It is also noted that this peak is at 11:00am, and does not correspond with the more typical pattern of traffic movement as people leave home for work in the morning. The addition of movements associated with the proposed development may take this peak figure closer to 100, but this is considered to represent a modest increase and the local road network is of sufficient capacity to absorb this.
- 6.9 The proposed access to the site is positioned within the 30 mph zone and the road alignment is almost straight. The plans demonstrate that appropriate visibility can be achieved in both

directions. They also show the continuation of a footpath along the entire Gadbridge Road frontage. Not only does this benefit the proposal itself but also improves connectivity to the existing children's play area and sports pitch that is located immediately to the east of the village hall.

- 6.10 The Draft Heads of Terms Agreement appended to this report does include a contribution for improvements to transport infrastructure. The parish council have indicated in their comments that, if the application is to be approved, they would wish this to be used for improvements along Gadbridge Road. Any contributions will be used following consultation with the parish council. Notwithstanding this, it is considered that there is sufficient capacity within the existing road network to absorb this development. The additional traffic movements are not likely to demonstrably impact upon highway safety and the plans demonstrate that a safe access can be provided from the site onto Gadbridge Road. The scheme therefore accords with Policies DR3, H13 and T8 of the UDP.

#### Density and Visual Impact

- 6.11 Although the application has been made in outline, the applicant has indicated that scale is to be considered at this stage. The proposal amounts to a density of 30 dwellings per hectare. This compares to that part of Bearcroft immediately adjacent to the application site (approximately 27 dwellings per hectare), and Apple Meadow opposite, which is a 29 dwelling development on 0.9 hectares. With development on the opposite side of the road, the site forms a natural extension to the village. It is visually contained by existing hedgerows to the north and east and the proposed development is not considered to be of a scale that is disproportionate to its setting in the fact that it is adjacent to a large residential area in Bearcroft.
- 6.12 The overriding character of the immediate area is defined by Bearcroft and Apple Meadow, and not by the historic core of the village which lies further to the west and with which it has no visual context. Although the boundaries of the conservation area are widely drawn to protect the setting of the historic centre, the setting within the locality of the application site is determined by the surrounding modern residential development.
- 6.13 It should be noted that the layout and street scenes submitted as part of this application are purely indicative as detailed design and layout are reserved for future consideration. Consequently there is no justification for the refusal of this application on design grounds or that it will have a detrimental impact on the residential amenity of adjacent dwellings.
- 6.14 The addition of 40 dwellings as proposed in this case will have no demonstrable impact on the conservation area. The comparisons outlined above demonstrate that the scale and mass of development is comparable to existing development. The scheme is not considered to be high density and it is considered that the proposal accords with policies H15 and HBA6 of the UDP.

#### Existing Services

- 6.15 Objections have been raised by some local residents and the parish council that there is insufficient capacity within the existing sewerage system. The response from Welsh Water raises no objection to the proposal, subject to conditions to ensure that surface water run-off does not discharge to the mains sewer system. They have also been explicit in their comments by making the following statement:

*"No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site."*

- 6.16 It is clear that there is sufficient capacity within the existing system and that it does not need to be upgraded to accommodate the development proposed. The scheme therefore accords with Policy DR4 of the UDP.
- 6.17 Some concerns have also been raised about the impact of the development upon the doctors surgery and dental practice in the village, and that additional dwellings will put additional pressure on finite resources. It is noted, however, that neither the doctors surgery or dental practice have objected to the application.
- 6.18 The existence of such facilities within Weobley are a significant contributory factor to its sustainability credentials. In the absence of any objection from either, there is no substantive evidence to conclude that the proposal will have a negative effect on either of them and therefore this is not considered to provide justification for the refusal of the application.

#### Affordable Housing Provision

- 6.19 Some concerns have been raised about the level of affordable housing provision in the village, particularly in light of the fact that permissions have recently been granted on two separate parcels of land to the east of Weobley High School for developments that provide a total of thirteen affordable dwellings; seven of which are to be social rented and six intermediate.
- 6.20 As referred to earlier in this report, Weobley is a sustainable village and is appropriate for further development, and in order to continue to comply with policy requirements this will include the provision of affordable housing. Not only will this be to meet the needs of the village itself, but also the needs of its wider rural hinterland.
- 6.21 A Housing Needs Survey for Weobley was completed in September 2011 and demonstrated a need for 14 dwellings. This is due to be reviewed later this year and, consistent with other villages that have undergone similar reviews, it is likely that the need will have increased over the three year period. Housing provision is at its most sustainable when it provides a range of accommodation to meet the needs of the community as a whole. It is accepted that the two planning permissions will almost completely meet the need that the 2011 survey has identified but by the time they are constructed there is likely to be a further requirement.
- 6.22 Notwithstanding this, a more flexible approach towards affordable housing tenure may be taken. Intermediate housing can incorporate shared ownership and discounted market properties and, in particular, the latter helps to bridge the gap between affordable housing and fully open market properties. It has therefore been accepted that this proposal can provide intermediate housing only. The Draft Heads of Terms Agreement originally submitted and indicating the provision of six social rented properties has been amended to reflect this and a copy is appended to this report.
- 6.23 The provision of a mix of housing tenures in this manner ensures that a broad range of properties are available and is key to ensuring that settlements continue to be sustainable, helping to promote the growth of diverse communities as advocated by paragraph 50 of the NPPF. The affordable element of the scheme proposed is therefore considered appropriate.

#### Ecology

- 6.24 The report submitted with the application identifies existing hedgerows as having biodiversity value for birds and mammals and that, following survey work, an Oak tree in the north-west corner of the site may provide a roosting site for a lone Soprano Pipistrelle bat. Landscaping is to be determined at this stage and the plans show that hedgerow boundaries to the north and east are to be retained, as is the Oak in the north west corner of the site. This approach is compliant with Policy NC1 which seeks to ensure that biodiversity features are retained.

- 6.25 The ecological survey makes a number of recommendations to promote biodiversity enhancement through the development of the scheme. These have been assessed by the Council's Ecologist who does not object to the application and has recommended the imposition of a condition to ensure that the recommendations made are implemented. The site has no specific nature conservation designations and the proposal is considered to accord with Policy NC1 of the UDP.

#### Conclusion

- 6.26 The NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development. It has been demonstrated that Weobley is a sustainable settlement and it is considered that the site relates well to the existing village and is an obvious and appropriate area for further housing growth. There are no overriding reasons that would preclude the grant of planning permission. The scheme accords with the National Planning Policy Framework and the Herefordshire Unitary Development Plan and, subject to the completion of a Section 106 Agreement, the application is recommended for approval.

### **RECOMMENDATION**

**That officers named in the scheme of delegation be authorised to issue planning permission subject to:**

- 1. The completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms appended to this report.**
- 2. The conditions set out in this report and any varied or additional conditions considered necessary by officers:**
  - 1. C02 - Time limit for submission of reserved matters (outline permission)**
  - 2. C03 - A03 Time limit for commencement (outline permission)**
  - 3. C04 - A04 Approval of reserved matters**
  - 4. C05 - A05 Plans and particulars of reserved matters**
  - 5. C06 - B01 Development in accordance with the approved plans**
  - 6. C97 - G11 Landscaping scheme - implementation**
  - 7. CAB - H03 Visibility splays**
  - 8. CAZ - H27 Parking for site operatives**
  - 9. The recommendations set out in section 6 the ecologist's report dated July 2013 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, the species and habitat enhancement scheme should be submitted 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, Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan and the National Planning Policy Framework**

- 10. CD3 - L01 Foul/surface water drainage
- 11. CD4 - L02 No surface water to connect to public system
- 12. CD5 - L03 No drainage run-off to public system
- 13. CD6 - L04 Comprehensive & Integrated draining of site

**INFORMATIVES:**

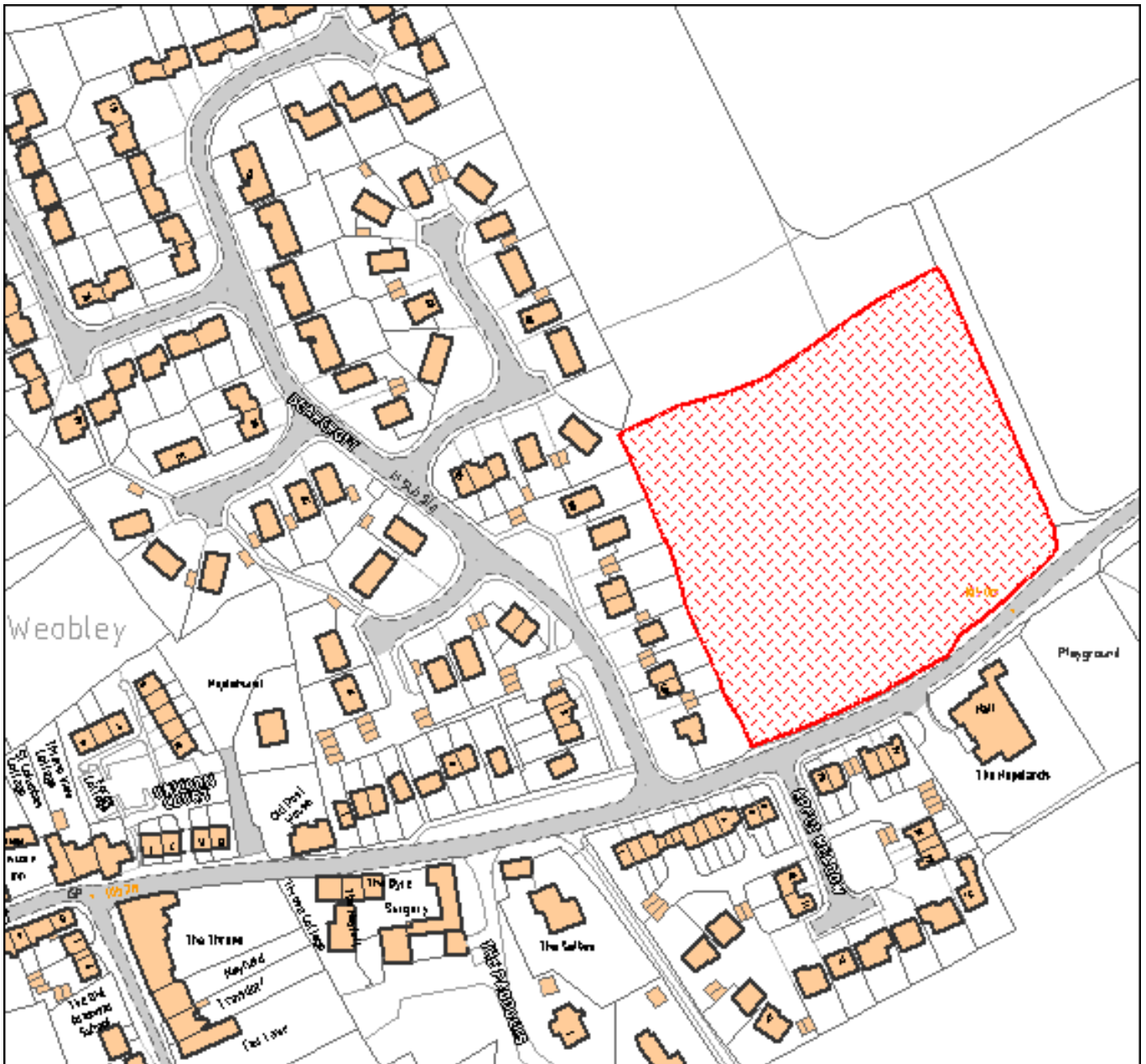
- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) in relation to the Transport Statement 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. I30 - N11A Wildlife and Countryside Act 1981 (as amended) - Birds
- 3. I33 - N11C General
- 4. I09 - HN04 Private apparatus within highway
- 5. I35 - HN28 Highways Design Guide and Specification
- 6. I43 - HN13 Protection of visibility splays on private land
- 7. I45 - HN05 Works within the highway

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 132924/O

**SITE ADDRESS :** GADBIDGE ROAD, WEABLEY, HEREFORDSHIRE, HR4 8SN

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# DRAFT HEADS OF TERMS

## PROPOSED PLANNING OBLIGATION AGREEMENT

### Section 106 Town and Country Planning Act 1990

Planning Application Reference - 132924/O

Site for the erection of 40 dwellings, comprising 1, 2, 3 and 4 bed units, and associated parking on land at Gadbridge Road, Weobley, Herefordshire

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

Residential Development (erection of 40 dwellings) incorporating 35% affordable on land at Gadbridge Road, Weobley.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):

£1,761	(index linked) for a 2 bedroom apartment open market unit
£3,001	(index linked) for a 2/3 bedroom open market unit
£5,844	(index linked) for a 4+ bedroom open market unit

to provide enhanced educational infrastructure at Conningsby Early Years, Weobley High School, Post 16, Youth Services and Special Education Needs. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):

£2,458	(index linked) for a 2 bedroom open market unit
£3,690	(index linked) for a 3 bedroom open market unit
£4,917	(index linked) for a 4+ bedroom open market unit

to provide a sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

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

- a) Traffic calming and traffic management measures in the locality
- b) New pedestrian and cyclist crossing facilities
- c) Creation of new and enhancement in the usability of existing footpaths and cycleways connecting to the site
- d) Provision of and enhancement of existing localised bus infrastructure
- e) Public initiatives to promote sustainable modes of transport
- f) Safer routes to school

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):

£695 (index linked) for a 2 bedroom open market unit  
£1,640 (index linked) for a 3 bedroom open market unit  
£2,219 (index linked) for a 4+ bedroom open market unit

To provide an off-site contribution for the improvement of the existing play area at Hopelands. The sum shall be paid on or before the commencement of development, and may be pooled with other contributions if appropriate.

4. The developer covenants with Herefordshire Council to pay the sum of:

£408 (index linked) for a 1 bedroom open market unit  
£496 (index linked) for a 2 bedroom open market unit  
£672 (index linked) for a 3 bedroom open market unit  
£818 (index linked) for a 4+ bedroom open market unit

for sports (contribution based around the requirements of policy H19 and RST4 of the UDP and Sport England Sports Facilities Calculator). The monies shall be used by Herefordshire Council to improve indoor and outdoor sports facilities in the locality in accordance with the draft Playing Pitch Assessment. The sum shall be paid on or before the commencement of development, and may be pooled with other contributions if appropriate.

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

£120.00 (index linked) for a 1 bedroom open market unit  
£146.00 (index linked) for a 2 bedroom open market unit  
£198.00 (index linked) for a 3 bedroom open market unit  
£241.00 (index linked) for a 4+ bedroom open market unit

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

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £120 (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.

7. The developer covenants with Herefordshire Council to pay Herefordshire Council 1% of the build costs of the development to provide public art. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

8. The developer covenants with Herefordshire Council that 35% (14 units – on basis of development of 40) of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.

9. The Affordable Housing units shall all be made available for intermediate tenure occupation and shall comprise eight (8) two bed dwellings and six (6) three bed dwellings.

10. All the affordable housing units shall be completed and made available for occupation prior to

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

the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.

11. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-:
  - 11.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 11.2 satisfy the requirements of paragraphs 11 & 12 of this schedule
12. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
  - 12.1 a local connection with the parish of Weobley
  - 12.2 in the event of there being no person with a local connection to Weobley any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 12.1 above.
13. For the purposes of sub-paragraph 13.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 13.1 is or in the past was normally resident there; or
  - 13.2 is employed there; or
  - 13.3 has a family association there; or
  - 13.4 a proven need to give support to or receive support from family members; or
  - 13.5 because of special circumstances;
14. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to such subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
15. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 4 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
16. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4, 5, 6 and 7 above, for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.

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

17. The sums referred to in paragraphs 1, 2, 3, 4, 5, 6 and 7 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
18. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
19. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

**Andrew Banks**  
**Principal Planning Officer**

**13<sup>th</sup> March 2013**



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 APRIL 2014</b>
<b>TITLE OF REPORT:</b>	<b>P133251/F - CONTINUED VARIATION OF CONDITION 21 OF PLANNING PERMISSION DMS/112675/F DATED 22/11/2011 AT THE HEREFORD ACADEMY, MARLBROOK ROAD, HEREFORD, HR2 7NG</b>  <b>For: The Hereford Academy, Marlbrook Road, Hereford, HR2 7NG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=133251">https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=133251</a>

**Date Received: 20 November 2013    Ward: St Martins and Hinton    Grid Ref: 350160,237975**  
**Expiry Date: 1 March 2014**

Local Members: Councillors ACR Chappell, R Preece and P Rone

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

- 1.1 The Hereford Academy is located at the western end of Marlbrook Road, Redhill, Hereford. It is located on a triangular site with Great Western Way forming the northwest boundary, Southdale residential estate adjoins the southeastern boundary whilst residential development along Stanberrow Road backs onto the eastern boundary.
- 1.2 The school site was re-developed (application DCCW0009/0958/F) with a new school, Sixth Form and community building located at the southern eastern end of the existing playing fields near the entrance to the school off Marlbrook Road.
- 1.3 As part of the redevelopment there has been a significant emphasis on sports provision with three main sports pitches proposed along the northwest boundary, a full size grass rugby pitch and to the north a three quarter football pitch and mini soccer pitch. In the top corner of the site high and long jump facilities are provided with a rounders pitch. A jogging and fitness track runs along the northern end of the site. Central to the site and to the north of the school building is a part floodlit multi use games area (MUGA).
- 1.4 The element that is the subject of this application is the full size synthetic turf football and hockey pitch (All Weather pitch) sited to the South of the site (north west of Beaufort Avenue and east of the Great Western Way).
- 1.5 This all weather pitch would be lit with the times controlled by Condition 21 of the Planning Permission DCCW0009/0958/F which states the following:

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

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

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

- 1.6 in January 2012 an application (S112675/F) was considered by the Planning Committee to vary this condition to allow the floodlights to all weather pitch (not MUGA) to also be used on Saturdays and Sundays from 0900 to 2000. As the development was relatively new, and due to the concerns raised by local residents, a two year temporary permission was granted so that the impact of using the floodlights at the weekend could be further considered.
- 1.7 This application seeks a permanent variation of this condition to allow the floodlighting to the all weather pitch from 0900 – 2200 Mondays to Fridays and 0900 – 2000 on Saturdays and Sundays. There would be no use on Bank or Public holidays.

## **2. Policies**

### **2.1 National Planning Policy Framework (NPPF)**

The NPPF seeks to secure economic growth (Chapter 1) and promote healthy communities (Chapter 8). This is set in the context of paragraph 17 that seeks to secure a good standard of amenity for all existing occupants of land and buildings.

### **2.2 Herefordshire Unitary Development Plan (UDP) 2007:**

DR2	-	Land Use and Activity
DR4	-	Environment
DR14	-	Lighting
T16	-	Access for All
LA6	-	Landscaping Schemes
RST1	-	Criteria for Recreation, Sport and Tourism Development
CF5	-	New Community Facilities

### **2.3 Draft Core Strategy (Pre-submission Publication) Policies:**

SC1	-	Social and Community Facilities
SS6	-	Environmental quality and local distinctiveness

### **2.4 The Unitary Development Plan policies and Draft Core Strategy 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 DCCW0009/0958/F Construction of new secondary school buildings including landscaping and other associated works and demolition of existing school buildings. Approved 18 August 2011.
- 3.2 S112675/F Variation of condition 21 of planning permission DCCW0009/0958/F to allow for the use of the floodlights to the all weather pitch only to extended to Saturdays and Sundays between the hours of 0900 and 2000 – Approved (2 Year temporary permission) 11<sup>th</sup> January 2012.

#### **4. Consultation Summary**

##### Statutory Consultations

4.1 None.

##### Internal Council Advice

4.2 Traffic Manager: Raises no objection to the grant of planning permission.

4.3 Environmental Health Manager: No objection

4.4 Conservation Manager (Ecology): No Objection

#### **5. Representations**

5.1 Hereford City Council: No objection

5.2 Letters of concern have been received from:

Mr and Mrs Birkenshaw, 85 Beaufort Avenue  
Mr M Chamberlain, 34 Beaufort Avenue

These letters raise the following issues:

- Noise from the pitch when in use (shouting, balls hitting fence) is very loud and noticeable from both front and rear gardens
- The floodlights are very high and illuminate parts other than the pitch
- Protective cowls are small and allow light to escape (one mast in particular illuminates residence even after adjustment.
- Overflow car park being used as a dumping ground and needs to be cleaned
- Suggest some additional acoustic fencing would be appropriate
- Request usage be restricted to 18.00 on weekends and that times are not allowed to overrun
- All segments are lit even when only one section being used? Can this be reviewed?
- Can they be subject to a yearly review and realigned where necessary
- The All Weather pitch is a fantastic facility for pupils and the community but concern was raised at the outset that the lights were too high and too close to the boundaries
- Comments on previous applications have been proved incorrect
- Lights are left on until 10.15pm and 10.45pm
- Rear gardens are illuminated, causing harm to amenity, in particular in relation to visual astronomy
- On Sundays the noise (shouting, swearing and thudding of balls) from the pitch is virtually all day
- Following meeting with local residents and Academy Commercial Director, the extension to 9pm was removed from the proposal and he has provided some feedback and assurances to look at problems to those neighbours that raised concerns. For example:
  - Working with letting to shift timings forward by 15 minutes when bookings end at the limit of the allowed timings
  - Looking at logistics of timers on floodlights
  - Working on increased signage around the pitch to remind users of residential area surrounding pitches
  - Look at the 'luminance leakage' testing again
- Suggest another two year permission to consider the above
- Suggest restriction on hours to 1800 hrs to give some respite

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

5.3 Letters of support have also been received from:

Mr Steve Field, in capacity of League Manger of the small sided community leagues (who play on Sunday evenings)  
Mr Roger Goodwin, Herefordshire FA

These letters make the following comments:

- League has been operating since Feb 2012, for local people, by local people. Has 36 team (6 – 9 players) giving 250 – 300 local footballers the opportunity to play competitive football, in a safe and friendly environment, at a state of the art facility;
- Around 71% of the footballers who play in the league reside in HR1 or HR2 postcode (mainly 16 – 25 age groups. Limited facilities in Hereford in evenings and particularly at weekends;
- Assurance that they will endeavour, with the support of referees, to eradicate foul language on the field of play.
- This provides many people a fantastic opportunity to use this facilities, including hosting Coach Education course and our Girls Player Development Centre, which forms an important part of the female football player development pathway.

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 Condition 21 of the Planning Permission DCCW0009/0958/F seeks to control the use of the floodlighting on both the 'all weather' and 'Multi Use' pitches. However, this application relates to the all weather pitch only. This condition does not specifically control the hours of use of these pitches, only the floodlighting of these pitches.
- 6.2 The use of floodlights on Saturday and Sunday in the late afternoon and evenings (before 8pm) during the late autumn, winter and early spring is therefore the key consideration, and whether this additional use in combination with use during the week, would be considered unacceptable to the amenities enjoyed by local residents. It is noted that during the week, the lights could be used until 10pm but this late finish is not sought for the weekend hours. Nor is the use of lights requested on Bank Holidays.
- 6.3 The letters that have been received are submitted with the benefit of the knowledge of the use of the floodlighting of the all weather pitch' since January 2012. It is noted that much of the concern raised in the two letters received relates to the noise from the pitches as well as some concern about the lights, not just at the weekend but through the week (for which they already have permission).
- 6.4 The technical details of the floodlighting were agreed through the submission of details in respect of Condition 22, 23 and 24 of this permission and this should ensure that the light spillage would not adversely impact upon residential amenities of local residents in accordance with policies DR14 and DR2 of the Herefordshire Unitary Development Plan. Concerns about light pollution from a particular light have been raised directly with the Commercial Director through the pre-application consultation process and these issues are being reconsidered and reviewed.

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



- 6.5 As such, the main consideration of this application relates to the use of floodlighting, in the evenings on a Saturday and Sunday evening until 8pm The Environmental Health Officer has been consulted on this matter and raises no objections.
- 6.6 Condition 32 of the planning permission dealt with the detailed management and use of the facilities and hours of use, and is subject to review on an annual basis. It is hoped that the lines of communication that have been established between the Commercial Director (Applicant) and the neighbours will help inform this process in the future where concerns about operational matters have been raised. It is noted that both letters of concern acknowledged that the contact and discussion had been a useful exercise.
- 6.7 On the basis of the above, it is considered that the use of the floodlights at weekend hours supports the NPPF aims of sustainable development in both the economic and social roles through the support of the business and encouraging healthy communities. The impacts upon the residential amenities of the nearby residents has been carefully considered in light of policy DR2 and DR14 of the Unitary Development Plan and whilst there will be some impact, it is not considered to be so significant that would warrant a reason for refusal. As such, it is recommended that the conditions be varied as detailed below.

## **RECOMMENDATION**

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

- 1. The permission hereby granted is an amendment to planning permission DCCW0009/0958/F dated 18 August 2009 and, otherwise than is altered by this permission, the development shall be carried out in accordance with that planning permission and the conditions attached thereto.**

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

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

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

- 3. The floodlighting hereby permitted for the All Weather Pitch shall not be in use outside of the following times: - 0900 – 2200 Mondays to Fridays and 09.00 and 20.00 on Saturdays, Sundays and at no time on Bank or Public Holidays.**

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

## **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

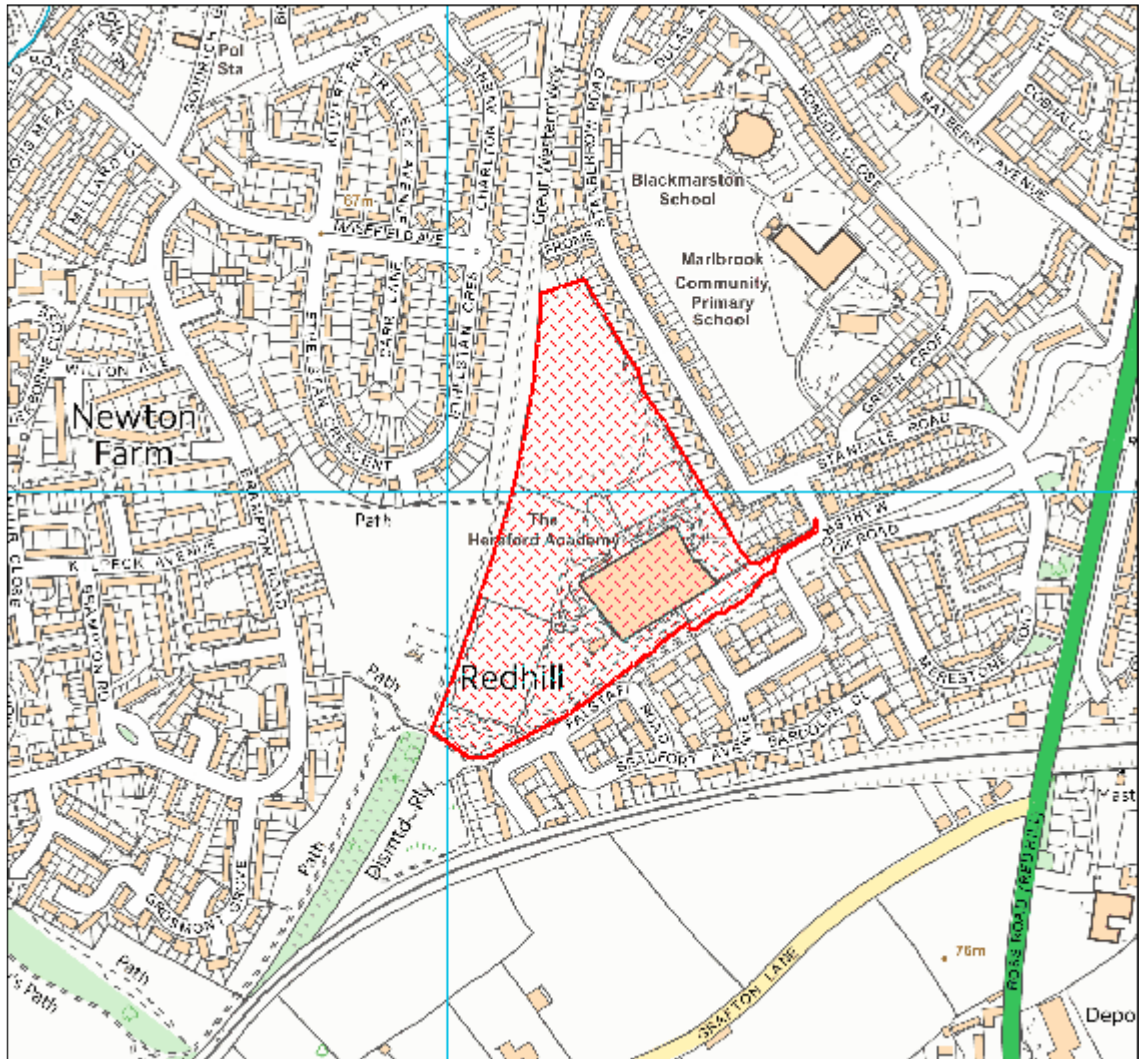
Decision: .....

Notes: .....

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### Background Papers

Internal departmental consultation replies.



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**APPLICATION NO:** 133251/F

**SITE ADDRESS :** THE HEREFORD ACADEMY, MARLBROOK ROAD, HEREFORD, HR2 7NG

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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 APRIL 2014</b>
<b>TITLE OF REPORT:</b>	<b>P133262/O - SITE FOR ERECTION OF 3 DETACHED DWELLINGS AT LAND REAR OF WESTBURY, CUSOP, HAY-ON-WYE,</b>  <b>For: Mr &amp; Mrs Jones per Mr Andrew Bevan, 2a High Street, Crickhowell, Powys, NP8 1BW</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=133262">https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=133262</a>

**Date Received: 21 November 2013**    **Ward: Golden Valley**    **Grid Ref: 323677,241751**  
**North**

**Expiry Date: 21 January 2014**  
Local Members: Councillor PD Price

## 1. Site Description and Proposal

- 1.1 The application site is a 0.33 hectare site located at the heart of 'Thirty Acres', a circular development of 18 dwellings 90 metres to the east of the southern extent of Cusop. The site is of an open formal appearance and is the rear garden of Westbury, a dwelling immediately to the south. A ring of 18 dwellings surrounds the garden area with a looping road between the site and said dwellings. The site is bound by hedgerows on all sides with the occasional gap providing access to the road network and Westbury. A number of trees lie towards the edges and corners of the site.
- 1.2 The application seeks outline planning permission to erect three detached dwellings on the site with all matters save for access reserved for future consideration. Access to the site would be at the approximate midpoint of the west boundary of the application site. The widening of the road adjacent to the site access would be increased in width from 3 metres to 5 metres to allow 2 cars to pass. An indicative layout and designs have also been provided.

## 2. Policies

### National Planning Policy Framework (NPPF)

- 2.1 The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

## Herefordshire Unitary Development Plan 2007 (UDP)

2.2	S1	-	Sustainable Development
	S2	-	Development Requirements
	S3	-	Housing
	S6	-	Transport
	S7	-	Natural and Historic Heritage
	DR1	-	Design
	DR3	-	Movement
	DR4	-	Environment
	H4	-	Main Villages: Settlement Boundaries
	H7	-	Housing in the Countryside Outside Settlements
	H13	-	Sustainable Residential Design
	T8	-	Road Hierarchy
	LA2	-	Landscape Character and Areas Least Resilient to Change
	LA5	-	Protection of Trees, Woodlands and Hedgerows
	LA6	-	Landscaping
	NC1	-	Biodiversity and Development
	NC6	-	Biodiversity Action Plan Priority Habitats and Species
	NC7	-	Compensation for Loss of Biodiversity

## Herefordshire Local Plan – Draft Core Strategy

2.3	SS1	-	Presumption in Favour of Sustainable Development
	SS2	-	Delivering New Homes
	SS3	-	Releasing Land for Residential Development
	SS4	-	Movement and Transportation
	SS6	-	Addressing Climate Change
	RA1	-	Rural Housing Strategy
	RA2	-	Herefordshire's Villages
	H1	-	Affordable Housing – Thresholds and Targets
	H3	-	Ensuring an Appropriate Range and Mix of Housing
	MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
	LD1	-	Local Distinctiveness
	LD2	-	Landscape and Townscape
	LD3	-	Biodiversity and Geo-Diversity
	SD1	-	Sustainable Design and Energy Efficiency
	SD3	-	Sustainable Water Management and Water Resources
	ID1	-	Infrastructure Delivery

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>

2.5 The Core Strategy has recently passed through Council and a number of objections have been lodged against the emerging housing policies. As such only minimal weight can be attributed to policies of the emerging Core Strategy in accordance with paragraph 216 of the NPPF.

## **3. Planning History**

- 3.1 SH891790PO: Erection of four dwellings and garages: *Refused*  
SH901482PO: Erection of one dwelling and garage: *Refused*  
SH910915PO: Construction of one dwelling and garage: *Refused & Dismissed at appeal*  
SH950955PO: Construction of one dwelling with garage: *Refused*

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

DCSW2003/1898/O: Four houses with garages: *Refused*

DCSW2004/1919/O: Dwelling with disabled persons access and ground floor suite: *Refused*

DCSW2004/2869/O: Dwelling with disabled persons access and ground floor suite: *Refused*

#### 4. Consultation Summary

4.1 The Council's **Transportation Manager** does not object to the proposal but recommends that conditions be attached to any permission given ensuring that works to the highways are completed to an adoptable standard and that visibility splays be retained in perpetuity.

4.2 **Welsh Water** do not object to the proposal but recommended that conditions be attached to any permission given to ensure that:

- a) foul and surface water is discharged separately from the site;
- b) surface water does not connect with the public sewerage system; and
- c) land drainage run-off is not permitted to discharge to the public sewerage system.

4.3 The Council's **Ecology Manager** accepts the content of the submitted ecology report and does not object to the proposal. Conditions are recommended to ensure that proposed mitigation works are carried out.

#### 5. Representations

5.1 **Cusop Parish Council** provided comment on the application stating that:

At its last meeting on 15 January 2014 Cusop Parish Council considered the above application and resolved as follows:

"That the Parish Council supports the application, subject to: (a) the impact of the extra traffic on the Thirty Acres/Church Road and Church Road/Dingle junctions and of existing B and B traffic being assessed and found acceptable; and (b) the impact on water and surface run-off being found acceptable."

5.2 There were 31 letters of objection to this application from members of the public. Many letters have been sent as supplemental information to initial representation. The below is a summary of public response. Copies of the each representation can be viewed in full at <https://www.herefordshire.gov.uk/>

- The application site lies outside of the designated boundary of Cusop;
- Proposal is contrary to local and national policies;
- Development would rip the heart out of the village as this is the only village green;
- The Victorian village of Thirty Acres has developed around this field and to develop this space would destroy the heart of the settlement;
- A covenant exists on this site restricting development to one unit;
- There is a slope from front to back of the site
- An increase in stress and demands on local roads from the site to th B4348;
- The highways assessment has not considered the effect on Thirty Acres only B4348;
- Concern for emergency vehicle access;
- Excessive pollution would give rise to noise pollution;
- Thirty Acres is not wide enough for two cars to pass with damage often caused to roadsides;
- Dangers to walkers should not be underestimated;
- No links to alternative methods of transport;

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

- Gradients of roads make it a vigorous walk to Hay-on-Wye, not practical when carrying shopping;
- Concerns for the outline nature of the application. Decision makers and those making representations should have the full information of the scheme to make a decision;
- Cusop could be changes forever if application approved;
- The field was not designed to be built on and should save the very special aspect of Thirty Acres by staying green and open for all;
- Impact on the landscape as a site which is made up of special houses surrounded by farmland;
- If approved, the proposal will create a precedent for further development
- Proposed dwellings not affordable to those living in Hay and will not meet local needs;
- A strain would be placed on all amenities;
- Proposal would have impact on light and noise intrusion;
- Would have impact on natural habitat for wildlife;
- Decision should be deferred until local plan and Parish plan adopted;
- Building design is overbearing and overshadowing Cefn Bryn and Trigfan;
- Kitchen Garden of Cefn Bryn would be overshadowed by 'plot 2';
- Building design does not fit with the locality and causes privacy and overlooking issues;
- The site could be a wonderful ecological site for the local area;
- The site has ecological importance and provides a habitat for many birds, mammals and reptiles.
- Scheme should include rainwater harvesting;
- The scheme will encourage more retired couples to the area in an already ageing population;
- Household waste is collected from wheelie bins on the side of the road. It is not clear where occupiers of each dwelling would put wheelie bins on the road or whether the lorry would enter the site;
- Development has been turned down on the site numerous times before;
- The need for further housing is questionable;
- Concerned that potential effects of groundwater escaping from the site during periods of heavy rain;
- Dwellings should be built in keeping with the surrounding properties.

5.3 8 letters of support were received. Copies of the each representation can be viewed in full at <https://www.herefordshire.gov.uk/>

- Proposal would enhance the surrounding area;
- An ideal site for the provision of houses;
- A timely infill which will support the local area;
- In 109 years only 8 houses have been built in Thirty Acres, which is low for the area covered with the proposed three dwellings taking the amount to not unreasonable 21 houses;
- Small village like Cusop needs more families to make it flourish and give more heart to the village;
- In favour of development of such sites where infrastructure already in place rather than agricultural land;
- Care has been taken with a sympathetic layout;
- Community should be consulted at design stage;
- Considerable need for housing in the area;
- Natural infill which will complement the area;

5.4 2 letters were received neither in support nor objection to the proposal. Copies of the each representation can be viewed in full at <https://www.herefordshire.gov.uk/>



- 5.5 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

### *Principle of Development*

- 6.1 The application site is located outside of the settlement boundary of Cusop as defined under UDP Policy H4, 85 metres to the east of the southern most part of the village. Being outside of a defined settlement, the principle of development falls to be considered firstly against local policies relating to residential development within the open countryside, UDP Policy H7.
- 6.2 The intent of UDP Policy H7 accords with the aims and objectives of the NPPF with paragraph 55 being of particular relevance in this instance and indicates that unless exceptional circumstances can be demonstrated, housing outside of defined settlements will not be permitted. This proposal does not appear to satisfy any of the exceptional criteria under which housing in the open countryside could be considered acceptable as listed under Policy H7 and therefore conflicts with it.
- 6.3 Contrary to the content of chapter II of the design and access statement accompanying this application, the proposed residential development of this site has been rigorously tested through the submission of seven previous applications for residential development of the site:
- SH891790PO: Erection of four dwellings and garages
  - SH901482PO: Erection of one dwelling and garage
  - SH910915PO: Construction of one dwelling and garage
  - SH950955PO: Construction of one dwelling with garage
  - DCSW2003/1898/O: Four houses with garages
  - DCSW2004/1919/O: Dwelling with disabled persons access and ground floor suite
  - DCSW2004/2869/O: Dwelling with disabled persons access and ground floor suite
- 6.4 All of the above listed applications were refused with the principal reason for refusal being that the application site was outside the settlement boundary of Cusop as defined by the local plan in place at the time of each respective decision. Although none of the above applications were held against the encumbent UDP, both the village boundary itself and the local policy stance towards residential development outside of that boundary have remained consistent between the date of the original application (1989) and today. Furthermore, the refusal of application SH910915PO was appealed and dismissed by The Secretary of State.
- 6.5 Whilst the above listed site history and the content of the UDP appear to suggest that the proposed development is unlikely to be acceptable, it is necessary to determine whether there are any other material planning considerations which indicate otherwise. One such material consideration is the national policy against which this application falls to be considered.
- 6.6 The National Planning Policy Framework (NPPF) was adopted on 27 March 2012 and became the sole planning policy document at national level, replacing the series of PPS and PPG documents which were in place when the previous applications were made on the site. Paragraph 215 of the NPPF states that 12 months from the publication of the NPPF, "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework". This 12-month period expired on 27 March 2013. Consequently the weight which can be attributed to individual policies of the UDP must

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

therefore be assessed through their level of conformity with the NPPF. The closer the UDP policies are to the policies of the NPPF, the greater the weight that may be given.

- 6.7 Paragraph 47 of NPPF requires all local authorities to provide a 5 year supply of land for housing plus a 5% or 20% “buffer”, dependent on the each local planning authority’s record for housing delivery. A recent appeal decision at Home Farm, Belmont (APP/W1850/A/13/2192461) considered Herefordshire Council an authority requiring a 20% buffer to their 5 year Housing Land Supply.
- 6.8 Herefordshire Council are currently failing to meet this requirement and consequently ‘relevant policies for the supply of housing should not be considered up to date’ as stated in Paragraph 49 of the NPPF. On this basis, the council’s housing policies (H4 in this instance) which define the geographical limits of residential development can be attributed little weight in the determining of an application for residential development.
- 6.9 As the Council’s housing policies can no longer be relied upon to determine the principle of residential development, applications shall be considered ‘in the context of the presumption in favour of sustainable development’, as prescribed by paragraph 49 of the NPPF. Sustainable development is defined in paragraph 7 of the NPPF as a three pronged notion encompassing its economic, social and environmental roles.
- 6.10 The ‘social role’ of development places particular emphasis on the location of development with respect to local services and facilities. In this instance, the closest facilities and services to the site are located at the market town of Hay-on-Wye, 700 metres to the north-west of the site. Hay-on-Wye provides amenities which one would associate with a market town including a number of pubs & restaurants, shops, a supermarket, a library, a church, leisure facilities, a primary school and a regular bus service to the more extensive range of facilities and services at the city of Hereford.
- 6.11 To access Hay-on-Wye from the application site on foot, one would be required to travel 100 metres along Church Road (U75242), 615 metres along Cusop Dingle (U75246) and 175 metres along the B4348 over Black Lion Bridge. The total distance of the journey would be 890 metres, the majority of which is flanked by a pavement (with the exception of the 100 metre stretch along Church Road) and is unlit (with the exception of the 175 metre stretch along B4348). On balance, pedestrian travel between the application site and Hay-on-Wye would be both likely and safe and as such the application site is considered to be sustainably located.
- 6.12 Despite the proposal being contrary to the housing policies of the UDP and an extensive application history indicating that residential development of the site was not previously acceptable, it is considered that in light of the county’s inability to demonstrate a 5 year housing land supply plus a 20% buffer that the principle of residential development of the site is established.

#### *Landscape Character and Quality*

- 6.13 Whilst the use of the application site is as a rear garden to ‘Westbury’ and is not communal land, aesthetically it plays a wider reaching role within the locality. The size, formal nature, central location within Thirty Acres and square plan of the application site render it visually akin to a small village green. Its four solid but relatively low boundaries also appear to distinguish the application site from the residential development which surrounds it, including Westbury to which it functionally relates. This is despite a gap within the boundary allowing access to Westbury. The application site is an area of open space which contributes to the character of the self contained development of Thirty Acres.

- 6.14 Notwithstanding this assessment, outside of Thirty Acres, the current role of the application site as an area of open space is difficult to appreciate given the relatively acute angle at which views of Thirty Acres can be obtained, giving little perspective of depth.
- 6.15 Views of Thirty Acres are available from Church Road to the east until the junction with Church Lane and also from Church Lane 300 metres to the north-east of Thirty Acres. Fleeting glimpses are also available from B4348 500 metres to the north and from the network of footpaths between 500 metres and 1 kilometre to the south, though they are largely screened by the undulating topography and dense vegetation in the locality. Views of the application site itself are unavailable from these points given the height and density of vegetation and existing development. Views of the proposed development, particularly from the afore-located vantage points, would be filtered by existing residential development between the application site and each vantage point and would also be seen against a backdrop of residential development.
- 6.16 The provision of three suitably designed dwellings on this site is considered to have a negligible impact on the local landscape character largely due to the site's containment on all four sides by existing residential development and is therefore concordant with UDP Policy LA2 and chapter 11 of the NPPF.

#### *Density of Development*

- 6.17 The proposal is to provide three dwellings on the application which has an area of approximately 0.33 hectares and therefore at a ratio of 9 dwellings per hectare. 'Plot 1' would be 1500 square metres, 'Plot 2' 800 square metres and 'Plot 3' 1000 square metres. Contextually, 'Thirty Acres' is comprised of 18 dwellings in an area of approximately 1.8 hectares (excluding the application site itself) provided at a ratio of 10 dwellings per hectare. The smallest plot is Westbury at 453 square metres whilst the largest plot is 'The Old Rectory' at 3,300 square metres.
- 6.18 On this basis, the application proposal appears to be quantifiably reflective of local plot sizes. The mean plot size is marginally greater within the proposed development in comparison with existing development at 'Thirty Acres'. Individual plot sizes of the proposed development sit comfortably within the range of plot sizes at 'Thirty Acres'.
- 6.19 The locality is defined by moderate-large dwellings sitting within a range of plot sizes typical of semi-rural development. It is my opinion that the provision of three dwellings on this site represents development of an acceptable density with scope to achieve a site layout which would reflect the character of the locality as required by UDP Policy H13 and chapter 7 of the NPPF.

#### *Ecology*

- 6.20 The Council's Ecologist concurs with the content of the ecology report by Formaggio Environmental Ltd. dated November 2013 which accompanies this application and considers the proposed development to exert no undue impact on biodiversity or wildlife in accordance with UDP Policies NC1, NC6 and NC7. Conditions should be attached to any permission given to ensure that works are undertaken in accordance with recommendations made throughout the ecology report.

#### *Highways and Access*

- 6.21 There is an existing access to the application site which is located at the southern extension of the western boundary of the site. This provides vehicular access to the rear garden of Westbury which appears to be utilised as an informal parking area. The proposed access will be located further north at the approximate midpoint of the northern boundary of the application site. The proposed access incorporates the following:

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

- An increase in road width adjacent to the access to 5 metres and 10 metres in length tapering to the normal width of road over the length of the site frontage. A 0.5m verge will also be provided, the new highway width and verge will become part of the public highway under a S38 Agreement; and
- The access visibility splay will be an 'x' distance of 2m set back from the new edge of carriageway with the 'y' distance being the boundary of the property (27m to the southerly boundary and 27m to the northerly direction) facilitated by the translocation of the boundary hedgerow.

- 6.22 Within the design and access statement reference is made to a 'deminimus' change in vehicle movements along the local network, citing a 3% increase. However this only relates to the impact of traffic movements between Cusop Dingle and the B4348 and there appears to have been no documented consideration of the impact of traffic movements at a more local level between the application site and Thirty Acres, Thirty Acres and Church Way or Church Way and Cusop Dingle. Notwithstanding that, the Council's Transportation Manager has undertaken an assessment of the proposal and considered its full impacts on the local highway network.
- 6.23 The extra width in the carriageway adjacent to the proposed access on Thirty Acres would be built to an adoptable standard and retained as such in perpetuity. Thirty Acres is a narrow road with few formal passing places. Cars travelling in both directions are forced to utilise driveways to pass one another. The widening of the Highway will provide a point at which two cars can pass.
- 6.24 Visibility splays are considered ample as vehicle speeds are low on Thirty Acres given the narrow and short lengths of carriageway. The translocation of the hedge would successfully retain the semi-rural appearance of the lane whilst the creation of the access will be offset by the infilling of the existing access.
- 6.25 On balance, the proposal would give rise to a modest, but measurable increase in use of the local highway network, particularly in relation to Thirty Acres – vehicle movements along Thirty Acres would be approximately 17% greater as a result of this development. However, the provision of a passing place on Thirty Acres is considered to offset this increase in movement resulting in a modest highways benefit. Visibility splays are acceptable in both directions at the site access. The increase in use of the junction between Thirty Acres and Church Way is considered to have a negligible impact on highways safety with the impact on other junctions exponentially decreasing the further one gets from the site. For these reasons the proposal is considered to have an acceptable impact on the local highway network in terms of safety and movement in accordance with UDP policies DR3, T8 and H13 and chapter 4 of the NPPF.

#### *Residential Amenity and Privacy*

- 6.26 The application site is of such a size that 3 dwellings can be accommodated without compromising the privacy of existing neighbouring dwellings or the privacy of proposed dwellings. Indicative plans show a layout which would provide this level of privacy. A reconsideration of the location of fenestration may be required to ensure internal site privacy though this is a matter which will be dealt with at the reserved matters stage.
- 6.27 Paragraph 53 of the NPPF explicitly encourages local planning authorities to resist the development of gardens where it would be inappropriate, citing an example where the local area may incur harm as a result of the proposed development. The rear garden space of Westbury would be significantly reduced as a result of this proposal. However, the residual garden space would be of a similar size to that of the neighbouring semi-detached dwelling. A space of such a size would not be out of keeping with the locality and would remain enjoyable

to occupiers of Westbury. It is officer opinion that this, in conjunction to the wider consideration of the scheme above, precludes the proposed development from being considered 'inappropriate' in the context of paragraph 53 of the NPPF.

#### *Other Matters*

- 6.28 The cluster of dwellings known as Thirty Acres is comprised of large semi-detached and detached dwellings clad in various materials. Despite the relatively large size of existing dwellings, indicative elevations and 3D models submitted with this application show dwellings of proportions larger than the local vernacular. This application is made in outline only with appearance, design and layout reserved for later consideration though should permission be granted, the proposed dwellings should be downscaled from what is presently indicated on drawings to a size more commensurate to the local context. Furthermore, the detailed design of the dwellings may need to be readdressed. These concerns have been communicated to the agent for this application who has acknowledged this requirement.
- 6.29 Local concerns were expressed over the outline nature of the application. The making of an outline application is acceptable and it is considered that the scheme's detail can be dealt with at the reserved matters stage at which point those wishing to comment on the scale, appearance, design and landscaping of the proposal will have a chance to do so.
- 6.30 A number of concerns have been expressed from members of the public regarding the precedent of further garden development within the area. Each application must be dealt with on its merits without having regard for speculative future development of this or any other site. That said, it is suggested that this particular garden is relatively unique given its size and location within Thirty Acres in respect to existing development and the local highway network.
- 6.31 Many letters of representation refer to the existence of a restrictive covenant on the application site. This is a civil matter and not one which is material to the planning merits of this application.
- 6.32 Concern is also expressed for the prematurity of the application with regards to the neighbourhood plan. Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a neighbourhood plan, before the end of the local planning authority publicity period. Members may also note that the recently launched 'Planning Practice Guidance' states that circumstances where prematurity may constitute a reason for refusal are likely to be limited to situations where both:
- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
  - b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

It is officer opinion that the emerging core strategy is still at a relatively early stage of preparation and, as such, prematurity cannot be argued as a reason to refuse this application.

#### *Conclusion*

- 6.33 In light of the above, the principle of development is considered acceptable having particular regard for the location of the site in relation to local services and facilities, local transport infrastructure, the intensification of vehicle numbers on the local highway, potential impact on landscape character and the ability of the site to accommodate three dwellings. The access to

be provided offers safe access to and egress from the application site. On this basis it is recommended that in accordance with the presumption in favour of sustainable development as prescribed by the NPPF and giving weight to the Council's inability to demonstrate a five year housing land supply, that outline planning permission be granted .

- 6.34 On 4 March 2009, the local planning authority temporarily suspended the requirement for residential development of five dwellings or less to accord with the Authority's 'Planning Obligations' Supplementary Planning Document (February 2008) where development would commence within two years of the date of an outline permission being. This submission states a preference for a two year permission and as such the requirement of a Section 106 contribution is waived.

## **RECOMMENDATION**

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

- 1. A02 Time limit for submission of reserved matters (outline permission)**
- 2. A03 Time limit for commencement (outline permission)**
- 3. A04 Approval of reserved matters**
- 4. A05 Plans and particulars of reserved matters**
- 5. B01 Development in accordance with the approved plans**
- 6. L01 Foul/surface water drainage**
- 7. L02 No surface water to connect to public system**
- 8. L03 No drainage run-off to public system**
- 9. I20 Scheme of surface water drainage**
- 10. G03 Retention of existing trees/hedgerows**
- 11. H03 Visibility splays**
- 12. Details of the works to widen the carriageway known as Thirty Acres and works to the hereby approved site access as shown on approved plan 1321/PLN/01 shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works shall be implemented as approved prior to the first occupation of the first dwelling.**  
  
**Reason: To ensure that the proposed highways improvement works are delivered as required to offset the increase in vehicular movement along Thirty Acres in accordance with policies DR3 and H13 of the Herefordshire Unitary Development Plan and the NPPF.**
- 13. H13 Access, turning area and parking**
- 14. The recommendations set out in the ecologist's report dated November should be followed in relation to the survey recommendations for reptiles, notably slow-worm. Prior to commencement of the development, a presence/likely absence survey for slow worm should be carried out. Should**

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

slow worm be found a full working method statement for mitigation 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.

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.

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.

15. The recommendations set out in the ecologist's report dated November 2013 with regard to hedgerow protection and habitat enhancement 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 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.

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 Herefordshire Unitary Development Plan.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF 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, 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. N11A Wildlife and Countryside Act 1981 (as amended) - Birds
3. N11C General
4. HN04 Private apparatus within highway
5. HN05 Works within the highway

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

**6. HN08 Section 38 Agreement & Drainage details**

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** 133262/O

**SITE ADDRESS :** LAND REAR OFF WESTBURY, CUSOP, HAY-ON-WYE, HEREFORD

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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 APRIL 2014</b>
<b>TITLE OF REPORT:</b>	<b>132851/O - RESIDENTIAL DEVELOPMENT (UP TO 120 DWELLINGS), ACCESS, PARKING, PUBLIC OPEN SPACE WITH PLAY FACILITIES AND LANDSCAPING AT LAND SOUTH OF HAMPTON DENE ROAD, HEREFORD</b>  <b>For: The Owner and/or Occupier per Ms Rachel Adams, 1 Broomhall Business Centre, Broomhall Lane, Worcester, WR5 2NT</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=132851">https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=132851</a>

**Date Received: 22 October 2013**

**Ward: Backbury**

**Grid Ref: 353508,239909**

**Expiry Date: 21 January 2014**

Local Members: Councillor J Hardwick

Adjoining Ward Members: Councillors JLV Kenyon, MD Lloyd-Hayes, and CA North

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

- 1.1 Outline planning permission with all matters bar access reserved is sought for the erection of up to 120 dwellings with landscaping which includes public open space and a structural planted 'buffer' on land south of Hampton Dene Road, Hereford.
- 1.2 The site is situated in the parish of Hampton Bishop which lies on the eastern edge of Hereford city. The land lies outside the settlement boundary and was identified as land with no potential during the Plan Period in the Herefordshire Strategic Housing Land Availability Assessment (SHLAA).
- 1.3 There is a distinct division between the modern built edge / townscape to the west and open countryside to the east which is clearly marked by Holywell Gutter Lane (and its associated vegetation), which runs roughly north – south along the ridgeline and forms the site's south-western boundary.
- 1.4 To the east of the site is arable farmland, the land sloping down to the River Lugg valley and then rising towards Lugwardine to the north east. The Wye Valley Area of Outstanding Natural Beauty (AONB) is visible to the south east. To the south there are orchards and beyond, the River Wye.
- 1.5 To the north, beyond the properties and grounds of Hampton Dene and Tupsley Court, is the A438 and beyond is the Upper Lugg Meadow.
- 1.6 The site area is approximately 4.7hectares. It comprises a grassed field currently used for horse-keeping, and there is a small stable / storage area. The boundaries of the site are

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

variously established native species hedgerows (with good, mature oak along Holywell Gutter Lane), bramble scrub, occasional trees and dense woodland along the north-western boundary of the site adjacent to Hampton Dene Road. There is a mature oak in the middle of the field which is an important local feature.

- 1.7 The majority of the site is flat but it slopes away along the eastern and south-eastern boundaries. The site is well-screened from most viewpoints to the north, south and west but it is visible from several viewpoints to the north east, east and south east and from public rights of way adjacent to, and close to the site.
- 1.8 A single point of vehicular and pedestrian access is proposed directly from Hampton Dene Road. This is a modification of the existing access to the site and the Grade II listed Meadow Cottage which backs onto the application site. The access would comprise a 5.5m carriageway with 2.0m footways on either side and would be formed so as to provide 4.5m x 45m visibility splays to the nearside of Hampton Dene Road in each direction. The formation of this access would necessitate removal of a section of the existing low stone wall which defines the carriageway's edge and some of the existing tree cover associated with the unregistered park and garden associated with Hampton Dene House.
- 1.9 The application is accompanied by a wide range of supporting material including the following:-
  - Planning Statement;
  - Design and Access Statement and Framework Masterplan;
  - Landscape and Visual impact Assessment;
  - Ecological Appraisal;
  - Transport Assessment and Travel Plan;
  - Summary Statement of Community Involvement;
  - Drainage and Flood Risk Assessment; &
  - Arboricultural Assessment.
- 1.10 The Design and Access Statement (DAS) sets out the aspirations for the development, setting out the intention to utilise a street hierarchy influenced by Manual for Streets, with opportunities taken to make connections to the existing settlement via the local footway network; including direct access onto Holywell Gutter Lane. The framework master-plan shows a 'street' running through the site from north-west to south-east from which a series of secondary roads spur. The framework also outlines the intention to utilise attenuation basins for excess surface water on the lower-lying land on the eastern boundary, where significant structural planting is also proposed as a means to filter views from vantage points to the east and north-east. A buffer zone is also intended against the common boundary with the listed cottage.
- 1.11 The framework master-plan also indicates the proposed location of public open space next to the veteran oak tree on site.
- 1.12 The application is also accompanied by a Housing Land Supply study. This confirms the deficit that has been identified by the Inspector's decision in relation to the Home Farm, Belmont appeal (S122747/O).
- 1.13 The Council has adopted a Screening Opinion confirming that the proposal is not development requiring the submission of an Environmental Statement.

## 2. Policies

### 2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment

### 2.2 Saved Policies of the Herefordshire Unitary Development Plan 2007 (UDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H7	-	Housing in the Countryside Outside Settlements
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
HBA4	-	Setting of Listed Buildings
HBA9	-	Protection of Open Areas and Green Spaces
T8	-	Road hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA4	-	Protection of Historic Parks and Gardens
LA5	-	Protection of Trees, Woodlands and hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
ARCH3	-	Scheduled Ancient Monuments
ARCH6	-	Recording of Archaeological Remains

### 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	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages

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

H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

## 2.4 Neighbourhood Planning

Hampton Bishop has a designated Neighbourhood Plan Area. The area includes the application site. The plan is still at an early stage of preparation and is not considered to attract weight in the determination of this application.

## 2.5 Other Relevant National and Local Guidance / Material Considerations

Annual Monitoring Report  
 Urban Fringe Sensitivity Analysis  
 Planning for Growth – 2011  
 Laying the Foundations – 2011  
 Housing and Growth – 2012

2.6 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

## 4. **Consultation Summary**

4.1 Welsh Water: No objection subject to the separation of foul and surface water drainage. Welsh Water confirms no anticipated problem with the waste water treatment or water supply in relation to this development.

4.2 Environment Agency: No objection.

### Internal Council Advice

4.3 Traffic Manager:

The additional traffic will have an impact on the signalised junction Ledbury Road/Folly Lane/ Church Road, and this is indicated by the latest addendum assessment provided, but the flows predicted to join Ledbury Road at the Hampton Dene Road junction and then travel westbound is only 33 vehicles in the morning peak hour, an increase of 4% of the westbound traffic flow. The signals are close to saturation, and the additional traffic will extend the queuing that currently occurs. The assessment assumes that all trips joining Ledbury Road will arrive at the signals. However, in practice, a proportion of existing A438 westbound traffic in the morning peak currently uses the Whittern Way route to Folly Lane and some cuts through Winchester

Drive and onwards to access A438 at Quarry Road. A similar, but opposite direction of travel, scenario occurs in the evening peak. This alleviates the flows on Ledbury Road at the signals. It is likely that some of the development traffic may also choose these routes. It may also be that more of the development traffic travels south west from the site and onwards through the residential area via Old Eign Hill and Vineyard Road to access B4224 Hampton Park Road and enter the city centre via that route in the morning peak and the reverse in the evening peak. Whilst the re-routing of traffic through residential areas is undesirable, if all the development traffic re-routed through one of those routes, it would only equate to one vehicle every two minutes which is minimal.

Furthermore, if greater queuing occurs on Ledbury Road westbound at the signals, as indicated in the assessment, then it is also likely that drivers travelling on A438 from further field may choose an alternative route such as from A438 Bartestree to A4103 at Whitestone and on to Hereford via that road, or from Dormington via Mordiford and then on B4224 through Hampton Bishop to Hereford. Therefore the effect on the signals may not be as predicted.

Paragraph 32 of the National Planning Policy Framework states that “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”. “Severe” is not defined and is therefore open to interpretation. I am of the view that the resultant traffic impact of the development would not constitute a severe impact, and therefore would not form transport grounds for refusal, particularly as in sustainable terms the site is well placed for schools, local facilities, colleges and with regular (half hourly) public transport to/from the city centre from nearby stops on Hampton Dene Road. Section 106 contributions will enable improvements to travel by sustainable modes to encourage greater usage of those modes, thereby mitigating, at least in part, the residual impact of the development.

#### 4.4 Conservation Manager (Landscapes):

*Landscape Designations:* The site is currently in ‘open countryside’, lying outside the settlement on the east side of Holywell Gutter Lane. It has no formal landscape designation.

The boundary of the Wye Valley Area of Outstanding Natural Beauty (AONB) is approximately 3.8km to the south east, where there is a public viewpoint above Prior’s Frome.

The development site is barely visible from the public viewpoint at the edge of the Wye Valley AONB and no significant adverse visual effects from here, or adverse effects on the AONB itself, are anticipated. The unregistered park and garden of Hampton Dene House encroaches onto the north-west portion of the site.

*Landscape Character:* The site’s landscape character type is Principal Settled Farmlands; these are settled agricultural landscapes of dispersed scattered farms, relic commons, and small villages and hamlets. The key primary characteristic of this type is ‘hedgerows used for field boundaries’. In terms of settlement pattern, ‘low densities of individual dwellings would be acceptable as long as they are not sited close enough to coalesce into a prominent wayside settlement pattern. Additional housing in hamlets and villages should be modest in size in order to preserve the character of the original settlement’. The overall strategy for Principal Settled Farmlands is to ‘conserve and enhance the unity of small to medium scale hedged fields’.

In Herefordshire Council’s Urban Fringe Sensitivity Analysis (USFA) (January 2010), the site lies within a zone defined as having *High Sensitivity*. This zone comprises the steep slope between the edge of the city and the Lugg meadows. The slope is highly visible and a key element in the setting of Hereford when approaching Hereford across the Lugg Meadows, either on the A465 or the A438.

The application site is situated in a prominent position on the ridge above the Lugg Valley, and the site and steeply sloping fields to the east are identified as a distinctive part of the setting of Hereford in the UFSA, as set out above. The landscape quality and sensitivity of the site and

associated landscape to the east are high and they are highly susceptible to change. Development in this location would result in the intrusion of built form into open countryside, beyond an ancient boundary that is Holywell Gutter Lane. Modern residential development here would not be characteristic of the wider rural and historic landscape to the east. Previously the only development on the east side of Holywell Gutter Lane was the 17<sup>th</sup> century Meadow Cottage; an unfortunate recent breach of the lane by modern housing development at Copsewood Drive; and two large properties at its southern end. The proposed development at the southern end, if/when built, will result in the south-eastern edge of Hereford extending further into the countryside. Whilst this will reduce the quality of the landscape character of the area, it is all the more reason to preserve and protect the good quality landscapes which still remain. It is also important to note that the latter development is on land which is lower than this application site and behind intervening vegetation and will therefore not be read in the same landscape context at the application site, which is at the top of the ridge.

The magnitude of impact of the development (i.e. the loss of open countryside and its replacement with a modern housing estate) is large adverse, resulting in a moderate adverse effect on landscape character within the area of influence of the site.

In terms of local landscape character, the proposed buffer planting to the eastern boundary would not be in keeping with local landscape characteristics and would not mitigate the adverse effects on the wider landscape character.

In the context of the city itself, the area of influence of the site is quite limited due to the dense vegetation (mature trees/woodland with a high proportion of evergreens) along Hampton Dene Road and the northern section of Holywell Gutter Lane (in the grounds of the listed building). However several trees along Hampton Dene Lane would have to be removed to accommodate the proposed access. The dense tree cover along the lane is a strong landscape element with historic value and the creation of the access would result in a moderate to major adverse effect on local landscape character. The proposed new woodland planting would help to compensate for the removal of trees required to facilitate the access, but would not mitigate the effects.

The tree survey suggests that some of the trees in the woodland form part of the original structural landscape planting of Hampton Dene House (see below). It states that the proposals are able to retain and incorporate all of the other existing trees present around the boundaries (including those within Hampton Dene garden) as well as the free standing specimen within the field (which is shown on the plan as retained within public open space).

The condition of the site is currently moderate as a result of the current land-use (although it could be improved) but in terms of its local historic value, it is high.

*Landscape Function and Value:* The site is a prominent remnant of the open countryside beyond the historic boundary marked by Holywell Gutter Lane and makes an important contribution to the setting of the edge of the city in views from the east. The Green Infrastructure Strategy for Herefordshire (February 2010) states that the site falls within Hereford Fringe Zone HerFZ 1 (wet grassland, wet woodland, ponds and linear aquatic features). The fringe zones are areas where green infrastructure can contribute to creating a comfortable, dynamic and functional transition between the settlement and open countryside. The site currently contributes to local Green Infrastructure in accordance with the Strategy; it is also important to local visual amenity along Holywell Gutter Lane.

Holywell Gutter Lane which forms the site's south western boundary is a public right of way (footpath/bridleway HER47). The Three Choirs Way, a long-distance trail, follows the A438 north of the site. There are public rights of way leading west of Holywell Gutter Lane into Tupsley. Lugg Meadow is designated Open Access land but access to Lower Meadow is not permitted between 1<sup>st</sup> March and 1<sup>st</sup> July. No public rights of way are directly affected by the proposals. For effects on historic landscape features and visual amenity, see below.

*Historic and Cultural Landscape:* A Scheduled Ancient Monument (SAM) (cropmark complex east of Tupsley - prehistoric ring ditches and rectilinear enclosures, and possible Bronze Age barrow cemetery) lies 550m east of the site. The proposed development is inter-visible with

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



the SAM and its rural setting is likely to be adversely affected although the LVIA predicts that the effects would reduce as the structure planting matures over the longer term. Lugg Meadow itself is the most important surviving Lammas meadow in the UK and is likely to have formed part of the Bronze Age settlement's seasonal grazing lands. The UFSA states that within Zone 5b, the key landscape characteristics of the Lugg Meadow river floodplain are evident: pastoral land use, linear patterns of willow and alder and an absence of built development. The proposed development would bring built development closer to the Meadow, adversely affecting its setting. The proposed structure planting on the site's eastern boundary is out of character and unlikely to fully mitigate these effects in the longer term.

There is a Grade II listed building (timber-framed 17<sup>th</sup> century house) and its garden adjacent to the site's western boundary. The Grade II listed building (Meadow Cottage) and its grounds will not be directly affected by the development but the setting will be significantly compromised by the development, which will change from historic parkland/open fields to modern housing.

Hampton Park Conservation Area is about 400m south of the site. The development is unlikely to adversely affect the setting of Hampton Park Conservation Area as the sites are separated by built development and not inter-visible.

The northern sector of the site occupies part of an Unregistered Historic Park and Garden (Hampton Dene, 19<sup>th</sup> century Landscape Park). The garden is also registered as an asset on the HER (HER31158). The development will result in the loss of more than half of Hampton Dene Unregistered Historic Park and Garden. The remaining half is occupied by the house and immediate surrounds so it is predominantly historic parkland which will disappear. This is a significant adverse effect on local historic character, which is exacerbated by the permanent change in character of this section of Holywell Gutter Lane.

Holywell Gutter Lane is an historic route (possibly established in the 8<sup>th</sup> century) which marked the eastern boundary of 'the Liberty of Hereford'. Although it is not directly affected by the proposals there are likely to be indirect adverse effects on the lane through changes in its character arising from increased use, erosion, litter, lighting, noise and activity and views of new houses.

*Natural Landscape:* The River Wye Special Area of Conservation (SAC) (which incorporates the River Lugg) is located approximately 700m south of the site at its nearest point. The River Lugg is located 700m north east of the site, which in addition to its SAC designation is also designated as a Site of Special Scientific Interest (SSSI) (Lugg and Hampton Meadow), the boundary of which, at its closest point, is 200m away from the site. It is unlikely that there would be any direct effects for example from humans and domestic pets on the amenity of the River Lugg SSSI complex.

*Visual Amenity:* The site is well-screened from most views from the north, south and west but it is visible from several sensitive viewpoints to the north east, east and south east: there is a 180° panorama from the site to the AONB and there are views in from residential properties and public rights of way both adjacent and close to the site. In views from the east, the skyline along the ridge is characterised by dense, mature vegetation (including the line of oak along Holywell Gutter Lane and many ornamental historic parkland trees). The site is clearly visible and is seen as part of the open valley slope beyond the strong tree line. Development of the site would result in a major negative effect on these views.

The proposed buffer planting to the east of the site could partially screen views in the longer term (but the trees may need to reach 10 – 12m tall before they screen views from Lugwardine, and higher-level views from the AONB may not ever be fully screened). As stated above, planting here would be out of character. Also, if reliance is placed on this planting to mitigate visual effects a mechanism needs to be put in place to ensure that these trees (and existing ones) are not gradually removed by future residents to improve light, views, amenity etc.

The visual amenity of local residents and users of Holywell Gutter Lane will be adversely affected by the change in landscape character and views caused by new built development, the loss of trees and access off Hampton Dene Road and the introduction of lighting, domestic clutter and increase in activity.

#### *Conclusions*

Development in this prominent, historic and highly sensitive location would be inappropriate and out of keeping with both local and wider landscape character. It would give rise to moderate to major negative effects on landscape character (including an historic landscape) and visual amenity and for these reasons the application should be refused.

The development does not comply with Policy DR1 in particular Para. 3: the effects on 'townscape and landscape character and topography, including the impact of the proposal on urban vistas, longer distance views and ridgelines' are likely to be moderate to major adverse on a local level.

For the reasons set out above the development is contrary to Landscape Policies LA2 Landscape character and LA3 Setting of settlements.

The proposed development is likely to give rise to adverse impacts on the setting of the adjacent listed building which is contrary to Policy HBA4 Setting of listed buildings.

4.5 Conservation Manager (Ecology): No objection subject to the imposition of conditions.

4.6 Drainage Engineer:

The submitted Flood Risk Assessment (FRA) concludes there is no risk of fluvial, tidal, surface water or reservoir flooding to the site. The FRA notes that groundwater levels are high or perhaps perched within the site boundary. The applicant has not provided infiltration testing results but trial hole logs have been provided in the Preliminary Risk Assessment (Ref: LKC 13 1015) as evidence of this conclusion. The FRA notes that no infiltration is likely to be possible due to clayey superficial deposits and a high groundwater table. No watercourses are accessible without crossing third party land and for these reasons the applicant is proposing to connect surface water drainage into the existing surface water sewerage network owned and operated by Welsh Water.

#### *Fluvial Flood Risk*

The applicant's proposed development is located entirely in Flood Zone 1. The site is greater than 1 ha in area and so a FRA has been submitted by the applicant. The FRA concludes that there is no risk of fluvial flooding as confirmed by the EA's Flood Zone map and correspondence between the applicant and the EA is provided as an appendix to the FRA.

#### *Surface Water Flood Risk*

The applicant's FRA considers the risk to the site posed by surface water flooding arising from runoff from Hampton Dene Road and concludes that the risk is negligible. The FRA also considers the risk arising from within the site as existing ground appears to be relatively low permeability clay. The FRA concludes this latter risk to be due to a high/perched water table and recommends further consideration of a dewatering strategy for the area.

#### *Other Considerations and Sources of Flood Risk*

The FRA notes that no sewers are present within the applicant's proposed development area so the risk to the site posed by sewer flooding is low. No artificial sources posing a risk to the development have been identified within the FRA.

Groundwater flood risk to the site is noted in the applicant's FRA as warranting further consideration. The FRA concludes that appropriate waterproofing of below-ground structures,

including service installations and/or dewatering of the ground may be required due to the presence of a high/perched groundwater table. Trial hole logs have been provided by the applicant as evidence of the high water table. The FRA notes that the site is located on an area of land classified by the EA as Secondary A aquifer capable of supporting water supplies at a local level and of with soils of intermediate leaching potential. The applicant proposes to protect surface and groundwater from pollution through use of filter strips, permeable paving and ponds. It is recommended that further investigation, including borehole tests, be undertaken to better understand ground water conditions on site and provide enough information to enable appropriate design at a latter stage in the development process.

#### *Surface Water Drainage*

The applicant has considered discharging surface water to infiltration devices and to a watercourse, however the FRA concludes that the high/perched water table and clayey soils precludes the use of infiltration methods and no watercourse is accessible without access through third party land. No infiltration rate calculations have been provided but trial pits logs have been provided in the Preliminary Risk Assessment (Ref: LKC 13 1015) as evidence of limited infiltration potential. It is recommended that the applicant undertakes infiltration testing in accordance with BRE Digest 365 prior to construction to determine the potential for any onsite infiltration (informed through detailed review of groundwater levels) and that, if possible, infiltration is utilised as part of the surface water management strategy.

The applicant is proposing to attenuate discharge into Welsh Water's public surface water sewer at a rate to be agreed between the applicant and by Welsh Water. The applicant is proposing to use permeable paving and cellular storage to attenuate flows at the Greenfield rate during events up to the 1 in 30 year design storm. For more severe events up to and including the 1 in 100 year + climate change event the applicant is proposing to cascade flows from cellular storage into ponds before discharging at the Greenfield runoff rate into the public sewer via a pumped/gravity connection.

No information has been provided regarding the adoption and proposed long term maintenance strategy for the surface water drainage system. It is also recommended that, due to the site of this development, consideration is given to designing for exceedance (CIRIA C635 Designing for Exceedance in Urban Drainage) and that overland flow paths are considered.

#### *Overall Comment*

There are no objections in principle on flooding or drainage grounds, subject to the following:

- The provision of a detailed drainage strategy that demonstrates the use of SUDS, sets out the proposed adoption and long term maintenance strategy, and demonstrates consideration of designing for exceedance.
- On-site infiltration testing to confirm the site's suitability (or not, as the case may be) for infiltration of surface water runoff.
- Further site investigation to better understand ground water conditions to inform the design and inform the use of SUDS.
- Confirmation of agreement with Welsh Water regarding the allowable discharge of surface water to the public sewerage network.

4.7 Principal Leisure & Countryside Recreation Officer

The proposal generally meets with the policy requirements for open space from developments of this size. This development is for approximately 120 dwellings and in accordance with the Design and Access Statement in accordance with National Playing Fields Association (NPFA) standards provides on-site an area of:

0.46 ha youth and adult use

0.23 ha children's play

The proposal identifies one large central space which in accordance with UDP Policy would meet the requirements for both children's play and outdoor sports. However, given the requirements for outdoor sports this should not be provided on-site. Provision on site should meet the requirements for POS and children's play only, to include provision for all ages, a kick-about area, to be centrally located with good access links and designed to include both formal and informal natural play and recreation opportunities. This could include the indicative green infrastructure and attenuation ponds which if designed accordingly with both health and safety and biodiversity in mind could be used as informal play and recreational purposes.

Other considerations could also include community gardens around village green type layouts for the local community to develop with locally characteristic community orchards and growing spaces.

On the basis of the developer's willingness to provide allotments and a children's play area on the site, contributions required towards outdoor sport pursuant to the SPD on Planning Obligations are as follows: (market housing only):

1 - bed - £588

2 - bed - £714

3 - bed - £766

4+ bed - £1176

The contributions would be put towards the development of sports pitches at Aylestone Park in support of the findings of the Playing Pitch Assessment for Hereford.

*POS/Attenuation Ponds:* The proposal includes areas of green infrastructure to accommodate attenuation ponds. If designed appropriately these areas can be used as informal recreation and provide for biodiversity. Provision of semi natural POS in this way would also help meet deficiencies in this part of the city identified in the PPG 17 Open space study.

The linear nature of this area can also provide opportunities for natural play and development of "health" trails with the provision of access and pathway links to the residential areas. At the more detailed design stage this should be considered as part of the play offer.

*Adoption/Commutated sums:* Commuted sums will be required for the future management and maintenance on agreed designs (at the appropriate stage) in accordance with our latest tariffs if to be adopted by the Council. In places where the nature of the open space is more community orientated e.g community gardens, the council would not wish to be responsible for the on-going maintenance; where this happens other options such as management companies should be explored.

4.8 Public Rights of Way Manager: The proposal does not appear to affect the bridleway HER47 and there is no objection.

- 4.9 Environmental Health Manager: No objection in relation to the submitted air quality assessment
- 4.10 Schools Organisation and Capital Investment Officer: No objection subject to the finalisation of a S106 to ensure a policy/CIL compliant contribution towards educational infrastructure.
- 4.11 Housing Development Officer:
- The scheme proposes 35% of the units to be affordable, which is acceptable. The affordable units need to be tenure neutral and well integrated within the development. The units would need to be built to Homes and Community's Design and Quality Standards, Lifetime Homes and Level 3 of the Code for Sustainable Homes with local connection to Hereford. The units should comprise an appropriate mix of 1, 2, 3 and 4-bed units built to minimum space requirements. The recommended tenure split is 54% social rent and 46% intermediate tenure, this will allow an option of intermediate rental, shared ownership or low cost market.
- 4.12 West Mercia Police: The developer should refer to Secure by Design and other recognised standards as a means of ensuring that opportunities are taken to reduce incidents of anti-social and potential criminal behaviour.
- 4.13 Archaeological Advisor: No objections, but in accordance with UDP ARCH6 and Para 141 of the NPPF, would advise inclusion of the standard 'programme of work' archaeological condition to provide mitigation.

## 5. Representations

- 5.1 Hampton Bishop Parish Council: Objection: Herefordshire Council cannot currently demonstrate a five year housing land supply. Planning policy for housing in the UDP must therefore be considered out of date. The emerging Core Strategy at this stage can only be given limited weight.

This planning application should therefore be determined with regard to the current housing land supply position and also whether the proposals would give rise to any adverse impacts, particularly having regard to the character and appearance of the area and increasing flood risk elsewhere.

The Parish Council are of the opinion that the proposal does affect the character and appearance of the area and would lead to increased flood risk elsewhere, particularly the village of Hampton Bishop. These impacts significantly and demonstrably outweigh the benefits of the scheme (see also Home Farm appeal decision APP/W1850/A/13/2192461).

### *Flooding*

The village of Hampton Bishop is subject to continual surface water flooding. The main road (B4224), Rectory Road, Church Lane and Whitehall Road are all periodically (and since December, frequently) impassable. When the River Wye and/or River Lugg are in spate, much of the village road and ditch systems is below river level, protected only by the flood banks. It follows that the surface water has nowhere to go until the river levels drop.

Most of the surface water originates from the Hampton Park/Tupsley area of the city and follows the natural gradient down the B4224 into the village.

As the applicant's Flood Risk and Drainage report indicates the application site drains naturally to the east and south-east towards the Lugg Valley and then the village of Hampton Bishop. Run-off from the site will only increase with creation of such a large build

development. This will exacerbate the already severe flooding problem in Hampton Bishop. The applicant's Flood Risk and Drainage report makes no assessment of the increased flood risk this will create elsewhere i.e. Hampton Bishop. This is clearly contrary to national planning policy contained in para.103 of the NPPF and policies S2, particularly para.2 and DR4 of the Unitary Development Plan.

#### *Character and Appearance of the Area*

The development will have a significant impact on the character and appearance of the area. The steep between the edge of the city and the River Lugg is a key element in the setting of Hereford when approaching from the east. This means the landscape to the east of the city has retained a relatively rural and tranquil character. The view from the east (Lugwardine area) across the Lugg Valley towards Hereford has a unique, rural and very special character. Although the application includes some screening measures they would not be sufficient to prevent a significant change in the setting of the city and a significant interruption in to the rural and tranquil quality of this area. The site is identified as being High Sensitivity in the Council's Urban Fringe Sensitivity Analysis (2010). The site is prominent within the above views and is seen as a modern intrusion into open countryside.

There are several important views from high level public points within the Wye Valley AONB west/northwest into Hereford. This development will have a detrimental effect on these views and planting will require many years to grow to a level to screen these views. Planting in itself will be a visual intrusion into the views which is out of character and inappropriate in the landscape.

#### *Conclusion*

Hampton Bishop Parish Council therefore opposes the application because it is contrary to policies S1, S7, DR4, LA2 and LA3 of the Unitary Development Plan.

#### 5.2 Hereford City Council:

Some of the affordable units should be bungalows. This is in recognition of the large unmet need for affordable homes for older people. There is some anxiety regarding the proposed single point of access onto the very busy Hampton Dene Road.

#### 5.3 Four letters of objection have been received from local residents. The content can be summarised as follows:

- The single point of access onto a very busy road is a cause for concern;
- At certain points of the day, typically at school drop off and pick up, Hampton Dene Road is brought to a near standstill with cars double parked and access to private dwellings almost impossible. Adding a significant volume of traffic in the face of a pre-existing issue is unacceptable;
- The public consultation event was based on a scheme for 95 houses, but it is clear that all supporting documents are predicated on up to 120 houses. Why not be clear from the outset?
- The proposal will have a clear and legible adverse impact on the rural vista on approach to Hereford City over the Lugg Flats SSSI. Any incursion on this ridge will be highly visible and inappropriate;
- Why is consideration not given to brownfield sites first? Poor industrial sites should be phased out and redeveloped in preference to the release of greenfield sites;
- The submitted ecology survey is erroneous and if undertaken during the spring/summer would have identified more breeding and nesting birds, including a pair of Hobby, which are known to nest locally;
- The proposal will bring further pressure to bear on already stretched services, including local schools and doctors surgeries;

- 5.4 One letter of support has been received. This supports the provision of affordable housing and asks that consideration be given to enhancement of traffic calming measures locally.
- 5.5 A further letter voicing concern in relation to the impact on traffic flows on Ledbury Road has been received. The letter states that consideration should be given to the removal of the traffic signals at the Folly Lane/Ledbury Road junction in order to improve traffic flow, air quality and waiting times.
- 5.6 Woolhope Naturalists' Field Club

Hollywell Gutter Lane, which forms the south-western boundary of the development site, has a special significance. This un-adopted footpath, which extends from the Hampton Park Road to the Hampton Dene Road, marks the eastern boundary of the 'Liberty of Hereford' and forms a discrete area -or franchise - which has at its heart the ancient city of Hereford. It was, according to most authorities, established in the 8<sup>th</sup> century, probably by the Mercian king, Offa. The ditch or gutter defines the royal endowment given to the newly established Bishop of Hereford but although the Bishop gained material benefits from the land within the liberty, it remained under the jurisdiction of the king, represented by the royal bailiffs who governed Hereford until Elizabeth I's charter of 1596. The Liberty of Hereford is thus, older than the shire or county by at least three hundred years and remained an independent jurisdiction until Hereford City Council was abolished in the 1990s. In effect this lane is as old and as precious as Offa's Dyke.

The full text of the response outlines significant local history associated with Holywell Gutter Lane and the Society asks that this be acknowledged and treated with respect. Already the southern part of the lane has disappeared under Copsewood Drive, presumably because its importance was not recognised. We would suggest that this last surviving stretch of the lane should be carefully preserved without any disturbance - it is, after all, a topographical feature of archaeological importance. The hedgerows on either side need to be maintained and managed, and a ten metre margin created on the estate side as a cordon sanitaire, grassed over and used as an additional walk. The occasional trees could be planted here, well back from the lane. This will avoid dumping, which would occur if the gardens of the properties breasted the lane - as has happened behind Park Street - disguising the original form of Rowe Ditch.

- 5.7 In response to the Conservation Manager's comments the applicants have provided additional comment, which is set out below:

*Landscape Designations*

The application site has no designations. The Wye Valley Area of Outstanding Natural Beauty (AONB) lies approximately 3.8km to the south-east of the site. The Council agree that "no significant adverse visual effects from here, or adverse effects on the AONB itself are anticipated."

*Landscape Character*

*The setting of Hereford and the wider landscape*

The Urban Fringe Sensitivity Study (2010) does not consider the capacity of a particular landscape to accommodate a particular type of development, only the sensitivity of the urban fringe landscape at a broad scale and states that:

"All landscapes surrounding the Herefordshire towns are constrained by sensitive landscapes. Any development will need to respond to the sensitivity of the landscape and to present acceptable mitigation to resultant change."

The site lies at the eastern edge of Hereford and its immediate context comprises a variety of land uses including arable fields, a school, playing fields and modern residential development

along Hampton Dene Road, Queenswood Drive, Haycroft and Copsewood Drive. The assertion that Holywell Gutter Lane constitutes a logical boundary to future development is errant. It represents a an ancient landscape boundary that has, in the relatively recent past, been breached by residential development at Copsewood Drive as well as development to the south-east of Hereford at Rotherwas and the south-west at Belmont. As demonstrated by the Landscape and Visual Appraisal (LVA), existing residential development at the settlement edge is visible to varying degrees in the wider landscape to the east and forms part of the landscape and visual baseline against which potential effects have been assessed. It is acknowledged that new built development would initially adversely affect views towards Hereford from the wider landscape. However, a high quality landscape scheme would significantly reduce these very localised adverse effects in the medium to long term. It is therefore proposed to establish a landscape buffer and to locate larger plots along the eastern boundary in order to create a low density filtered edge of the development adjacent to the countryside. Additional tree planting within the vicinity of Hereford is in keeping with local landscape character and is discussed further below.

#### *Proposed Landscape Buffer and Mitigation of Effects*

In relation to patterns of woodland and tree cover within the Principal Settled Farmlands, the Herefordshire Landscape Character Assessment (2004) notes that "groups of trees and orchards are often associated with settlements" and that "additional tree planting in the vicinity of settlement would also be appropriate and would assist in emphasising the domestic quality of the landscape".

Tree cover directly to the east and north-east of Hereford is consistent with the character area description and includes tree groups around Hampton Dene House, vegetation to the north of the Cock of Tupsley and Baynton Wood. Far from being incongruent with local landscape character, the proposed addition to the settlement here, together with the landscape buffer represents an opportunity to integrate with and reinforce existing patterns of tree cover. The Council agree that "the proposed buffer planting to the east of the site could partially screen views in the longer term".

As described below, the development would also be set within a strong landscape framework, which would further help to integrate built development with its landscape setting to the east.

#### *The Site and its Immediate Context*

It is unavoidable that, as with any housing development on a greenfield site, the character of the site itself would inevitably change. However, particular care has been taken to identify, retain and enhance existing key landscape features as an integral part of the scheme:

- The existing mature oak tree would be retained as a focal point within an area of public open space at the centre of the site;
- Built development would be set back from the existing hedgerows and scrub along site boundaries, which would be supplemented with additional planting along the eastern boundary;
- Built development would be set back from existing tree cover along Holywell Gutter Lane;
- Creation of new pedestrian connection through the central public open space to Holywell Gutter Lane;
- Surface water attenuation ponds would be designed to provide habitat for local wildlife and visual amenity for residents.

In addition, advice from Conservation experts has informed the layout of the scheme in relation to the setting of Hampton Dene House and Meadow Cottage. Built development has been set back 25 - 30m from Hampton Dene House beyond an area of open space, which will include new tree planting to mitigate for the loss of existing trees at the site access. A



landscape buffer has also been provided directly to the east of Meadow Cottage to allow for additional tree and shrub planting.

The development will be of high quality and is well-designed. It respects the landscape setting is not in itself intrinsically harmful and it is therefore considered that the landscape has the capacity to accommodate change of the nature proposed.

#### *Visual Amenity*

The Council agree that the site is generally well screened to most views from the north, south and west and that the development will not result in any significant adverse visual effects on the Wye Valley AONB, which lies approximately 3.8km to the south-east. Potential visual receptors in the vicinity of the site are confined to a small number of residential properties and users of Holywell Gutter Lane. Views of new built development from the public right of way would only be a possible along a relatively short stretch of footpath directly adjacent to the site. Existing development is a prominent feature along much of the right of way and it passes directly through modern residential development along Copsewood Drive. In order to mitigate the minimal adverse visual effects of the development upon users of Holywell Gutter Lane and adjacent residential properties, particular regard has been given to the retention of the existing key landscape features along this boundary. Taken together with the design approach of locating the central public open space adjacent to the right of way, the sense of openness will be preserved as far as possible. As shown by the LVA, there are relatively few visual receptors in the landscape to the east and those that are present generally lie a significant distance from the site boundary and the development would be perceived as a relatively small part of panoramic views towards the eastern edge of Hereford. As described above, planting along the eastern boundary of the site would not be out of character and would partially screen and effectively filter views of the new housing from the east as it matures. Intervening vegetation, particularly the extensive tree cover along the watercourse and valley floor also effectively screens views from potential receptors locally. It is important to recognise that new development would be seen in the context of existing residential development, which is visible through gaps in the intervening vegetation.

- 5.8 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 application is made in outline with all matters reserved except for access and involves the erection of up to 120 dwellings on land south of Hampton Dene Road. The site is outside but adjacent the settlement boundary for Hereford City as defined by the Unitary Development Plan, but falls within the parish of Hampton Bishop. The key issues are considered to be:-
- An assessment of the principle of development at this location in the context of 'saved' UDP policies, the NPPF and other material guidance; &
  - An assessment of the sustainability of the scheme having regard to the scheme's impact on the existing settlement in terms of landscape character and amenity and surface water drainage;

The Principle of Development in the context of 'saved' UDP policies the NPPF and other material guidance

6.2 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

6.2 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). UDP policy S3 sets out provision for the erection of 800 dwellings per year between 2001 and 2007 and 600 per year thereafter. The distribution for housing is split between Hereford and the market towns, main villages and the wider rural area. The plan is time-expired, but relevant policies have been 'saved' pending the adoption of the Herefordshire Local Plan/Core Strategy. UDP policies can only be attributed weight according to their consistency with the NPPF; the greater the degree of consistency, the greater the weight that can be attached.

6.3 This site falls outside the settlement boundary for Hereford City, which extends up to the site's northern and western boundaries. Development is thus contrary to 'saved' UDP policy H1 and none of the exceptions under Policy H7 are met. It is clear, therefore, that the proposal is contrary to the housing delivery policies of the UDP.

6.4 The two-stage process set out at S38 (6) requires, for the purpose of any determination, assessment of material considerations. In this instance the NPPF is the most significant material consideration. Paragraph 215 recognises the primacy of the Development Plan but only where saved policies are consistent with the NPPF:-

*"In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

6.5 The effect of this paragraph is to supersede the UDP with the NPPF where there is inconsistency in approach and objectives. The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and 11-15. Paragraph 47 states: "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites."

6.6 The Council's published position is that it cannot demonstrate a five year supply of housing land. This was the published position in April 2012 and again in July 2012, since when there has been no further published figure. However, the position has recently been clarified by the Inspector's decision following the Public Inquiry for Home Farm, Belmont – APP/W1850/A/13/2192461. The Inspector concluded that housing sites identified in the emerging Core Strategy could not be taken into account as there can be no guarantee that they will deliver housing within the first 5 years of the plan.

6.7 The Inspector also judged that on the basis of the Council's housing requirement it does not have a five year supply, is significantly short of being able to do so, and persistent under-delivery over the last 5 years would render the authority liable to inclusion in the 20% bracket.

6.8 In this context, therefore, the proposed erection of 120 dwellings, including 35% affordable, on a deliverable and available site is a significant material consideration telling in favour of the development to which substantial weight should be attached.

*Hereford Local Plan – Draft Core Strategy 2013-2031*

6.9 The Draft Local Plan is not sufficiently advanced for its policies to be attributed weight for the purposes of decision making and this has been borne out by the Home Farm decision. It is the case, however, that Hereford remains the principal focus for housing and related growth over the plan period.

6.10 On this basis officers conclude that in the absence of a five-year housing land supply and advice set down in paragraphs 47 & 49 of the NPPF, the presumption in favour of sustainable development expressed at Paragraph 14 of the NPPF should apply (if it should be concluded that the development is sustainable). As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary. Furthermore, if the Core Strategy housing growth target for Hereford is to be achieved, greenfield sites on the edge of the existing settlement will have to be released.

An Assessment of the Sustainability of the Proposals

6.11 In order to engage the presumption in favour of the approval of sustainable development, a proposal must first demonstrate that it is representative of sustainable development. Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions. The NPPF thus establishes the need for the planning system to perform a number of roles including, *inter alia*, providing the supply of housing required to meet the needs of present and future generations and by creating a high quality built environment.

6.12 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Although not allocated for housing development; it being the intention in Herefordshire that specific area and neighbourhood plans fulfil this function, the site has been assessed via the Strategic Housing Land Availability Assessment as having major constraints; although the current application is testimony to the site's availability and deliverability. In the context of persistent under-delivery, including some large-scale UDP allocated housing sites on which development is still yet to commence; officers consider the immediate deliverability of this site to be a material consideration.

6.13 Paragraph 14 of the NPPF states that for decision making, the presumption in favour of sustainable development means:

- *“Approving development proposals that accord with the development plan without delay;&*
- *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
  - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.”

It is the second bullet point that is relevant in this case.

- 6.14 The Council's landscape consultant has objected to the development on the basis that it represents a major incursion into the sensitive part of the urban fringe. She objects on the basis that large-scale residential development is uncharacteristic of the principal settled farmlands character type and likely to be highly visible from a range of middle-distance vantage points to the north-east, east and south-east. The significance of Holywell Gutter Lane as a surviving medieval marker of the city boundary is also noted and echoed by the Woolhope Society. It is concluded that the proposal would be contrary to 'saved' UDP policies DR1 (3), LA2, which directs refusal of development that would adversely affect either the overall character of the landscape...or its key features, and LA3. The loss of the remaining parkland setting to Hampton Dene House is also noted as contrary to LA4.
- 6.15 Paragraph 109 of the NPPF says that the planning system should contribute to and enhance the local and natural environment by "protecting and enhancing valued landscapes". Paragraph 113 recognises, however, that it is necessary to make distinctions between the hierarchies of landscape areas in terms of whether the designation is of international, national or local significance. This is in order that protection is "commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks." As such, although the harm with adopted UDP policies is acknowledged, the site itself is not subject to any of the specific policies of the NPPF that indicate that development should be restricted as per footnote 9 to paragraph 14. To this extent, therefore, although conflict with the environmental role of sustainable development is identified, it is necessary to weigh this harm against the benefits of the proposal in conducting the 'planning balance'. Refusal should only ensue if the decision taker considers that the adverse impacts associated with approval "significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF when considered as a whole" – the paragraph 14 'test'.
- 6.16 In addressing the planning balance, decision-takers need to consider both benefits and adverse impacts. In this instance the adverse impacts are quantified above at 6.15 and 4.4. In terms of the benefits beyond the affordable housing and increased breadth of housing choice locally, the site is considered to represent a sustainable location for housing growth in terms of access to goods, amenities and employment. The Traffic Manager acknowledges the potential for non-car borne access to local shops, schools and employment opportunities and it is this potential that off-sets concerns in relation to the potential for increased pressure on the signalised junction at Ledbury Road / Folly Lane junction. The Development Framework master-plan also identifies the potential for linkages to the local public footpaths, including Holywell Gutter Lane, whereas contributions towards sustainable transport measures could be directed at improved pedestrian crossing facilities from the site to local schools and beyond, upgrades to the local public footpath network and the potential for an extension of the speed limit along Ledbury Road. In this respect, therefore, officers consider that the proposal would be consistent with the economic and social dimensions.
- 6.17 Officers are also conscious of the applicant's rebuttal of the Conservation Manager's objection at 5.7 above and consider that harm to the setting of the listed building Meadow Cottage is slight and not, in the light of the scheme's benefits, sufficient to warrant refusal of the application.
- 6.18 The Parish Council has expressed concern at the potential for the proposal to increase flood risk within the village of Hampton Bishop. The site occupies land that is elevated relative to the village and it is acknowledged that under existing conditions surface water drains from the site towards lower-lying ground to the east. At paragraph 103 the NPPF sets out the expectations that development should not increase flood risk elsewhere. Applications should be informed by a site specific Flood Risk Assessment, as is the case here, and opportunities offered by new development to reduce the causes and impacts of flooding should be taken (para.100).

- 6.19 The surface water drainage strategy envisaged by the applicant involves the use of surface water attenuation basins, which would retain surface water before it being pumped at an agreed rate into the mains drain in Hampton Dene Road. The use of soakaways has already been discounted on account of the ground conditions and high water table. Although Welsh Water would be against the discharge of surface water to the mains via an attenuation basin, there is no objection to the proposal subject to the imposition of conditions securing the appropriate management of surface water. Likewise neither the Council's drainage engineer nor the Environment Agency has any objection to the proposal subject to conditions. The proposed condition would require the formulation of a fully integrated and comprehensive drainage solution prior to the commencement of development. The Council's engineer is confident that the drainage design can be robust enough to capture and attenuate runoff from all new hard paved surfaces up to and including the 1 on 100 year + climate event – therefore mitigating any increased flood risk elsewhere.
- 6.20 On this issue, officers are clearly mindful of the concerns expressed, but on the evidence available, specialist technical advice does not support the view that the development will increase the risk of flooding elsewhere and particularly in Hampton Bishop. Officers are content that while Welsh Water is not prepared to sanction the strategy that has been devised, alternatives that offer betterment against green-field run-off rates exist and a condition requiring the formal submission and written approval of a surface water drainage scheme is appropriate in this context. Officers are thus satisfied that an NPPF compliant drainage scheme will be delivered in the event that planning permission is granted.
- 6.21 The application is made in outline and by definition all matters except access would be reserved for future consideration. Officers consider, however, that in terms of the economic and social dimensions of sustainable development, the development proposal is sustainable. The delivery of housing, including 35% affordable, in the context of a significant under-supply is a significant material consideration telling in favour of approval. Likewise the site is well-related to a range of goods, services and amenities and well served by public transport provision. Positive impacts in relation to job creation and within construction and related sectors and the new homes bonus are also material considerations.
- 6.22 It has been identified, however, that the development would be at odds within the prevailing landscape character and visible from a range of vantage points to the east and north-east. The development would breach the medieval marker that is Holywell Gutter Lane and redefine the relationship between city and countryside in the process.
- 6.23 Officers recognise this conflict and the aspiration that sustainable development should positively encompass the three dimensions as being mutually dependent. However, in the context of the housing supply deficit, officers do not consider that conflict with one of the dimensions should necessarily lead to refusal and in taking this view are mindful of the absence of an international or national landscape designation on site, whereas the historic park and garden associated with Hampton Dene House represents a local designation that has already been significantly despoiled. On balance, therefore, officers conclude that the presumption in favour of sustainable development can be engaged and that a decision should be taken in the light of paragraph 14 of the NPPF.

#### Other Matters

##### *Highway Safety*

- 6.24 The Traffic Manager has no objection to the proposal. The proposed junction is in accordance with the adopted Highways Design Guide and gives adequate visibility to the nearside of the carriageway in each direction. The impact of additional traffic on the network is not considered sufficient to cause concern in relation to the NPPF advice which confirms that "development should only be prevented or refused on transport grounds where the residual cumulative

impacts of development are severe. On this matter the scheme is considered to comply with saved UDP Policy DR3 and the NPPF.

#### *Ecology*

- 6.25 The applicant has confirmed that prior to commencement of the development, a full working method statement will be submitted to the local planning authority for written approval, and the work shall be implemented as approved.
- 6.26 The working method statement will be prepared in respect of protected species potentially present including bats, great crested newts and nesting birds.
- 6.27 It has also been agreed that the erection of bat boxes on a number of the mature trees around the site boundaries to provide additional roosting opportunities will form part of the habitat protection and enhancement statement that will also be required via planning condition. Other than the removal of trees necessary to create the site access, no other trees are intended for removal and significant new planting would be undertaken as part of the comprehensive landscaping of the site.
- 6.28 In order to ensure there are no adverse effects on great crested newts and that no offenses are committed in relation to this species the Working Method Statement will include detail of specific mitigation measures to be implemented. These will include:
- Details of methodology for trapping and removal of great crested newts from site under a licence from Natural England;
  - Protection and retention of suitable terrestrial habitat within the site;
  - Protection and retention of habitat connectivity between ponds;
  - Details of creation of suitable habitats within proposed green-space including rough grassland and scrub/ structure planting, two drainage ponds suitable to support great crested newts and refuges and hibernacula.
  - Enhancement of existing ponds.
  - Design prescriptions for a wildlife culvert to allow amphibians and small mammals to cross under the access road.

#### *Foul Drainage*

- 6.29 Welsh Water has confirmed that the existing mains system has capacity to accommodate the proposed development with no adverse effects on the River Lugg/ River Wye SAC.

#### *S106 Contributions*

- 6.30 Contributions towards sustainable transport, education and off-site public open space infrastructure have been agreed as per the letter appended to this report. The off-site play contribution has been reduced against the Supplementary Planning Document on the basis that the developer is willing to make on-site provision for allotments and a children's play area. The recommendation reflects the necessity to complete the undertaking before planning permission is issued.

#### *Impact on the Amenity Associated with Living Conditions are Nearby Properties*

- 6.31 The indicative layout confirms that the site is capable of accommodating up to 120 dwellings without undue impact on the living conditions associated with dwellings nearby. The density is equivalent to 25.5dw/ha, which is comparatively low, but appropriate within this zone of transition between town and country. In terms of impact upon adjoining land uses the scheme is considered to comply with saved UDP policies DR2 and H13.

#### *Affordable Housing*

- 6.32 The scheme makes provision for 35% affordable housing, which accords with policy. The developer has also indicated a willingness to examine the potential for the delivery of a

modest proportion of bungalows across the development. This proposal has the support of the Housing Development Officer.

#### *Pre-Application Engagement*

- 6.33 The developer carried out pre-application consultation events, including an open exhibition and leaflet drops to approximately 560 dwellings. The application is accompanied by a summary Statement of Community Involvement, which confirms that there were comments of support and objection. The developer has discharged its duty as regards the publicity of the proposal and associated engagement.
- 6.34 In accordance with S38 (6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 6.35 In the weighing of material considerations regard must be had to the provisions of the NPPF; especially in the context of a shortage of deliverable housing sites. It is acknowledged that the development places reliance upon the presumption in favour of sustainable development as set out at paragraph 14 of the NPPF in the context of a housing land supply deficit, but equally that the emerging policies of the Core Strategy and Neighbourhood Plan are not sufficiently advanced to attract weight in the decision-making process.
- 6.36 The contribution that the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged. S106 contributions are also noted (although a signed undertaking has not been completed).
- 6.37 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. It is also the case that the examples cited at footnote 9 to paragraph 14 are not applicable to this site i.e. the site is not subject to any national or local designations that indicate that development ought to be restricted. Any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits and it is recommended that planning permission be granted subject to the completion of a legal undertaking and planning conditions.

## **RECOMMENDATION**

**That subject to the completion of a legal agreement pursuant to S106 of the Town and Country Planning Act 1990, officers named in the scheme of delegation be authorised to issue planning permission subject to the following conditions and any others considered necessary by officers:**

- 1. A02 Time limit for submission of reserved matters (outline permission)**
- 2. A03 Time limit for commencement (outline permission)**
- 3. A04 Approval of reserved matters**
- 4. H06 Vehicular access construction**
- 5. H09 Driveway gradient**
- 6. H11 Parking - estate development (more than one house)**
- 7. H18 On site roads - submission of details**

8. **H19 On site roads - phasing**
9. **H20 Road completion in 2 years**
10. **H21 Wheel washing**
11. **H27 Parking for site operatives**
12. **H29 Secure covered cycle parking provision**
13. **E01 Site investigation - archaeology**
14. **L01 Foul/surface water drainage**
15. **L02 No surface water to connect to public system**
16. **L03 No drainage run-off to public system**
17. **L04 Comprehensive & Integrated draining of site**
18. **G04 Protection of trees/hedgerows that are to be retained**
19. **G10 Landscaping scheme**
20. **G11 Landscaping scheme - implementation**
21. **Prior to commencement of the development, a full working method statement should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.**
22. **The recommendations set out in the ecologist's report dated September 2013 should be followed in relation to the identified protected species.**
23. **The recommendations in relation to biodiversity enhancement set out in Section 4 of the ecologist's report dated September 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 should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

**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. **HN10 No drainage to discharge to highway**
3. **HN04 Private apparatus within highway**
4. **HN28 Highways Design Guide and Specification**



- 5. **HN13 Protection of visibility splays on private land**
- 6. **HN05 Works within the highway**
- 7. **An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

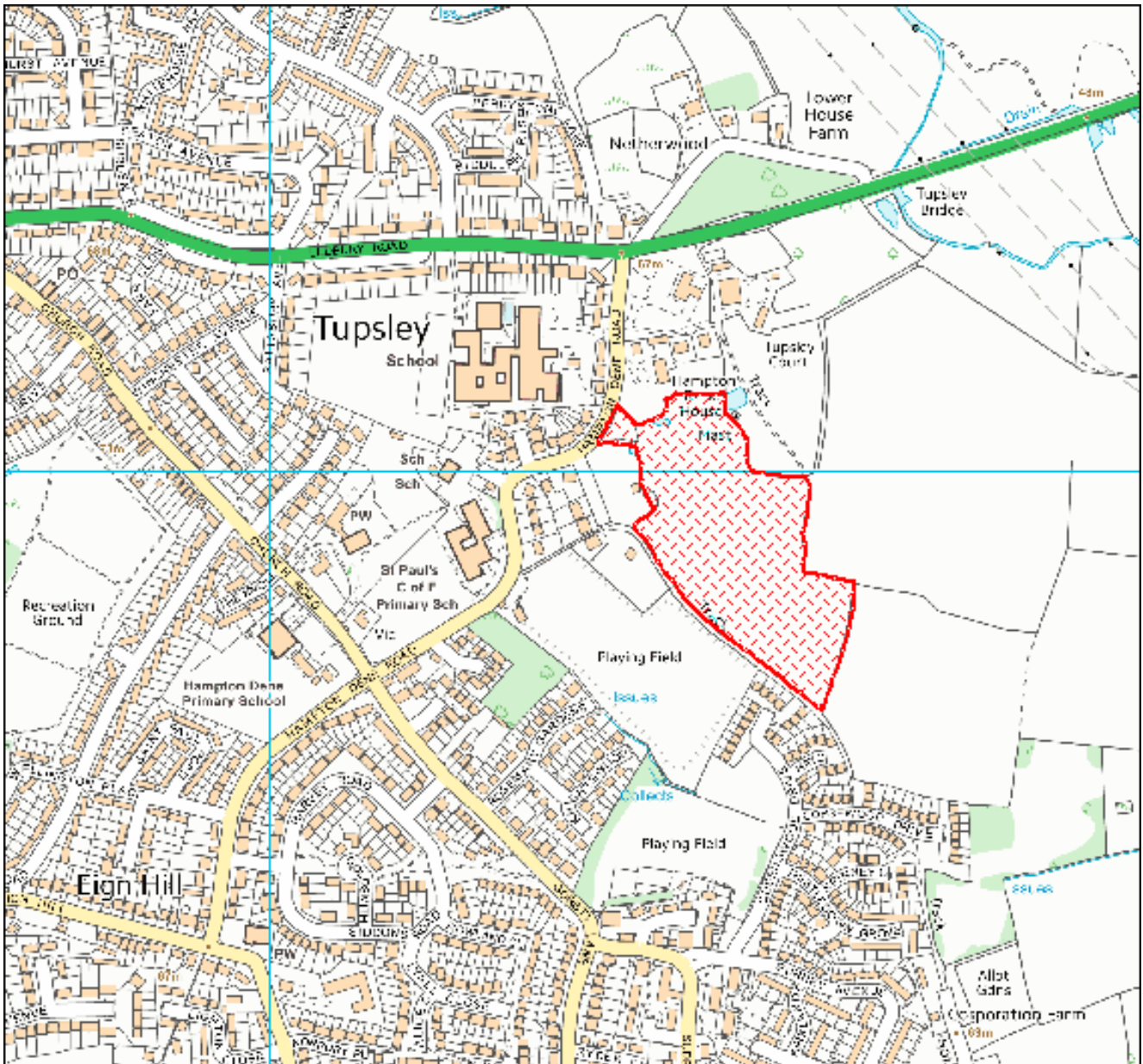
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 132851/O

**SITE ADDRESS :** LAND SOUTH OF HAMPTON DENE ROAD, HEREFORD, HEREFORDSHIRE

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

Development Management  
Planning Department  
Herefordshire Council  
Brockington  
35 Hafod Road  
Hereford  
HR1 1SH

27<sup>th</sup> February 2014

Dear Mr Thomas

**OUTLINE APPLICATION FOR THE ERECTION OF 120 DWELLINGS, ACCESS, PARKING, PUBLIC OPEN SPACE WITH PLAY FACILITIES AND LANDSCAPING.  
LAND SOUTH OF HAMPTON DENE ROAD, HEREFORD  
PLANNING REFERENCE 132851/O**

I am writing in relation to planning application 132851/O, and in specific response to your email dated 26<sup>th</sup> February 2014.

Our understanding is that contributions are being sought from you as follows:

- 35% Affordable Housing to be delivered on site.
- A children's play area (LEAP) and allotments will be provided on site. A reduced financial contribution is requested for off-site playing pitch provision for the balance of provision not provided on site. This financial contribution is based on the following:

1 bed open market house = £588  
2 bed open market house = £714  
3 bed open market house = £966  
4+ bed open market house = £1,176

- In respect of education, your education officer has requested a financial contribution based on the following breakdown for market housing only:

2 bed open market apartment = £2,845.00  
2/3 bed open market house = £4,990.00  
4+ bed open market house = £8,955.00

- In respect of Sustainable Transport, contributions are sought towards infrastructure contributions towards improvements to the public right of way network within the vicinity of development, upgrading of the bridleway along Holywell Gutter Lane, improved crossing facilities between the application site and local schools and reduction in the speed limit along the Ledbury Road.

Financial contributions are sought as follows:

2 bed open market apartment = £1,465.00  
2 bed open market dwelling = £1,720.00  
3 bed open market dwelling = £2,580.00


-- 2 --

4+ bed open market dwelling = £3,440.00

I can confirm that in principle my client agrees to provide these financial contributions to address the impact of the proposed development. This agreement is made upon the assumption that the need is demonstrable and based upon a robust methodology that reflects the genuine needs of the community and cost of mitigation, thus ensuring any payment is legally compliant with CIL Regulation 122.

I hope that this letter clarifies the outstanding issues and enables the application to be recommended for approval as discussed and determined at planning committee on the 12<sup>th</sup> March 2014.

Yours sincerely



**Rachael Adams MRTPI – Senior Planner**  
**For and on behalf of Planning Prospects Ltd**



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 APRIL 2014</b>
<b>TITLE OF REPORT:</b>	<b>132221/O - SITE FOR PROPOSED DWELLING AT TALBOTS FARM, THE RHEA, SUTTON ST NICHOLAS, HEREFORDSHIRE, HR1 3BB</b>  <b>For: Mrs Major per Mr C Goldsworthy, 85 St Owen Street, Hereford, Herefordshire, HR1 2JW</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=132221">https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=132221</a>

**Date Received: 29 August 2013**  
**Expiry Date: 15 November 2013**  
 Local Member: Councillor KS Guthrie

**Ward: Sutton Walls**

**Grid Ref: 353494,245155**

## Introduction

This application was deferred at the meeting of the Planning Committee on 12 March 2014 for a Members site visit on 1 April 2014.

### 1. Site Description and Proposal

- 1.1 Planning permission is sought in outline with all matters reserved for the erection of a dwelling on land at Talbots Farm, The Rhea, Sutton St. Nicholas. The land forms part of a larger field used presently for grazing. The indicative layout proposes a means of vehicular access direct from The Rhea, an unclassified road, utilising the existing driveway presently serving three separate dwellings; The Talbots, Longview and Century House.
- 1.2 The application site falls outside but immediately adjacent the settlement boundary for Sutton St. Nicholas as defined under policy H4 of the Unitary Development Plan. The application site area is irregular in shape and the indicative layout envisages a single, detached dwelling positioned to the south-east of The Talbots and north-east of Lower House.
- 1.3 The access and neighbouring dwellings lie within the conservation area, the boundary for which is broadly coincidental with the domestic curtilages of the adjoining dwellings. The bulk of the site is outside the conservation area.
- 1.4 The application is accompanied by a Phase 1 habitat survey and Design and Access Statement.

### 2. Policies

- 2.1 The National Planning Policy Framework 2012:

Paragraph 7 - Sustainable development

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Further information on the subject of this report is available from Mr D Dugdale on 01432 261566

- Chapter 6 - Delivering a wide choice of high quality homes
- Chapter 7 - Requiring good design
- Chapter 8 - Promoting healthy design
- Paragraph 215

## 2.2 Herefordshire Unitary Development Plan

- S1 - Sustainable Development
- S2 - Development Requirements
- S7 - Natural and Historic Heritage
- DR1 - Design
- DR2 - Land Use and Activity
- DR3 - Movement
- DR5 - Planning Obligations
- DR7 - Flood Risk
- HBA6 - New Development Within Conservation Areas
- H4 - Main Villages: Settlement Boundaries
- H7 - Housing in the Countryside Outside Settlements
- H13 - Sustainable Residential Design
- H16 - Car Parking
- LA2 - Landscape Character and Areas Least Resilient to Change
- LA3 - Setting of Settlements

2.3 Sutton St. Nicholas Parish Council have recently designated a Neighbourhood Plan Area. However, this is in the early stages of development.

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.

## 4. Consultation Summary

### Statutory Consultees

4.1 Welsh Water: No objection subject to the imposition of conditions requiring the separation of foul and surface water drainage.

### Internal Council Advice

4.2 Traffic Manager: Access is shown from the existing shared private driveway from The Rhea. The single property proposed would bring the number of properties served off the private drive to five, which is the maximum indicated in our design guide. The Rhea is narrow with limited passing opportunities, but one additional property is considered acceptable.

4.3 Conservation Manager: The application site is located to the south of the village of Sutton St Nicholas. Part of the site is within the Sutton St Nicholas Conservation Area, though most lies immediately outside the boundary. Most of the site is also located outside the settlement boundary of the village.

Adjacent to the application site to the southwest is The Talbots, an unlisted but locally important dwelling, which probably dates from the 17th century though with 18th century alterations. To the south of The Talbots are the associated barns of the farmyard and these buildings all form an important view in the Conservation Area.

The application is for the construction of one dwelling of four or more bedrooms on a plot with a partially shared access off The Rhea. As it is only an Outline application with all matters reserved there is very little information given on which to assess the impact of a dwelling on the Conservation Area and the views into and out of the area. Consequently it is necessary to register an objection.

4.4 Conservation Manager Ecology: No objection subject to adherence to the recommendations set out in the submitted ecological survey.

4.5 Conservation Manager HRA: On the basis of Welsh Water's confirmation that there is capacity in the main foul sewer, there is no objection.

## **5. Representations**

5.1 Sutton St. Nicholas Parish Council: Object.

Resolved to object as it is outside the village envelope and the Parish Council is waiting for its Neighbourhood Plan to be developed. There is no independent access to the main highway.

5.2 Eighteen letters of objection have been received from local residents and the Campaign for the Protection of Rural England. The content is summarised as follows:-

- The Rhea is unsuitable for additional traffic with little room for manoeuvre. This scheme will increase the danger for existing road users;
- The site is agricultural land beyond the existing settlement boundary and this development would represent an encroachment into open countryside;
- Approval would set a precedent and increase the likelihood of development in the adjoining field;
- Development of the application site would be contrary to the Strategic Housing Land Availability Assessment, which concluded that the field as a whole is subject to significant constraints;
- The Draft Herefordshire Local Plan – Core Strategy 2013-2013 Policy SS3 states that in releasing residential land priority will be given to brownfield sites. The proposed site does not qualify as such;
- This proposal is not consistent with the theme of sustainable development enshrined in the NPPF;
- The indicative plan and Design and Access Statement is misleading as it is based on the supposition that Longview and Century House will purchase the land to extend their gardens and thus preserve their views. This cannot be substantiated and should not be taken into account when making a decision;
- The proposed dwelling would, as recognised by the Conservation Officer, have a detrimental impact on the visual and environmental quality of the area;
- The proposal is prejudicial to proper consideration of neighbourhood plan proposals;
- The site is of considerable visual amenity and provides habitat for a number of protected species including Barn Owls, other predatory birds and bats. All are protected by law and would be endangered should development proceed;
- The construction phase associated with any development would adversely affect the living conditions associated with adjoining property;
- Low water pressure is an existing problem, whereas it is reported that there may be difficulty in providing other services to the site e.g. gas and electricity.

- 5.3 The submitted Design and Access Statement explains that land within the red line application site area has been included on the premise that it could be transferred to Longview and Century House to enable extensions to their existing garden curtilages at a later date. It is the view of officers that this is immaterial to the planning judgement and a matter that cannot be attributed any weight.
- 5.4 The Design and Access Statement also refers to the use of sustainable construction techniques, micro-generation and sustainable drainage systems as positive aspects of the development and that the proposal could be designed so as not to result in overlooking of adjoining property or loss of view.
- 5.5 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 proposal is the erection of a single property on land accessible via an existing field access off a short residential cul de sac served by the narrow, unclassified lane known as The Rhea. The site is irregular in plan and located in the north-west corner of a larger parcel of land, which appears to be remnant orchard and is presently used for grazing. The site is bounded to three sides by existing residential development. Vehicular access would be via the existing access serving Century House, Longview and The Talbots.
- 6.2 The Development Plan is the Herefordshire Unitary Development Plan 2007 (UDP). Within this document Sutton St. Nicholas is defined as a main village, within which residential development is acceptable in principle. The application site falls outside but is immediately adjacent the settlement boundary. For planning purposes, therefore, the site is in open countryside and residential development would, if considered against the UDP in isolation, be contrary to adopted policies. The UDP does, in exceptional circumstances, permit the development of land adjoining settlement boundaries where required in connection with an identified need for affordable housing within the parish. This proposal is not for affordable or low-cost market housing.
- 6.3 It is the Council's acknowledged position, however, that the housing delivery policies of the UDP are, in the context of a housing land supply deficit, out of date. In such circumstances these policies, which include H4 and H7 must be considered out of date, with the National Planning Policy Framework (NPPF) taking precedence as a significant material consideration. Paragraph 14 of the NPPF confirms that where the development plan is absent, silent or relevant policies are out-of-date, there is a presumption in favour of granting permission for sustainable development unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.
- 6.4 It is clear therefore that reliance cannot be placed upon UDP policies which would categorise the application site as being in open countryside. Instead it is necessary to consider whether, in the context of a housing land supply deficit, the application is one that would promote sustainable development as envisaged by the NPPF. If a proposal is held to represent sustainable development then the NPPF presses for the prompt grant of planning permission unless "any adverse impacts of doing so would significantly and demonstrably outweigh the



benefits when assessed against the policies of the Framework taken as a whole or specific policies of the Framework indicate that development should be restricted.” Paragraph 14 NPPF. The footnote to paragraph 14 identifies that the specific policies referred to are those that operate to protect specified designations, including AONBs and other heritage assets.

- 6.5 The NPPF refers to the three dimensions of sustainable development (economic, social and environmental) and confirms that in pursuit of sustainable development these dimensions are to be considered holistically. It is clear from appeal decisions that defining sustainable development goes beyond the former PPG13 test of locational sustainability and that consideration should be given to potential economic, social and environmental benefits arising from development. It is clear that NPPF paragraph 14 envisages a ‘planning balance’ with the presumption taking effect unless significant and demonstrable harm can be identified.
- 6.6 In terms of its location, case officers consider the site to be well related to the current built form. In accordance with the Council’s interim protocol the site is immediately adjacent the settlement boundary and seen within the context of existing dwellings. As the application is in outline form a detailed assessment of the impact on visual amenity and the living conditions at adjoining residential property cannot be undertaken. Officers are content, however, that it would be possible to design a dwelling that would preserve the existing levels of residential amenity at adjoining properties. In this respect care would have to be taken to ensure that position on plot, scale, and orientation of windows are carefully considered and this can be considered fully at the Reserved Matters stage should permission be granted.
- 6.7 The Sutton St Nicholas conservation area bounds the site to the north west and south east and extends partially into the site beyond its north west boundary. However the bulk of the site, including the indicative siting of the house, is outside the conservation area. The character of the two existing dwellings backing onto the north west boundary may be described as conventional two storey gable ended and linked by garages beyond these properties towards the church and within the conservation area, there is a modern housing layout. Backing on to the north east boundary of the site are the rear gardens of semi-detached dwellings fronting Millway a residential street. To the south west is Talbots Farm recently converted into two dwellings, a site for which permission has been previously granted for two dwellings with access on to the Rhea beyond which is an existing dwelling fronting the Rhea. In this context it is considered that an appropriately designed dwelling would not harm the character of the surrounding area and would be achievable at the reserved matters stage in a manner that would preserve or enhance the character of the neighbouring part of the conservation area. In this respect the scheme is capable of complying with saved HUDP policy HBA6 and the NPPF with regard to the protection of heritage assets.
- 6.8 A report providing the results of a Phase 1 Habitat survey has been submitted and provides recommendations with respect to lawful practice and planning policy. The recommendations are not onerous and fall within the scope of a planning condition
- 6.9 Likewise, and in recognition of the edge of village location, officers would recommend a condition to require the prior approval of boundary treatments that are appropriate to the area. Officers would recommend native species hedgerow in preference for more suburban brick walls and/or close-boarded fences.
- 6.10 The Traffic Manager has identified issues with the U72600 in terms of its narrowness, but concludes that one further dwelling could be accommodated under the existing scenario provided that appropriate parking and turning areas are provided within the proposed site. The site is large enough to make adequate provision for parking and private amenity space and conditions are recommended to ensure this. Moreover it is considered that the one additional dwelling proposed would not compromise vehicular or pedestrian safety in the existing cul-de-sac or the Rhea.

- 6.11 The local concerns have been given due consideration. Overall, in the context of the above mentioned policies and other material considerations it is considered that the application site location is sustainable with regard to the NPPF in particular paragraphs 14 and 49.
- 6.12 With regard to the precedent concerns the proposal has been considered on its merits as is appropriate. Moreover the use of the proposed access for any further dwellings is unlikely to be viable.
- 6.13 The applicant has opted to submit the application without a Section 106 Agreement but on a condition that any permission will be subject to a condition requiring the submission of reserved matters within two years of the grant of permission.

## **RECOMMENDATION**

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

1. **Details of the layout, scale, appearance, access and landscaping of the development permitted (hereinafter called “the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.**  
  
**Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with Policy DR1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.**
2. **Application for approval of the reserved matters shall be made to the Local Planning Authority not later than one year from the date of this permission.**  
  
**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 and having regard to the Council’s suspension of the Requirements of Policy DR5 of the Herefordshire Unitary Development Plan.**
3. **The development hereby permitted shall begin not later than one year from the date of approval of the last of the reserved matters to be approved.**  
  
**Reason: To comply with the provisions of Section 9(1) (b) of the Town and Country Planning Act 1990 (as amended) and to reflect the decision of the Local Planning Authority on 4 March 2009 to suspend (effective from 1 April 2009) the requirements of the Authority’s Planning Obligations Supplementary Document (February 2008) in relation to all employment developments falling within Classes B1, B2 and B8 of the Town and Country Planning Use Classes Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, the employment element of any mixed use development and residential developments of five dwellings or less.**
4. **G11 Landscaping scheme - implementation**
5. **L01 Foul/surface water drainage**
6. **L02 No surface water to connect to public system**
7. **L03 No drainage run-off to public system**
8. **H09 Driveway gradient**

- 9. H27 Parking for site operatives
- 10. G14 Landscape management plan
- 11. G09 Details of Boundary treatments
- 12. I16 Restriction of hours during construction

**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. **Welsh Water Advice:**

If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water’s Developer Services on 0800 917 2652.

Some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal we request the applicant contacts our Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

The Welsh Government have introduced new legislation that will make it mandatory for all developers who wish to communicate with the public sewerage system to obtain an adoption agreement for their sewerage with Dwr Cymru Welsh Water (DCWW). The Welsh Ministers Standards for the construction of sewerage apparatus and an agreement under Section 104 of the Water Industry Act (WIA)1991 will need to be completed in advance of any authorisation to communicate with the public sewerage system under Section 106 WIA 1991 being granted by DCWW.

Welsh Government introduced the Welsh Ministers Standards on 1 October 2012 and we would welcome your support in informing applicants who wish to communicate with the public sewerage system to engage with use at the earliest opportunity. Further information on the Welsh Ministers Standards is available for viewing on our Development Services Section of our website - [www.dwrcymru.com](http://www.dwrcymru.com)

Further information on the Welsh Ministers Standards can be found on the Welsh Government website - [www.wales.gov.uk](http://www.wales.gov.uk)

3. **HN01 Mud on highway**

Decision: .....

Notes: .....

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## **Background Papers**

Internal departmental consultation replies.



