

AGENDA

Planning Committee

Date: **Wednesday 23 April 2014**

Time: **10.00 am**

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

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

For any further information please contact:

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Agenda for the Meeting of the Planning Committee

Membership

Chairman

Councillor PGH Cutter

Vice-Chairman

Councillor BA Durkin

Councillor PA Andrews

Councillor AN Bridges

Councillor 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

		Pages
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	7 - 34
	To approve and sign the Minutes of the meeting held on 2 April 2014.	
5.	CHAIRMAN'S ANNOUNCEMENTS	
	To receive any announcements from the Chairman.	
6.	APPEALS	35 - 40
	To be noted.	
7.	P132734/F LAND AT FORMER BOTTLING PLANT, WALWYN ROAD, COLWALL, MALVERN, WR13 6RN	41 - 70
	Demolition of existing buildings, excluding the Grade II listed Tank House, a small lodge and associated substation, and the erection of 25 new dwellings comprising 12 purpose designed units for older residents, 4 open market units and 9 affordable units, plus a retail unit and 46 bed nursing home.	
8.	P140531/O QUARRY FIELD, COTTS LANE, LUGWARDINE, HEREFORDSHIRE, HR1 4AA	71 - 96
	Residential development comprising 20 open market homes and 10 affordable homes.	
9.	P140221/L LEADON COURT, FROMES HILL, LEDBURY HR8 1HT	97 - 100
	Various internal works.	

10. P133440/F & P133445/L STAUNTON-ON-WYE ENDOWED PRIMARY SCHOOL, STAUNTON-ON-WYE, HEREFORD, HR4 7LT | 101 - 122

Conversion of existing building and associated works to create 14 net new close care units of accommodation for the elderly; construction of a new build 70 bedroom nursing home; landscaping; amendments to access and car parking; and all other ancillary works.

11. DATE OF NEXT MEETING

Date of next site inspection – 13 May 2014

Date of next meeting – 14 May 2014

The Public's Rights to Information and Attendance at Meetings

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.

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- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 2 April 2014 at 10.00 am

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

Councillors: PA Andrews, AN Bridges, EMK Chave, PJ Edwards, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, Brig P Jones CBE, JG Lester, RI Matthews, FM Norman, J Norris, GR Swinford and DB Wilcox

159. APOLOGIES FOR ABSENCE

Apologies were received from Councillors DW Greenow, RC Hunt and PJ Watts.

160. NAMED SUBSTITUTES

There were no substitute members present at the meeting.

161. DECLARATIONS OF INTEREST

Agenda item 7: 140285/O Land at Porthouse Farm, Tenbury Road, Bromyard, Herefordshire

Councillor JG Lester declared a non-pecuniary interest as a Governor of Queen Elizabeth Humanities College, Bromyard.

Councillor A Seldon declared a non-pecuniary interest as a Governor of St Peter's Primary School, Bromyard

Agenda item 9: 133251/F The Hereford Academy, Malrlbrook Road, Hereford

Mr K Bishop (Development Manager) declared a non-pecuniary interest as his football club used the pitch for training and Herefordshire Football Association, of which he was a Director, had sent in a letter of support of the application.

Agenda item 11: 132851/O Land South of Hampton Dene Road, Hereford

Councillor DB Wilcox declared a non-pecuniary interest because he lived in the vicinity.

162. MINUTES

RESOLVED: That the Minutes of the meeting held on 12 March 2014 be approved as a correct record and signed by the Chairman.

163. CHAIRMAN'S ANNOUNCEMENTS

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

He also reported that he and representatives of some neighbouring authorities were due to attend a meeting with the Planning Minister.

164. APPEALS

The Planning Committee noted the report.

The Development Manager confirmed that where it was considered appropriate the Council did apply for costs against appellants.

165. 140285/0 LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE, HR7 4NJ

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, including a proposed change to the recommendation.

He added that, following discussion, it was proposed that the educational contributions included in the Heads of Terms appended to the report should be subject to further discussion with the local ward members and the Chairman of the Planning Committee.

In accordance with the criteria for public speaking, Mr R Page of Bromyard and Winslow Town Council spoke in support of the Scheme.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors JG Lester and A Seldon, the local ward members, spoke on the application.

Councillor Seldon commented that it had been a painstaking process but the current application represented an acceptable compromise that was to everyone's benefit. He added that the history of the application was an example of how important it was that the Council listened to local communities to avoid discord.

Councillor Lester agreed with Councillor Seldon's comments and that as stated at paragraph 6.11 of the report the application represented a reasonable compromise.

The debate opened and the following principal points were made:

- The Town Council had agreed to support the application subject to six conditions, all of which had been met. The work of the Town Council and the applicants was to be commended.
- It was proposed that a condition should be imposed governing the hours of operation of the industrial units.
- It had been fortunate that it had been possible to reach a compromise, noting the grounds on which an Inspector had rejected an appeal by the applicants against the Committee's refusal of an earlier application. The Committee was not in a position to act so robustly in a number of other cases because of the national constraints now upon it and the potential this carried for there to be conflict with the wishes of the local community needed to be recognised.
- It was requested that the development should be completed to a high standard.
- The Development Manager commented that it had been a long process but the community and the developer had worked together in an exemplary fashion to achieve an acceptable solution.

The local ward members were given the opportunity to close the debate and reiterated their support for the Scheme.

RESOLVED: 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, as amended in accordance with the Committee Update deleting reference in the third clause of the Draft Heads of Terms Agreement to affordable dwellings, and subject to consultation with the Chairman and the local ward members on the educational contributions contained within the Heads of Terms; and

The conditions set out in the 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 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/m² 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.

21 F05 – Restriction on Hours of use of business units.

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**
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.**

166. 132924/O LAND AT GADBRIDGE ROAD, WEOBLEY, HEREFORDSHIRE, HR4 8SN

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.

He added that additional photographs had been submitted showing the discharge of water onto the road in the village.

In accordance with the criteria for public speaking, Mr B Corbett, of Weobley Parish Council spoke in opposition to the Scheme. Mr J Andrews, a resident, spoke in objection. Mr M Harris, the Applicant’s agent spoke in support.

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

He commented on a number of issues including:

- He endorsed the concerns expressed by the Parish Council.
- There was local concern about the rate of change in the village the development would bring and its impact.
- The junction serving the development could not be improved because it was lined by historic buildings and an increase in traffic could therefore cause problems.
- Drainage was a concern.
- If the development proceeded he asked if the hedgerow fronting the development could be restored following the construction of the development

The debate opened and the following principal points were made:

- A number of Members expressed concern about the absence of any detail of how foul and surface water drainage issues would be managed and indeed whether they could be managed satisfactorily. The current system was itself clearly inadequate. The Development Manager commented that the existing system in the village was considered acceptable by Welsh Water who had not objected to the proposal. He added that all new applications were expected to have a Sustainable Urban Drainage Scheme. New legislation was expected specifically dealing with this aspect. Welsh Water was insisting on conditions and he reminded the Committee of the full wording of condition L04. The detailed proposals would come forward when the reserved matters were considered. Drainage proposals would have to be approved by Welsh Water.
- In relation to the concern about the pace of development in the village, the Development Manager commented that it should be borne in mind that the developer would build at a gradual rate.
- The expert advice provided to the Committee supported the application. There were no strong grounds for refusal. However, it was to be regretted that the developer was not presenting an application that offered anything such as energy efficient, state of the art housing to enthuse the Committee and encourage it to welcome the application. It was to be noted in considering the quality of the development that the village was a tourist attraction.
- It was suggested that whilst there may be no grounds for refusal the developer could be made fully aware of the concerns within the village and encouraged to make the development one in which the community could take pride.
- Development did carry with it some benefits for community sustainability.
- The Development Manager noted that the Planning Team worked to national guidelines in relation to the energy efficiency of developments. Building Regulations were becoming increasingly stringent with regard to this aspect.
- There was concern about the impact of the additional traffic the development would bring.
- In relation to the access to the development the Principal Planning Officer commented that the Traffic Manager was satisfied that appropriate visibility could be achieved from the proposed access.
- It was noted that for practical reasons the hedgerow fronting the development site might have to be removed during the construction phase. However, there seemed to be no reason why it could not be reinstated in part at a later date. The Development

Manager commented that the replacement of as much of the hedge as possible could be discussed with the developer as part of the reserved matters.

In conclusion the Legal Officer commented that Welsh Water had confirmed that concerns about drainage could be addressed by condition and she could not consider this issue as a satisfactory ground for refusal. Similarly there was no evidence to support refusal on traffic management grounds. She considered that there was a risk of costs being awarded against the Council if the application were to be refused and the matter went to appeal.

The Development Manager commented that the developers would make a number of contributions to the community including, for example, traffic calming measures. He informed the Committee that, mindful of the Committee's expectations, officers did seek to work with developers to bring forward exemplary schemes and he expected that increasingly applications coming forward would be of an improved standard as the work of the Major Planning Team progressed.

The local ward member was given the opportunity to close the debate. He reiterated concerns about traffic management and drainage issues and welcomed the action to seek to retain as much of the hedgerow fronting the development as possible.

RESOLVED: 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, as amended in accordance with the Committee Update to include reference in the Draft Heads of Terms Agreement to St Marys RC High School; and**
- 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**

167. 133251/F THE HEREFORD ACADEMY, MARLBROOK ROAD, HEREFORD, HR2 7NG

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

It was noted that Hereford City Council had no objection to the proposal.

RESOLVED: 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**

168. 133262/O LAND REAR OF WESTBURY, CUSOP, HAY-ON-WYE

The Senior Planning Officer gave a presentation on the application. He added that Cusop Parish Council was developing a Neighbourhood Plan. A further representation had been received suggesting there was a covenant on the land. However, this was not a material planning consideration.

In accordance with the criteria for public speaking, Mrs K Lovegrove, a resident, spoke in objection. Mr D Jones, the Applicant, and Mr A Bevan, the Applicant's agent spoke in support.

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

He commented on a number of issues including:

- The Applicant was a local resident running a small business that offered employment. The development was small, sustainable, and in accordance with the aims of the Golden Valley Project.
- Account had to be taken of the fact that the Council had not identified the required five year housing land supply and the presumption in the National Planning Policy Framework was in favour of sustainable development in such circumstances.
- The report stated that the application site was outside the settlement boundary as defined by UDP policy H4. However, in reality it was within the existing settlement.
- There would not be a significant impact on traffic.
- It would not be a precedent for further development. Each application had to be considered on its merits.
- Cusop Parish Council had supported the application although the matter was contentious in the community.
- He believed that the applicant would take account of points raised in objection to the proposal at the reserved matters stage.

Several Members commented that they understood why there were local objections to the proposal. However, planning policies supported the Scheme's approval.

The Development Manager commented that although several previous applications had been refused the National Planning Policy Framework was now in place containing the presumption in favour of sustainable development. Local concerns were noted. However, three housing units could be appropriately located within the application site to minimise their impact. Quality of design could be discussed at the reserved matters stage.

The local ward member was given the opportunity to close the debate. He expressed the hope that relationships within the community would be rebuilt and that the development of a Neighbourhood Plan would prove beneficial.

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

(The meeting adjourned between 12.30 pm and 1.30 pm.)

169. 132851/O LAND SOUTH OF HAMPTON DENE ROAD, HEREFORD

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

He highlighted that the applicant had lodged an appeal against non-determination with the Planning Inspectorate. The Inspectorate had confirmed that the appeal was valid and that jurisdiction for decision-taking on the application was no longer with the local planning authority.

The Principal Planning Officer stated it was proposed, however, as indicated in the changed recommendation in the update to the Committee that Members made a

resolution confirming how they would have determined the application were it within their jurisdiction. This would inform the forthcoming appeal.

In accordance with the criteria for public speaking, Mr N White, Chairman of Hampton Bishop Parish Council, spoke in opposition to the Scheme.

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

He commented on a number of issues including:

- He supported the Parish Council's principal grounds for objecting to the Scheme: concern about the risk of increased flooding and the effect upon the character and appearance of the area.
- He noted that when the applicant had given a public presentation on the matter they had indicated an intention to build 95 dwellings rather than up to 120 as now proposed.
- The comments of the Conservation Manager (Landscapes) set out in the report condemned the Scheme.
- In Herefordshire Council's Urban Fringe Sensitivity Analysis (USFA) (January 2010), the site was described as lying within a zone defined as having *High Sensitivity*. The slope on which the development would in part be built was described as highly visible.
- A development of 120 dwellings was inappropriate in this prominent, historic and highly sensitive location.
- He suggested that policies DR1, LA2, LA3 and HBA4 were grounds for refusal.
- The applicants were arguing that the Section 106 agreement should be Community Infrastructure Levy compliant and there was no certainty as to any contribution that would be forthcoming to benefit the community.
- Traffic calming measures were required together with a solution to car parking pressures associated with the local schools.

Councillor JLV Kenyon, an adjoining Ward Member, was invited to speak. He spoke in support of the Scheme and commented on a number of issues including:

- There appeared to be little public opposition to the Scheme.
- There was an identified need for new housing in the area including affordable housing and bungalows.
- The Section 106 agreement provided an opportunity to bring about a number of improvements to the benefit of community including measures to address traffic calming and traffic generated by the schools, improvements to Ledbury Road and access to the City. School capacity was of concern. A contribution to school infrastructure would therefore be needed.

The debate opened and the following principal points were made:

- The comments of the local ward member and the Conservation Manager (Landscapes) had highlighted the impact of the scheme on a sensitive and beautiful landscape. The development would be visible, despite the proposed mitigation measures, and unacceptable.

- It was suggested that there were parallels with the recent application at Home Farm, Belmont and there were grounds for refusal on the grounds of the impact on the landscape and an historic building.
- That the City Council had sought to preserve the approaches to the City including Aylestone Hill and it would be regrettable if the permission were to be granted for the proposed harmful development at Hampton Dene. It was noted that an application had recently been submitted for a development at Aylestone Hill.
- The risk that the development would increase flooding was discussed and whether National Planning Policy Framework (NPPF) paragraph 103 would therefore form another ground for refusal. The Development Manager commented that the technical advice was that the water retention measures proposed as part of the development would reduce the amount of surface water running off the site.
- In response to comments made about the traffic implications the Development Manager commented that the Traffic Manager had no objection to the proposal.
- That the application represented overdevelopment. It might be possible to accommodate a smaller development, removed from the ridge, within the landscape. Reference was made to the compromise eventually reached with the developer of Porthouse Farm, Bromyard as reflected in the application considered earlier in the meeting.
- Hereford City Council had not objected to the application. Neither had there been any significant local opposition. Hampton Bishop Parish Council had objected but it was on the boundary of the Parish. The view of residents of the neighbouring Tupsley ward was that more affordable housing was a priority and this was reflected in the City Plan to which a Planning Inspector would have regard. The question was whether the impact on the landscape outweighed the other considerations in favour of the development.
- If the Scheme did proceed it was to be hoped that the developer would ensure that the design was to a high standard.
- That the Council should be robust in its discussions over any S106 Agreement.
- Several Members suggested there were a number of grounds for indicating support for refusal: principally policies LA2, LA3 relating to the character of the landscape, HBA4, and NPPF paragraph 109. It was suggested that other policies were also relevant: LD1, H7, S7 and LA4.
- The Development Manager commented that in considering the planning balance, including taking account of the appeal decision at Home Farm, Belmont, officers had concluded that the absence of a five year supply of housing land outweighed the concerns about the harm to the landscape. There were 5 letters of objection to what was a substantial scheme and the developer had carried out a leaflet drop to over 500 dwellings. In considering the value of the landscape account needed to be taken of the fact that the site was not subject to any national or local designation that indicated that development ought to be restricted. His advice was that Members should support the Scheme. However, it was arguable that were grounds for refusing the application because of the weight attached to the harm to the landscape character on the grounds of policies LA2, LA3, LA4, HBA4 and the NPPF paragraph 109.
- The Legal Officer reminded the Committee that consideration needed to be given to the Council's ability to defend an appeal. She did not consider on the basis of the evidence presented that concerns about traffic issues and the risk of flooding were grounds for refusal. Even given the objection of the Conservation Officer (Landscapes) set out in the report there was still a risk that any appeal could be lost given the presumption within the NPPF and that costs could be awarded against the Council.

The local ward member was given the opportunity to close the debate. He acknowledged that the decision was finely balanced but he remained opposed to the Scheme because of the impact on the landscape.

RESOLVED: That the Committee would have been minded to delegate authority to officers to refuse planning permission on the basis that it is contrary to policies LA2, LA3, LA4, HBA4 and NPPF 109 and that this position is adopted in appeal proceedings.

170. 132221/O TALBOTS FARM, THE RHEA, SUTTON ST NICHOLAS, HEREFORDSHIRE, HR1 3BB

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 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 commented on a number of issues including:

- The application site was within a conservation area.
- The access to the site was of concern.
- There had been 18 letters of objection.
- Flooding in the area was of concern.
- The development was contrary to policies LA2, LA3, DR7 and HBA6 and NPPF paragraphs 14, 69 and 93.
- She urged the Committee to refuse the application. However, if it was minded to approve it she requested that consideration be given to providing that there should only be one dwelling on the application site.

The debate opened and the following principal points were made:

- There did not appear to be grounds upon which the application could be refused.
- Concerns about development in a conservation area were acknowledged, however, adjoining development had already been permitted.
- Members thought it unlikely that any further development would be permitted because of the access. It was advised that it would be difficult to apply a condition to that effect. However, it was proposed that a note be attached to the Committee's decision for future reference stating that the Committee considered the site suitable for development of one dwelling only, having regard to the access constraints.
- Any further development on the application site and the adjoining area would be subject to a further planning application.
- It was requested that it be registered that at the reserved matters stage Members would wish careful consideration to be given to slab levels, overall height and siting within the development.

The local ward member was given the opportunity to close the debate and welcomed the Committee's stance on any further development.

RESOLVED: 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

Further information on the Welsh Ministers Standards can be found on the Welsh Government website - www.wales.gov.uk

3. HN01 Mud on highway

NOTES

- 1 In granting planning permission the Committee requested that it be recorded for future reference that it considered the site suitable for development of one dwelling only, having regard to the access constraints.**
- 2 The Committee observed that careful consideration would need to be given to slab level, height, position and scale of development.**

171. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix 1 - Schedule of Committee Updates

The meeting ended at 3.08 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 2 April 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

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

For: Mr Harrison per Mr John Wilson, 66 Stratford Road, Shirley, Solihull, West Midlands B90 3LP

ADDITIONAL REPRESENTATIONS

Transportation Manager – No objection subject to the imposition of conditions

Economic Development Manager – Welcomes the introduction of an employment element within the revised scheme. The employment element will help to meet an identified need for employment land in Bromyard.

It is agreed that the demand for employment units is most likely to come from local start-ups or smaller local companies looking to expand and the proposal would meet this need. The applicant's demand led approach is prudent and would give some flexibility to meet specific requirements.

OFFICER COMMENTS

Bromyard and Winslow Town Council have indicated that they intend to complete a Neighbourhood Plan, but have yet to formally submit the area which this is to cover.

Condition 17 of the recommendation refers to the provision of the two proposed accesses onto Tenbury Road. As the application is made in outline with layout reserved for future consideration, more detailed conditions that relate to parking, turning and estate road layouts can reasonably be imposed on any reserved matters application should planning permission be forthcoming in this instance.

CHANGE TO RECOMMENDATION

In the third clause of the Draft Heads of Terms Agreement reference is made to open market and affordable dwellings. The reference to affordable dwellings should be omitted and the calculation will be based only on the open market dwellings proposed.

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

For: Mr Barnes per Mr Harris, Stoneycroft Planning & Development Consultants, 11 Paulbrook Road, Bridgnorth, Shropshire, WV16 5DN

ADDITIONAL REPRESENTATIONS

The Parish Council has made a further response to the application as follows:

The Parish Council would like to make the following comments in respect of the amended Transportation Statement. Receipt of the traffic census and speed survey data included in the report was delayed and we would note that this has limited the time available to us to assess and respond.

The Statement We note that the text of the report is the same as previously submitted apart from changes to paragraph 2.4 to take account of data received from the new survey. However, it also again includes reference to the traffic counts having been conducted on High Street (also erroneously referred to as being a 'continuation of Gadbridge Road') whereas it was in fact, and as requested, conducted on Gadbridge Road.

Appendix A – Photographs These are limited to the immediate area around the proposed site and give no indication of the congestion issues on Gadbridge Road travelling west along to the junction with High Street and Hereford Road, particularly that caused by parked cars, including those of patients visiting the doctors and dentists surgeries, or at the pinch point near 'The Old Post House'.

Appendix B – Plans The site layout (for 41 houses) is different from that submitted in the application (40 houses) and also does not show the proposed accesses from dwellings sited between the existing Bearcroft estate boundary and the access to the new development which might pose additional safety issues for vehicles and pedestrians entering and exiting the site off Gadbridge Road. The development's proximity to the existing access to the Village Hall has already been highlighted by the Parish Council.

Appendix C – Road Traffic Count and Speed Survey The survey was conducted on the western end of Gadbridge Road near to the junction with Hereford Road and High Street, below the vehicular entrance to 'The Old Post House' but before the access to the Unicorn Court development of 12 houses. The report states that the traffic flow on Gadbridge Road has an average peak generation between 11 am and 4 pm. Our own analysis of the report data re traffic count would indicate that this period is in fact between 8 am and 6 pm (there appears to be no separate analysis included with the survey census data listing the totals of the hourly traffic figures per day for the period which would illustrate this) and we consider that these times naturally reflect the flow of commuters travelling to and from work and schools, and patients attending the doctors and dentists surgeries. We therefore cannot see how the traffic flow peaks for the proposed housing, stated in the report as likely to be early morning and evening, will not have an impact on the local road network or why the demographic of residents living in the proposed development would be any different to those

in the adjoining existing estates, Bearcroft and Apple Meadow, and less likely to use Gadbridge Road at the same times. In addition to journeys relating to the existing houses feeding on to Gadbridge Road the census figures will include many regular journeys made by a variety of types of vehicles, as identified by the survey data, including farm machinery and delivery vehicles and of those travelling via Gadbridge Road from neighbouring areas, e.g. Weobley Marsh and Dilwyn, as well as those visiting the surgeries which serve a wide area.

Although the report relates to the survey conducted on Gadbridge Road, it has again repeated its statements included in the report for the 2004 survey conducted on High Street and concludes that there was 'a variety of results over the week of the survey with no defined pattern'. The only variety in the results would seem to be a not unexpected change for Saturday and Sunday. It also states that 'traffic numbers on this stretch of road are generally very low'. There would appear to be no support for this statement as there is no comparison or benchmark data provided, e.g. for similar unclassified roads.

The report data also shows the traffic speeds on this part of the road for the census period. We would suggest that this does not give a true reflection of the speeds attained by vehicles on Gadbridge Road as the census equipment was sited near to the junction with Hereford Road and High Street and vehicles would therefore be expected to be achieving slower speeds at this point.

Appendix E – TRICS data Although it is acknowledged in the report that there are limited sets of data available for similar sized mixed private housing, we consider the five sets that have been used are not comparative. They appear to be in suburban locations and do not compare with the rural nature of the proposed development at Gadbridge Road with the demographic and the vehicle movements likely to be different.

In conclusion, we consider that the report and data provided by the traffic census does not support claims that the proposed development will not have a major impact on the local road network.

OFFICER COMMENTS

The location of the survey equipment was changed at the request of the parish council and local people in order to take account of movements associated with the doctor's surgery, dental practice and Bearcroft. The consultant did raise some concerns that this would not give an accurate reflection of traffic speed as vehicles would either be reducing speed towards the Gadbridge Road / High Street junction, or increasing as they had just negotiated the same junction. However, it is your officers' view that speeds are typically low along Gadbridge Road and the majority of the site, including the access, falls within a 30mph zone.

The Transport Statement has been completed by an appropriately qualified consultant using an accepted methodology. The contents of the statement have been considered by the Council's Transportation Manager, including traffic flows along Gadbridge Road, and he has raised no objection to the proposal.

The limitations of the TRICS data are acknowledged in the Transport Statement and the comments made by the parish council that vehicle movements associated with the development are likely to be different due to the rural context of this site are accepted. With no other available data however, any alternative figure would simply be an estimate and not evidence based.

CHANGE TO RECOMMENDATION

It has been noted that the education part of the Draft Heads of Terms Agreement does not include reference to St Marys RC High School. This should be included but will not affect the amounts referred to.

**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**

**For: The Hereford Academy, Marlbrook Road, Hereford, HR2
7NG**

ADDITIONAL REPRESENTATIONS

Following receipt of additional comments from the local residents, Officers requested that the Environmental Health Officer visit and consider the issues further (please note that there has recently been a change in officer so this is essentially a second opinion on this proposal).

Comments were received as follows:

I have given this proposal further consideration and have visited the site. The flood lighting does not appear to be directed in a way that would be a cause of nuisance to neighbours.

Whilst noise from sporting activity from the pitches is audible outside neighbouring dwellings it was not excessive when I visited, and would be very much reduced inside the said dwellings. The application in effect only permits the increased use of these pitches for a relatively short period ,and only during the winter months and as such I do not think any increase in noise can be considered so significant as to be considered a nuisance and therefore I concur with the earlier response of 'no objection'.

N.B. If lights are shining 'directly' onto neighbours and causing nuisance I am of the opinion that these could be readily redirected.

NO CHANGE TO RECOMMENDATION

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

For: The Owner and/or Occupier per Ms Rachel Adams, 1 Broomhall Business Centre, Broomhall Lane, Worcester, WR5 2NT

ADDITIONAL REPRESENTATIONS

Appeal against non-determination

The applicant has lodged an appeal against non-determination with the Planning Inspectorate. The Inspectorate has confirmed that the appeal is valid and that jurisdiction for decision-taking is no longer with the local planning authority. It is the intention, however, that Members make a resolution today confirming how they would have determined the application were it within their jurisdiction. This will inform the forthcoming appeal.

Additional Traffic Manager Comments

The development is predicted to add 51 trips in the morning peak to Hampton Dene Road, 43 going north and 8 going south. The access junction itself has no capacity issues at all in respect of these flows, with plenty of reserve capacity.

In terms of existing flows, this equates to an 18% increase in northbound trips and 3% in southbound trips in the morning peak. Both the mini roundabout junction at Church Road and the priority junction with A438 can both cope with these flows and are well within capacity. The only junction that exhibits any capacity issues is the signalised junction at Folly Lane, as previously commented.

The evening peak is also not a problem, with no school traffic on Hampton Dene Road.

In terms of accident record, there are only two recorded personal injury accidents on Hampton Dene Road between Ledbury Road and Church Road in the last 5 years, those both being slight injury with one in 2010 and one in 2011 and each with a single person injury.

Therefore as previously stated, as I do not consider the likely residual detriment to the Tuspley signalised junction to be severe, I do not consider there to be any highways grounds for refusal.

Comments in relation to S106 agreement

The applicant has confirmed a preparedness to make contributions via S106 on the strict proviso that the Council can demonstrate that such contributions comply with the Community Infrastructure Levy (CIL) regulations i.e. that contributions are:

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

To this extent the applicant is awaiting further justification from the Council in relation to the contributions towards educational infrastructure and the costs associated with the identified highway improvements. The resolution is for approval subject to completion of the S106, which will necessitate further discussion.

One further letter of representation has been received. It raises no new material planning issues.

CHANGE TO RECOMMENDATION

That Members provide a resolution confirming that subject to the conditions attached to the report and the completion of a Community Infrastructure Levy compliant S106 agreement, they would have been minded to delegate authority to officers to issue planning permission and that this position is adopted in appeal proceedings.

MEETING:	PLANNING COMMITTEE
DATE:	23 APRIL 2014
TITLE OF REPORT:	APPEALS

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the progress in respect of the following appeals.

Key Decision

This is not an executive decision.

Recommendation

That the report be noted

APPEALS RECEIVED

Application 131587/F

- The appeal was received on 24 March 2014
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Bishop of Herefords Bluecoat School
- The site is located at Bishop of Herefords Bluecoat School, Hampton Dene Road, Hereford, Herefordshire, HR1 1UU
- The development proposed is Improvements to access, bus bays and car parking
- The appeal is to be heard by Written Representations

Case Officer: Mr E Thomas on 01432 260479

Application 133043/L

- The appeal was received on 26 March 2014
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Listed Building Consent
- The appeal is brought by The Owner and/or Occupier
- The site is located at Rose Cottage, Vowchurch, Hereford, Herefordshire, HR2 0RA
- The development proposed is Building of lean-to-porch incorporating cloakroom facilities.
- The appeal is to be heard by Written Representations

Case Officer: Mr Matt Tompkins on 01432 261795

Application 131908/F

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

- The appeal was received on 31 March 2014
 - The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
 - The appeal is brought by The Co-Operative Estates
 - The site is located at Co-operative Foodstore, 77 Holme Lacy Road, Hereford, Herefordshire, HR2 6DF
 - The development proposed is Variation of Condition 6 of planning permission CE2001/2182/F (Demolition of existing co-op store and 2 no. dwellings. Construction of single storey supermarket and 1no. 2 storey detached house) – to allow deliveries on Sundays, bank holidays and public holidays between 08:00 and 18:00.
 - The appeal is to be heard by Written Representations
- Case Officer: Mr E Thomas on 01432 260479**

Application 131369/FH

- The appeal was received on 26 March 2014
 - The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
 - The appeal is brought by Mr Peacock
 - The site is located at The Stawne, Kington Road, Weobley, Hereford, Herefordshire, HR4 8SF
 - The development proposed is Demolition of existing single storey porch and construction of a new porch and first floor extension.
 - The appeal is to be heard by Written Representations
- Case Officer: Mr A Banks on 01432 383085**

Application 131370/L

- The appeal was received on 26 March 2014
 - The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Listed Building Consent
 - The appeal is brought by Mr Peacock
 - The site is located at The Stawne, Kington Road, Weobley, Hereford, Herefordshire, HR4 8SF
 - The development proposed is Demolition of existing single storey porch and construction of a new porch extension.
 - The appeal is to be heard by Written Representations
- Case Officer: Mr A Banks on 01432 383085**

Application 132130/F

- The appeal was received on 25 March 2014
 - The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
 - The appeal is brought by I G and J P Hilditch Properties
 - The site is located at School Cottage, Norton House School, Norton Canon, Hereford, HR4 7BH
 - The development proposed is Change of use from self-contained granny annexe to residential dwelling.
 - The appeal is to be heard by Written Representations
- Case Officer: Mr C Brace on 01432 261947**

Application 131821/F

- The appeal was received on 1 April 2014
 - The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
 - The appeal is brought by Mr Lee Griffiths
 - The site is located at Horn Hill Farm, Horn Hill, Drybrook, Gloucestershire, GL17 9BN
 - The development proposed is Proposed construction of 40m x 20m menage and landscaping improvements.
 - The appeal is to be heard by Written Representations
- Case Officer: Mr R Close on 01432 261803**

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

Application 131743/F

- The appeal was received on 1 April 2014
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr And Mrs MT & MJ Haxley
- The site is located at Land adj Lord Nelson Antiques, Centre, Bishopstone, Hereford, HR4 7JN
- The development proposed is Erection of owners dwelling to replace existing residential accommodation lost by expansion of antiques centre business.
- The appeal is to be heard by Written Representations

Case Officer: Ms K Gibbons on 01432 261781

Application 132851/O

- The appeal was received on 4 April 2014
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Non determination
- The appeal is brought by Gladman Developments Ltd
- The site is located at Land south of Hampton Dene Road, Hereford, Herefordshire
- The development proposed is Residential development (up to 120 dwellings), access, parking, public open space with play facilities and landscaping
- The appeal is to be heard by Inquiry

Case Officer: Mr E Thomas on 01432 260479

Application 131045/F

- The appeal was received on 7 April 2014
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr R Powell
- The site is located at Cwm Steps Farm, Llanveynoe, Hereford, Herefordshire, HR2 0PJ
- The development proposed is New layby and turning area
- The appeal is to be heard by Written Representations

Case Officer: Mr A Prior on 01432 261932

APPEALS DETERMINED

Application 132077/F

- The appeal was received on 29 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 M Jackson
- The site is located at Site adjacent to Appledore, Wood Lane, Edwyn Ralph, Herefordshire, HR7 4LX
- The development proposed was Temporary change of use for the siting of one caravan for holiday purposes.
- The main issue(s) were: whether or not the proposal would provide a suitable site for tourism accommodation having regard to the principles of sustainable development; the effect of the proposal on the character and appearance of the surrounding area.
- **Decision:**
- The application was Refused under Delegated Powers on 10 October 2013
- The appeal was Dismissed on 21 March 2014

Case Officer: Mr Matt Tompkins on 01432 261795

Application 131389/F

- The appeal was received on 30 September 2013

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

- 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 & Mrs R Wall
 - The site is located at Replacement dwelling at Old Trap House, Cobhall Common, Allensmore, Hereford, Herefordshire, HR2 9BP
 - The development proposed was New four bedroom dwelling
- The main issue was: the effect of the proposed development on the character and appearance of the surrounding area

Decision:

- The application was Refused under Delegated Powers on 16 July 2013
- The appeal was Dismissed on 31 March 2014

Case Officer: Mr A Prior on 01432 261932

Application 132516/O

- The appeal was received on 31 December 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 & Mrs Griffiths
- The site is located at Land at, 1 Knapp Close, Goodrich, Ross-On-Wye, Herefordshire, HR9 6JW
- The development proposed was Site for detached dwelling with ancillary works.
- The main issue was: the effect of the proposal on the character and appearance of the area which lies within the Wye Valley Area of Outstanding Natural Beauty (AONB)

Decision:

- The application was Refused under Delegated Powers on 7 November 2013
- The appeal was Dismissed on 2 April 2014
- An Application for the award of Costs, made by the Appellant against the Council, is refused.

Case Officer: Mr R Close on 01432 261803

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.

Decision:

- We have now received the Award of Costs decision
- The award of costs decision made by the appellant against the Council has been allowed on 3rd April 2014.

Case Officer: Ms K Gibbons on 01432 261781

Application 132448/O

- The appeal was received on 13 January 2014
- 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 & Mrs C Graham
- The site is located at Land adjacent to Longlands, Lower Hardwick Lane, Bromyard, Hereford
- The development proposed was new three bedroom dwelling with access drive, parking and garden.

The main issue was: whether, having regard to the supply of housing land in Herefordshire, the proposal would give rise to any adverse impacts, with particular regard to the character and appearance of the countryside around Bromyard that would significantly and demonstrably outweigh the benefits of the scheme

Decision:

- The application was Refused at Planning Committee on 11 December 2013
- The appeal was Dismissed on 8 April 2014

Case Officer: Mr Matt Tompkins on 01432 261795

Application 130930/F

- The appeal was received on 5 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 Ms Kat La Tzar
- The site is located at Trinity House, Barricombe Drive, Hereford, HR4 0NU
- The development proposed was Demolition of existing building and erection of 9 no. flats and 1 bungalow with associated access and services

The main issue(s) were: (i) the effect of the proposed three storey apartment block on the living conditions of the occupiers of surrounding properties in respect of privacy and outlook; and (ii) the effect of the proposed three storey apartment block on the character and appearance of the area.

Decision:

- The application was Refused under Delegated Powers on 29 August 2013
- The appeal was Dismissed on 8 April 2014

Case Officer: Ms K Gibbons on 01432 261781

APPEAL COSTS

The external cost for defending appeal payments of costs against the Council for the last financial year has been calculated at £56,918.20.

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



MEETING:	PLANNING COMMITTEE
DATE:	23 APRIL 2014
TITLE OF REPORT:	<p>P132734/F - DEMOLITION OF EXISTING BUILDINGS, EXCLUDING THE GRADE II LISTED TANK HOUSE, A SMALL LODGE AND ASSOCIATED SUBSTATION, AND THE ERECTION OF 25 NEW DWELLINGS COMPRISING 12 PURPOSE DESIGNED UNITS FOR OLDER RESIDENTS, 4 OPEN MARKET UNITS AND 9 AFFORDABLE UNITS, PLUS A RETAIL UNIT AND 46 BED NURSING HOME AT LAND AT FORMER BOTTLING PLANT, WALWYN ROAD, COLWALL, MALVERN, WR13 6RN</p> <p>For: Blue Cedar Homes, 3 Richmond Hill, Clifton, Bristol, BS8 1AT</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=132734

Date Received: 7 October 2013

Ward: Hope End

Grid Ref: 375726,242685

Expiry Date: 10 January 2014

Local Members: Councillors CHN Attwood and AW Johnson

1. Site Description and Proposal

- 1.1 The application site lies on the eastern side of Walwyn Road (B4218) within the village of Colwall. The site has an area of some 1.45 hectares. The site is an important site in the centre of the village. The site is largely rectangular in shape. It formerly accommodated the Malvern Water enterprise. Prior to the closure of the works in late 2010 the bottling works on this site were the longest remaining continuous bottling facility around the Malvern Hills. It was built by Schweppes in 1892 next to the Great Western railway line so that bottles were easily transported to and from the site. Upon the site are a series of buildings at its south-western end with more open landscaped grounds reminiscent of a parkland in the north-eastern half of the site. At present the site has three vehicular means of access. There is a quality native hedgerow along the frontage. Walwyn Road is lined by lime trees on its eastern side hereabouts.
- 1.2 There is a Tree Preservation Order upon the site that protects five individual trees and one group of trees. In addition, there are three buildings on-site that Officers consider represent heritage assets. One is a Grade 2 listed (ie nationally significant) Tank House whilst the other two are considered to be locally important buildings. These are the original bottling plant building and a small lodge. The site lies within the Malvern Hills Area of Outstanding Natural Beauty.

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

- 1.3 The proposal under consideration is a fully detailed planning application. Essentially, all of the existing on-site buildings other than the lodge and the Grade 2 listed Tank House would be demolished. Towards the northern end of the site it is proposed to erect twelve detached or linked detached sheltered housing units (Units 1-12). These would be served off the northerly most existing vehicular access and a new access road created off Walwyn Road in a gap between the existing street trees. In many respects these proposed units would be arranged in an inverted 'U' shape around the most important trees upon the site. All these units would have two dedicated car parking spaces each.
- 1.4 Further south, the Tank House would be repaired. To the rear of the Tank House which faces the Malvern Hills (east) a new two storey building would be built accommodating a shop at ground floor level and two affordable (social rent) one bed units (Units 13 & 14) above. The shop would be provided with four dedicated car parking spaces, whilst the two flats would have one parking space each.
- 1.5 To the north-east of the proposed shop, a pair of two-storey three-bedroomed semi-detached affordable (intermediate) houses (Units 15 & 16) is proposed. Each of these houses would have two dedicated car parking spaces each.
- 1.6 To the south of the Tank House framing the Tank House from views from the Malvern Hills would be two two-storey terraced rows of houses. The north-eastern row (Units 17-20) inclusive would be four three bedroomed open market houses. Each unit would have two dedicated parking spaces.
- 1.7 The south-western row (Units 21-25) would accommodate one three bedroomed affordable (social rent) (unit 21), two two-bedroomed affordable units (units 22 and 25) (intermediate) and two one bedroomed affordable units (units 23 and 24) (social rent). The two bedroomed units would each have two dedicated car parking spaces whilst the one bedroomed units would have one dedicated car parking space.
- 1.8 At the southern extreme of the site a forty-six bed three storey nursing home is proposed. This would have eighteen dedicated parking spaces, an ambulance space and a minibus space.
- 1.9 The open market, houses, shop, affordable houses and nursing home would be served off a vehicular access to the south of the site between the Tank House and the proposed nursing home.
- 1.10 Off-site the existing build-out at the existing southern entrance to the site would be removed and the stone kerbs re-instated on the original kerb line.
- 1.11 For clarity nine affordable units are proposed, four of which would be intermediate tenure (units 15, 16, 22 and 25) and five social rent (units 13, 14, 21, 23 and 24).
- 1.12 A draft legal agreement has been negotiated that would secure the following summarised index linked financial contributions (in addition to the affordable housing):-
- Education – Ledbury Early Years (£976), Colwall Primary School and St Joseph Primary School (£7,596), John Masefield Secondary School (£7,796), Post 16 (£348), Youth provision (£2,332) and Special Educational Needs (£552);
 - Library - £2,544;
 - Open Space - £6,560 towards play provision and improvements at the play facility adjacent to the Humphrey Walwyn Library in Walwyn Road or other identified priorities within Colwall;

- Recycling - £1,920;
- Sports Contribution - £2,688 towards off-site sport provision and improvements at Colwall playing fields or on other priorities in consultation with the Parish Council; and
- The requisite 2% monitoring charge.

A copy of the draft legal agreement is attached as Annex 1 to this report.

2. Policies

Central Government advice

2.1 National Planning Policy Framework – the key paragraphs to consideration of this application are considered to be paragraphs 47, 49, 126 and 135.

2.2 Herefordshire Unitary Development Plan 2007 (HUDP)

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design
DR2	-	Land use and Activity
DR3	-	Movement
DR5	-	Planning Obligations
DR10	-	Contaminated Land
DR14	-	Lighting
S3	-	Housing
H4	-	Main Villages - Settlement Boundaries
H9	-	Affordable Housing
H13	-	Sustainable Design
H14	-	Re-using Previously Developed Land and Buildings
H15	-	Density
H18	-	Open Space Requirements
S4	-	Employment
E5	-	Safeguarding Employment Land and Buildings
S5	-	Town Centre and Retail
TCR14	-	Village Commercial Facilities
S6	-	Transport
T6	-	Walking
T7	-	Cycling
T8	-	Road Hierarchy
T11	-	Parking Provision
S7	-	Natural and Historic Heritage
LA1	-	Area of Outstanding Natural Beauty
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
HBA4	-	Setting of Listed Building
HBA8	-	Locally Important Building
CF7	-	Residential Nursing Homes and Care Homes
NC1	-	Biodiversity and Development
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement
NC9	-	Management of Features of the Landscape Important for Fauna and Flora

2.3 Herefordshire Local Plan Draft Core Strategy 2011 – 2031

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SD1	-	Sustainable Design and Energy Efficiency
ID1	-	Infrastructure Delivery
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing
H3	-	Ensuring an Appropriate Range and Mix of Housing
E2	-	Redevelopment of Existing Employment Land and Buildings
SS4	-	Movement and Transportation
LD1	-	Landscape and Townscape
LD2	-	Bio-diversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets

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 For Members information the lawful use of the site is as a general industrial (B2) use.

130272/F - Demolition of existing buildings, excluding the Grade II Listed Tank House, a small lodge and associated substation and the erection of 27 no. new dwellings comprising 12 no. purpose designated units for older residents, 5 no. open market units and 10 no. affordable units plus a retail unit and 45 bed nursing home – Withdrawn

4. **Consultation Summary**

Statutory Consultations

4.1 English Heritage objects to the development. They state:-

“Summary

English Heritage objects to this application, and advises that the earlier buildings of the former bottling plant should be retained and adapted for appropriate uses.

English Heritage Advice

As you know, this former bottling plant was built c1900 in the Arts and Crafts manner to the design of Truefitt and Truefitt, architects of national distinction. The quality of detail and construction is most unusual for industrial buildings, a reflection of the quality of the product and the statement that the buildings were intended to make about it.

The former Tank House, which is almost unaltered externally, is grade II listed; the other contemporary buildings are largely intact, but heavily obscured by a sequence of extensions through the 20th century. These buildings are unlisted, but English Heritage has no doubts that they are of major local significance even in their obscured state both architecturally and as the built evidence of a significant chapter in the history of the Malvern Hills. The scale and location of the proposals would affect the character of the Colwall Conservation Area, although they are not within its boundary. It is noteworthy that the buildings were apparently designed as a picturesque composition to be viewed from the hills, rather than only from Walwyn Road.

We note that the present application proposes to demolish almost all the existing buildings on the site, retaining only the listed former Tank House and a lodge. Inspection of the existing buildings reveals that the c1900 ranges are substantially complete, with their arcaded brick walls and queen post truss tiled roofs. It appears to English Heritage that these buildings can and should be retained as the basis of new development and uses, with the later flat roofed extensions stripped away and the elevations made good. The resulting buildings would be of domestic proportions and plan depth, and readily adaptable with care and imagination.

Recommendation

English Heritage objects strongly to this application, and firmly recommends that it should be refused. I would be very willing to join in further discussions with yourselves and the applicants' architects on alternative proposals that retain and adapt the early buildings.

We would welcome the opportunity of advising further. Please consult us again if any additional information or amendments are submitted. If, notwithstanding our advice, you propose to approve the scheme in its present form, please advise us of the date of the committee and send us a copy of your report at the earliest opportunity."

Internal Consultees

- 4.2 The Conservation Manager (Historic Buildings) objects to the proposed development on the basis of the loss of the bottling plant building. With regard to that aspect she states:

"In assessing the large H-plan bottling plant building, also a Truefill and Truefitt design, English Heritage noted that "The local interest of the site is considerable, but the compromised state of the structure means that it cannot be recommended for designation at a national level". Though this building has been extended to respond to the changing needs of the industrial process, this was in accordance with the original intention as set out in The Builder in 1892. The original plan form and spaces are still clearly legible and could be revealed by stripping back the more unsympathetic additions. The condition of this building appears sound and its plan and volume would allow for a number of different alternative uses. It is considered to be of local heritage value in its own right in addition to forming a significant part of the industrial context for the Tank House. With this in mind it is generally considered that the Bottling Plant building should be retained within any redevelopment scheme for the larger site.

Whilst the loss of Dilkush and The Nook could be accommodated without reducing the significance of the wider site unduly, the loss of the Bottling Plant building is considered to be unacceptable. This building is considered to be a locally important building though it hides its light under a bushel. It currently has little presence along Walwyn Road due to the closed nature of the site but a redevelopment scheme that opened up the site to the public would enable its architectural value to be appreciated. In addition it provides important context and setting for the Tank House which otherwise could become a rather isolated remnant."

- 4.3 The Strategic Housing Manager has no objection. She is satisfied with the level of affordable housing, the size of the units and the tenure.
- 4.4 The Conservation Manager (Tree Officer) has no objections subject to the imposition of appropriate conditions.
- 4.5 The Conservation Manager (Ecology) has no objections subject to the imposition of appropriate conditions.
- 4.6 The Transportation Manager has no objections subject to the imposition of appropriate conditions.

4.7 There are no objections from the Parks & Countryside Service to the provision of the legal agreement.

5. Representations

5.1 Colwall Parish Council strongly objects to the plans as the proposal failed to make best use of the largest brown field site within the Settlement Boundary of the Parish of Colwall.

Colwall has an allocation of some 129 new homes to build within the Parish between 2011 and 2031 as stated in the emerging Herefordshire Core Strategy, which has been approved by Herefordshire Council.

Consequently it was felt that by demolishing the existing building and erecting 25 new homes (of which 12 will be restricted to the over 55's, 9 will be affordable and 4 open market), one retail unit and a 46 bed nursing home - for which we get no housing allocation allowance for the nursing home was poor use of the site.

Notwithstanding the above comments should the planning officer be minded to approve the plans then the Parish Council request the following:-

1. The site lies in the Area of Outstanding Natural Beauty and consequently, the design, detailing and materials must be of the highest quality.
2. The timing for the overnight gate closures and the arrangements for the emergency access gate to be agreed by discussion with the Parish Council.
3. There needs to be significant planning restrictions on the use of the retail unit to reduce the likelihood of a change of use.
4. B1 use of the Tank House should be permitted to increase the likelihood of the future use of the building.
5. The Parish is consulted on the use of at least 25% of the Planning Gain/Community Infrastructure Levy.
6. The Highway at the entrance of the site should be reinstated to its original width (as this was previously altered to prevent damage to the kerbside by lorries at the Coca Cola Schweppes facility).

5.2 The Victorian Society object on the following grounds:-

“Thank you for consulting the Victorian Society on this application. In terms of what is proposed to be demolished, the application is more or less identical to the one submitted in April of this year, which was withdrawn in September. We therefore renew our **objections** to the proposed scheme, as it would result in the loss of the vast majority of an interesting and attractive historic industrial complex. The clearance of the site would also harm the setting of the one designated heritage asset within the confines of the development.

The former bottling works are a charming and characterful legacy of an industrial use which persisted right up until 2010 when the works finally closed. What survives is a remarkably intact industrial complex characterised by appealing arts and crafts buildings from the turn of the twentieth century. The Victorian and Edwardian pride in the design and construction of their buildings, industrial or otherwise, is widely acknowledged. Even in light of this however, and despite subsequent and incremental alterations, the surviving structures on Walwyn Road represent a high quality and pleasingly-detailed series of buildings. The architectural merit of the buildings is matched by the social significance of the site to the town and their more general historic interest.

In addition, the remaining listed building, the elaborate Tank House, would be divorced of its historic context and its setting substantially harmed, contrary to paragraph 129 of the National Planning Policy Framework. The proposed demolition of the buildings would largely obliterate the multifaceted interest and significance of the site. It would remove near all trace of the

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

bottling plant, which was a fundamental part of the development of Victorian Malvern, and to the historic context of Tank House.

It is clear that the buildings proposed for demolition are not only structurally sound, but are of a scale and proportion which would seem to lend itself to conversion, particularly the former Manager's House. The more utilitarian later extensions could be removed with relative ease, and the architectural interest of the site better revealed.

The feasibility study which is attached to the current application confirmed that the site could be converted into residential units, or for a variety of commercial operations. Although it stated this would be at a significant cost, there were no estimate figures presented to support this claim. It has not been demonstrated that a less damaging scheme would not be financially viable.

In light of the above, it is urged that you refuse consent for this damaging application.”

- 5.3 SAVE Britain's Heritage and the Ancient Monuments Society object to the proposed development on essentially the same grounds as English Heritage and the Victorian Society.
- 5.4 The Malvern Civic Society expresses the following concerns:-
- The bottling plant building should be retained;
 - Any development should be designed such that does not have an adverse impact when viewed from the Malvern Hills;
 - The tree screen should be protected.
- 5.5 The Malvern Spa Association object on the following summarised grounds:-
- The loss of the locally important bottling plant building;
 - The adverse impact of a formal residential development to the setting of the Grade 2 listed Tank House;
 - An appropriate future use of the Tank House needs to be secured;
 - Recommend that original features be salvaged from the original buildings and that appropriate recording of the buildings takes place;
 - Concern regarding the design of the shop and its impact on the setting of the Tank House;
 - Care needs to be taken to protect the TPO trees and to secure appropriate new planting in keeping with the Victorian landscape character;
 - Concern as to the visual impact from the Malvern Hills ridges and upper west facing slopes;
 - The LVIA is not in accordance with published guidance.
- 5.6 The Malvern Hills AONB Unit object to the loss of the bottling plant building. They make detailed comment on landscape issues and would wish any future landscaping scheme to include tall native trees (especially along the eastern boundary). They express concern as to the setting of the Tank House also.
- 5.7 Eleven letters of support from residents (primarily local) and the Friends of Malvern Springs and Wells have written in support of the scheme on the following summarised grounds:-
- The use of the site for residential purposes as opposed to a factory is beneficial in terms of highway safety. The highway network in Colwall is too restrictive to support the traffic likely to be generated from a factory;
 - The proposed additional housing will assist Herefordshire in terms of increasing its supply of housing;
 - The sheltered housing will allow older people in Colwall to move into smaller units freeing up their existing larger houses;

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

- The site is in an extremely sustainable location well located to the shops, railway station and services;
- The proposed development does not involve the release of greenfield land;
- There is a need for this type of development in Colwall;
- The provision of a reasonably sized shop in the centre of Colwall is to be welcomed;
- The re-use of the site for employment purposes would be regrettable due to the highway network and the condition of the highway network;
- There is a need for a nursing home and sheltered housing in the area;
- The proposal would provide employment opportunities; and
- The proposal would increase the viability of the small surgery in Colwall;

5.8 Occupiers of two dwellinghouses in the vicinity object on the following summarised grounds:-

- The twelve sheltered housing units is a poor use of the site – a higher density not discriminating on grounds of age would better address the shortfall of housing in the Country and village;
- Colwall needs housing for all generations;
- It seems a shame that the bottling plant building would be lost; and
- The finances of the applicant are questioned.

5.9 The Hereford Police liaison officer has no objections and makes the point that the site has good access control and natural surveillance.

5.10 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

6. Officer's Appraisal

Principle of Residential Development

- 6.1 Whilst the site lies within the settlement boundary of Colwall, the site has a lawful employment use and policy E5 of the Herefordshire Unitary Development Plan 2007 safeguards employment land for employment purposes. At present there is no evidence to suggest that Herefordshire has an oversupply of employment land and this site is considered to be of a good quality.
- 6.2 The site has historically been used for B2 general industrial purposes without complaint and would be suitable for a B1 use (i.e. offices, research or development and light industrial) which by definition is appropriate in any residential area. The existing buildings upon the site appear to be both structurally sound and in good condition whilst being relatively flexible. Furthermore there is scope to the north-east of the existing range of buildings for new buildings.
- 6.3 A very good example and apparently successful employment use in the area can be found at the Wyche Innovation Centre <http://www.wyche-innovation.com/> where a formerly largely redundant building has been re-used for B1 purposes with high rates of occupancy.
- 6.4 Therefore the proposal is considered to be contrary to policy E5 of the Herefordshire Unitary Development Plan 2007. However, the Local Planning Authority does not have a five year housing land supply. This is evident from the Council's most recent annual monitoring report and also the recent appeal decision relating to 'Home Farm', Belmont, Hereford (Ref:-

S122747/O). The Central Government advice on this matter is clear. In paragraph 49 of the National Planning Policy Framework (NPPF) it states that:-

“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.”

- 6.5 The application site is in a highly sustainable location being located in the centre of Colwall which is a highly sustainable settlement not only having a range of facilities and services but also having a railway station that is within easy walking distance of the application site.
- 6.6 Given the lack of a five year housing land supply and the sustainability of the location, it is considered that in this instance the principle of a primarily residential development on this safeguarded employment land is acceptable.

Heritage Assets

- 6.7 It is considered that heritage assets, in terms of buildings, are not restricted to those that are listed due to their national significance. In this case it is considered that there are three heritage assets upon the site:-
- a) The Grade 2 listed Tank House;
 - b) The lodge building; and
 - c) The bottling plant building.
- 6.8 The proposal involves the retention of the Tank House and the lodge building. Whilst no “end use” is proposed to either the Tank House or the lodge, that is understandable due to their extremely limited scale. Furthermore the applicant has submitted a schedule of repairs that would be carried out to the Tank House.
- 6.9 The proposal involves the loss of the original ‘H’ shaped bottling plant building. It is considered that this building is a heritage asset of local importance. It is considered to be of value due to:-
- a) its architectural and historic interest;
 - b) its group value with the Tank House – it is considered that its loss would harm the setting of the nationally significant Tank House; and
 - c) its inherent relationship with the landscape.
- 6.10 When English Heritage considered whether to list the Tank House they also considered the merits of listing the lodge and the bottling plant building. They only listed the Tank House. Whilst they did not consider the bottling plant to be of national significance that is not to say that they do not consider it to be of local importance. Indeed in their report dated 17 February 2011 they recognised that “the local interest of the site is considerable, ...”. Furthermore their consultation response in relation to this application is clear that they consider the bottling plant building to be a heritage asset of local importance. Therefore it is considered that whilst the bottling plant building is not of national significance it is of local importance and as such should be considered as a heritage asset. This view is the consistent view of the Council’s Conservation Manager and all of relevant external heritage bodies (i.e. English Heritage, Ancient Monuments Society, Save Britain’s Heritage and Victorian Society).
- 6.11 It is considered that the original ‘H’ shaped bottling plant building could be retained as part of a redevelopment of the scheme of the wider site. This would involve demolishing the modern additions to that building. There is no evidence to suggest that it is not structurally sound and is in a relatively good physical condition. The building is also considered to be very flexible in terms of future potential uses.

- 6.12 The applicants have argued that the building should not be regarded as a heritage asset but have not really advanced a case other than stating that it is not listed and not considered to be of national significance. That of course is correct but is a simplistic argument as it suggests that any building that is not listed of national importance cannot be a heritage asset of local importance.
- 6.13 It has also been argued that the bottling plant building is not readily visible from Walwyn Road. However, it is visible from the Malvern Hills both individually and as part of the group. Glimpses are obtained from Walwyn Road. Furthermore any good inclusive redevelopment scheme would open the site up to public access.
- 6.14 The applicants have argued that retaining the original bottling plant building as part of a wider redevelopment of the site is not viable. However, this largely depends upon the amount that the current applicant purchased the site for. A residual valuation (i.e. the process of valuing land with development potential - the sum of money available for the purchase of land can be calculated from the value of the completed development minus the costs of development (including profit). The complexity lies in the calculation of inflation, finance terms, interest and cash flow against a programme timeframe) suggests that the redevelopment of the site for entirely residential purposes whilst retaining the bottling plant building, and providing the requisite level of affordable housing, Section 106 financial contributions and developer profit of 18% does generate a positive land value.
- 6.15 It is accepted that such a scheme would not be viable when compared to the current scheme before Members. However, when using a site value, either as part of an input into a scheme specific appraisal or as a benchmark one should ensure that it equates to the market value subject to the assumption that the value has regard to Development Plan policies and all other material considerations and disregards that which is contrary to the development plan.
- 6.16 It is considered that the proposal under consideration is clearly contrary to policy HBA8 of the Herefordshire Unitary Development Plan 2007 together with the Central Government advice contained within paragraphs 126 and 135 of the National Planning Policy Framework (NPPF) in that it results in the loss of a locally important building (i.e. the original bottling plant building). It is considered that when the current applicant purchased the site in December 2011 (after English Heritage's deliberations with regard the bottling plant building) they should have been aware that the bottling plant building was a locally important building effectively safeguarded by policy HBA8 of the Herefordshire Unitary Development Plan 2007 and taken that into account when agreeing a purchase price for the land. At no point did the applicant approach Officers of the Local Planning Authority prior to their purchase of the site to seek professional advice as to the bottling plant building or the site as a whole.
- 6.17 It is accepted, however, that the consistent professional view does not appear to be shared by the local community. The Parish Council do not consider the bottling plant building to be of local importance and only one local resident has expressed concern as to the loss of the bottling plant building. Nevertheless, it is considered that the professional view upon this matter is well founded and that the loss of the bottling plant building is in itself sufficient reason to refuse this application. The social history of this complex of industrial buildings (including the bottling plant) and its direct relationship with the landscape (i.e. the springs) should not be underestimated.

Sheltered Housing Element

- 6.18 The proposed twelve sheltered units are arranged in an inverted 'U' shape around the most significant trees upon the site. The units are designed such that they have spacious gaps between them, especially at first floor level. The gardens are considered to be of a reasonable size with a generous central communal area. These units are classified as dwellinghouses and as such would assist in redressing the shortfall in the Council's five year housing land supply.

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

- 6.19 The car parking provision is considered to be satisfactory complying with standards.
- 6.20 The existing ornamental gates to the site would be salvaged and re-used in the new entrance to the sheltered housing units.

Proposed Terraced Row of Houses and Semi-Detached Pair

- 6.21 The proposed two terraced rows of houses have been purposely designed to provide a linear frame to the grade 2 listed Tank House when viewed from the Malvern Hills to the east. These houses are considered to be particularly well designed by virtue of the fact that their span/depth has been limited to seven metres.
- 6.22 The car parking to the front of these properties, which accords with standards, is shown to be effectively softened/broken up by tree planting.
- 6.23 The semi-detached pair of houses proposed to the north of the Tank House is also considered to be acceptable in terms of siting and design.

Proposed Shop Building With Flats Over

- 6.24 The proposed shop would be sited to the rear of the Tank House and front Walwyn Road. This building would primarily be timber boarded with a frame of green oak and have a slate roof. It would have a direct pedestrian access from Walwyn Road.
- 6.25 The provision of an additional modest sized retail shop in Colwall is considered appropriate in the context of policy TCR14 of the Herefordshire Unitary Development Plan 2007. The only issue surrounding the shop is the lack of on-site parking to be provided. Only four, rather than the required seven, dedicated car parking spaces are proposed. However, in this instance this is considered to be satisfactory as the store should primarily act as a village shop where a significant number of customers should be able to walk or cycle to. Furthermore, even if on-street parking were to occur on the eastern side of Walwyn Road it would be likely to have the benefit of slowing traffic approaching from the north in a southerly direction without causing hazard to highway safety.
- 6.26 The flats over the shop are considered to be acceptable as is the parking provision for those shops.

Nursing Home

- 6.27 Policy CF7 of the Herefordshire Unitary Development Plan 2007 allows for the provision of nursing homes in areas where residential development is considered to be acceptable. There is no evidence to suggest that there is not a need or a demand for a nursing home in the Colwall area. Furthermore the demonstration of need or demand is not a policy requirement. The proposed building would be three storeys high. However, immediately to the south are the higher Victorian/Edwardian Villas on the eastern side of Walwyn Road.
- 6.28 The mass of the building would be broken up in the traditional use of differing roof heights, articulation of window and door openings within the elevations, the use of projections and recesses to the elevations and the use of differing materials.

Impact Upon Trees

- 6.29 All of the trees upon the site that are the subject of the Tree Preservation Order would be retained and adequately protected during the construction phase. The application is also accompanied by a method statement prepared by a suitably qualified arboricultural consultant

that satisfactorily deals with the issue of removing existing tarmac surfaces near trees and the removal of an existing hedge without damage to the roadside lime trees.

- 6.30 Whilst there could be future pressure to remove or excessively prune the retained trees and the roadside limes from future occupiers, this matter is under the control of the Local Planning Authority who should resist any such pressure due to issues of light, “nuisance”/leaf fall, aphid activity and the resultant 'honey dew' etc.

Biodiversity/Ecology

- 6.31 These matters have been satisfactorily addressed. If planning permission were to be granted the submission of a habitat provision and enhancement scheme would be required.

Contaminated Land

- 6.32 This matter has been satisfactorily addressed such that if planning permission were to be granted two conditions would need to be attached.

Impact Upon Occupiers of Neighbouring Dwellinghouses

- 6.33 No objections have been received from the occupiers of neighbouring dwellinghouses. It is considered that the proposed development would not result in an undue loss of daylight and/or sunlight to occupiers of neighbouring properties. Similarly it is considered that the proposal would not result in any undue loss of privacy to occupiers of neighbouring dwellinghouses. A number of supporting letters point to a perceived improvement to highway safety associated with the residential use of the site.

External Materials

- 6.34 Detailed discussions have taken place with regard the use of materials (including surfacing materials for vehicle parking and turning/manoeuvring areas. This has resulted in a detailed submission of materials at this stage. It includes the use of a natural stone (sourced from Black Mountain Quarries), a quality red brick (i.e. Northcot Multi Red Rustic), a clay plain tile (i.e. Marley Eternit Dark Heather) a natural slate (i.e. 'Burbia'). That schedule of materials is considered to be of a very high quality lifting the development above the norm.

Highway Matters

- 6.35 The existing highway network is considered to be satisfactory in design and capacity terms to serve the proposed development. The vehicular means of access are also considered to be satisfactory.

Landscape Impact

- 6.36 The proposed development is not considered to have a harmful impact, other than the loss of the bottling plant building, upon the landscape which hereabouts is designated as an Area of Outstanding Natural Beauty. The development, especially, the roof forms and materials would be visible from the ridge of the Malvern Hills and the western slopes. However, it is considered that development with the high quality of materials proposed would integrate well into the landscape.

Affordable Housing/Planning Obligations

- 6.37 The proposed development provides the requisite level of affordable housing and financial contributions towards associated infrastructure. The draft Section 106 Agreement is considered to be satisfactory.

Conclusion

- 6.38 The site is safeguarded employment land. However, given the lack of a five year housing land supply and the sustainability of the location the principle of a primarily residential development is considered to be acceptable. However, in this instance the detail of the scheme under consideration is not considered to be satisfactory as it results in the loss of the locally important original 'H' shaped bottling plant building.

RECOMMENDATION

That planning permission be refused for the following reason:

1. The proposal would not represent sustainable development since it results in the loss of the locally important original 'H' shaped bottling plant building contrary to policy HBA8 of the Herefordshire Unitary Development Plan 2007, Policy LD4 of the Draft Herefordshire Local Plan Draft Core Strategy and paragraphs 126 and 135 of the National Planning Policy Framework (NPPF). Furthermore the original 'H' shaped bottling plant building is intrinsically functionally and historically linked with the Grade 2 listed Tank House such that they have "group value" and as such its loss would harm the setting of the Grade 2 listed Tank House contrary to policy HBA4 of the Herefordshire Unitary Development Plan 2007, Policy LD4 of the Draft Herefordshire Local Plan Draft Core Strategy and paragraph 132 of the National Planning Policy Framework (NPPF). The adverse impacts of the loss of the building would significantly and demonstrably outweigh the benefits.

Informatives:

1. The applicant did not engage with the Local Planning Authority prior to purchasing the site. However, since they purchased the site the Local Planning Authority have worked positively and pro-actively with the agents for the applicant to resolve as many planning issues as possible. However, the one area where disagreement remains is the retention of the original 'H' shaped locally important bottling plant building that is considered by the Local Planning Authority to be a heritage asset.
2. For the avoidance of any doubt the documents to which this decision relate are:-
 - Location Plan – Drawing number 12017(L) 001 Revision A (Scale 1:1250) received 7th October 2013;
 - Survey Plan – Drawing number 12017 (L) 002 Revision A (Scale 1:500);
 - Demolition Plan – Drawing number 12017 (L) 204 Revision A (Scale 1:500) received 7th October 2013;
 - Ground Floor Site Layout – Drawing number 12017 (L) 200 Revision N (Scale 1:500) received 6th November 2013;
 - Site at First Floor Level – Drawing number 12017 (L) 201 Revision L (Scale 1:500) received 6th November 2013;
 - Site at Second Floor Level – Drawing number 12017 (L) 202 Revision M (Scale 1:500) received 6th November 2013;
 - Site at Roof Level – Drawing number 12017 (L) 203 Revision L (Scale 1:500) received 6th November 2013;
 - Nursing Home Floor Plans – Drawing number 12017 (L) 101 Revision G (Scale 1:200) received 7th October 2013;
 - Nursing Home Elevations – Drawing number 12017 (L) 100 Revision G (Scale 1:200) received 11th October 2013;
 - Detail Illustrating Exterior Construction of Nursing Home – Drawing number 12017 (D) 001 Revision A (Scale 1:50);
 - Proposed Southern Terrace Plans & Elevations – Drawing number 12017 (L)

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

- 104 Revision F (Scale 1:100) received 6th November 2013;
- Proposed Northern Terrace – Drawing number 12017 (L) 105 Revision E (Scale 1:100) received 6th November 2013;
- Proposed Shop Plans & Elevations – Drawing number 12017 (L) 102 Revision H (Scale 1:100) received 7th October 2013;
- Construction Detail for Shop – Drawing number 12017 (D) 002 Revision A (Scale 1:20);
- Proposed Semi-Detached Housing – Drawing number 12017 (L) 103 Revision D (Scale 1:100) received 6th November 2013;
- Blue Cedar House Type A Floor Plans – Drawing number 12017 (L) 107 Revision F (Scale 1:100) received 7th October 2013;
- Blue Cedar House Type A Elevations – Drawing number 12017(L)108 Revision F (Scale 1:100) received 7th October 2013;
- Blue Cedar House Type E Floor Plans – Drawing number 12017 (L) 106 Revision F (Scale 1:100)
- Blue Cedar House Type E Elevations – Drawing number 12017 (L) 109 Revision G (Scale 1:100);
- Garages & Refuse Store – Drawing number 12017 (L) 110 Revision D (Scale 1:100);
- Proposed Site Layout Section Plan – Drawing number 12017 (L) 205 Revision G (Scale 1:500) received 6th November 2013;
- Site Sections: Existing & Proposed of Walwyn Road – Drawing number 12017 (L) 220 Revision F (Scale 1:200) received 6th November 2013;
- Proposed Site Section BB CC – Drawing number 12017 (L) 221 Revision G (Scale 1:200) received 11th October 2013;
- Proposed Site Sections EE FF GG – Drawing number 12017 (L) 222 Revision G (Scale 1:200) received 7th October 2013;
- Proposed Site Sections HH II JJ – Drawing number 12017 (L) 223 Revision G (Scale 1:200) received 7th October 2013;
- Proposed Site Sections KK LL MM – Drawing number 12017 (L) 224 Revision F (Scale 1:200) received 7th October 2013;
- Proposed Site Sections DD NN OO – Drawing number 12017 (L) 225 Revision E (Scale 1:200) received 7th October 2013;
- Tree Protection Plan – Drawing number TPP-1 Revision B (Scale 1:400) received 11th October 2013;
- Tree Protection Plan – Drawing number TPP-2 Revision B (Scale 1:400) received 11th October 2013;
- Tree Removal Plan – Drawing number TR-1 Revision C received 7th October 2013;
- Proposed Site Access Arrangements – Job No. 1108-50 – Drawing number Figure 3.1 Revision B received 13th November 2013;
- External Materials Schedule – Revision A together with covering letter from Blue Cedar Homes dated 6th March 2014 received 7th March 2014;
- External Finishes Plan – Drawing number SK01 Revision C (Scale 1:200) received 7th March 2014;
- External Finishes Plan – Drawing number SK02 Revision C (Scale 1:200) received 7th March 2014;
- Environmental Due Diligence (December 2010) zenith international report;
- EDD Phase 3 Site Investigation Report July 2011 received 7th October 2011;
- Site Investigation (November 2011) Report No. 726091 Structural Soils Ltd. received 30th October 2013;
- Ecological Appraisal prepared by Malford Environmental Consulting 8 August 2013 received 7th October 2013;
- Arboricultural Impact Assessment prepared by boskytrees dated 29th August 2013 received 7th October 2013; and

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

- **Richard Jones Chartered Surveyors and Building Consultants – Schedule of Repairs required at the Tank House 6 February 2014.**

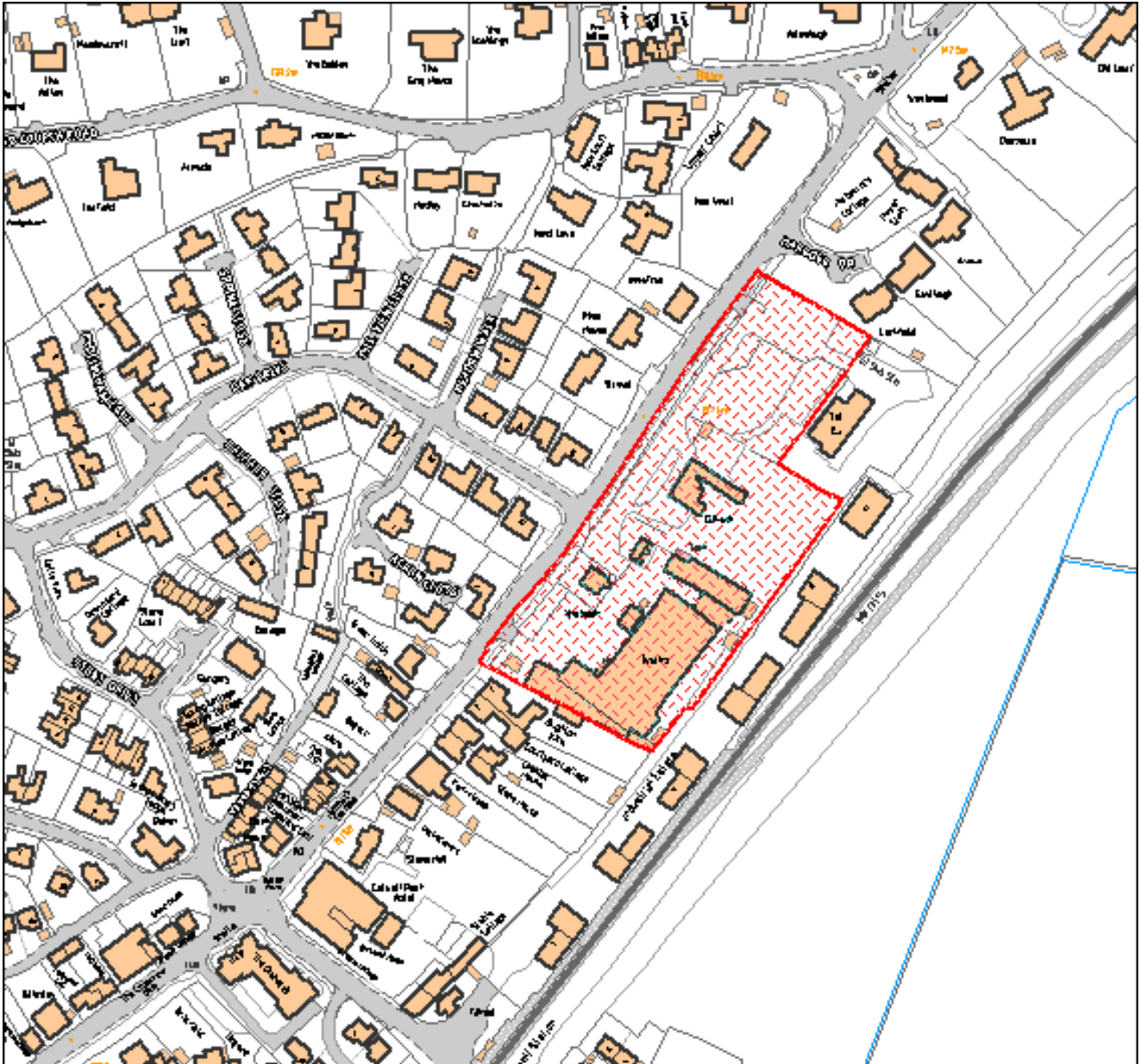
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 132734/F

SITE ADDRESS : LAND AT FORMER BOTTLING PLANT, WALWYN ROAD, COLWALL, MALVERN, WR13 6RN

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

THIS DEED dated

is made BETWEEN:-

1. THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL of Brockington 35 Hafod Road Hereford HR1 1SH ("the Council")
2. EAGLE ONE MMXI LIMITED (company registration number (077787710) of Palatine House Matford Court Exeter Devon EX2 8NL ("the Owner")
3. BLUE CEDAR HOMES LIMITED (company registration number 06444180) of Palatine House Matford Court Exeter Devon EX2 8NL ("the Developer")

WHEREAS:-

1. The Council is empowered by Section 106 of the Town and Country Planning Act 1990 (as amended) ("the Act") to enter into an agreement with any person interested in land in its area for the purpose of restricting or regulating the development or use of that land.
2. The Owner is the registered proprietor of the Land described in the First Schedule to this Deed ("the Land").
3. The Developer has by its agent submitted to the Council the application reference P132734/F for planning permission as described in the Second Schedule to this Deed ("the Application").
4. The Council acting by its planning committee has resolved to delegate authority to its officers for the grant of the Permission (subject to conditions) and subject to the completion of this Deed for the purpose of restricting or regulating the development or use of the Land.
5. The Council is the local planning authority by whom the restrictions and obligations contained in this Deed are enforceable.

THIS DEED is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers and enactments which may be relevant for the purposes of giving validity hereto or facilitating the enforcement of the obligations herein contained with the intent to bind the Land and WITNESSES as follows:-

1(A). Construction of this Deed:

In this Deed the following words and expressions shall where the context so admits have the following meanings:-

The expressions "the Owner" the "the Council" and "the Developer" shall include their respective successors in title and assigns.

Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

Words of the masculine gender include the feminine and neuter genders and all references in this Deed to a person or persons shall include corporations and unincorporated associations and all other legal entities.

Where there are two or more persons included in the expression "the Owner" covenants expressed or implied to be made by Owner shall be deemed to be made by such persons jointly and severally.

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

Words denoting an obligation on a party to do any act include an obligation to procure that it be done.

Words placing a party under a restriction include an obligation not to permit infringement of that restriction.

References to any statute or statutory instrument shall except where otherwise specifically provided include reference to any statutory modification or re-enactment thereof for the time being in force.

1(B). Definitions

For the purposes of this Deed the following expressions shall have the following meanings:

“Affordable Housing” means housing provided to eligible households whose needs are not met by the Open Market. Eligibility is determined with regard to local incomes and local house prices. Affordable Housing should remain at an affordable price for future eligible households or the subsidy recycled for alternative Affordable Housing provision. The descriptions of all types of Affordable Housing in Herefordshire are contained in the Technical Data.

“Affordable Housing Units” mean (unless otherwise agreed in writing by the Council) the five residential units and ancillary areas comprised within the Development intended for occupation as Social Rented Housing and the four residential units and ancillary areas comprised within the Development intended for occupation as Intermediate Housing and shown edged green on the Plan being units 13, 14, 21, 23 and 24 (as to Social Rented Housing) and as units 15, 16, 22 and 25 (as to Intermediate Housing).

“Code for Sustainable Homes” means the national standard for the sustainable design and construction of new homes as defined by the Department of Communities and Local Government.

“Commence Development” and “Commencement of Development” mean to commence the Development pursuant to the Permission by the carrying out of a Material Operation.

“Contributions” mean the Education Contribution; the Library Contribution; the Open Space Contribution; the Recycling Contribution and the Sports Contribution.

“Design and Quality Standards” mean the requirements and recommendations for all new homes as defined by the Homes and Communities Agency ‘design and quality standards April 2007’.

“Development” shall mean the development of the Land described by the Application.

“Education Contribution” means the sum of nineteen thousand six hundred pounds (£19,600.00) index-linked in accordance with clause 3.11 of this deed to provide the Education Facilities required as a consequence of the Development.

“Education Facilities” mean education improvements towards: pre-school provision at Ledbury Early Years (£976.00); primary school provision at Colwall Primary School and St Joseph's RC Primary School (£7,596.00); secondary school provision at John Masefield High School (£7,796.00); post 16 provision (£348.00); youth provision (£2,332.00); special educational needs (£552.00).

“Herefordshire Allocations Policy” shall mean the Council’s Policy for the allocation of Affordable Housing in the administrative area of the Council which under the Housing Act 1996 as amended by the Homelessness Act 2002 and the Localism Act 2011 the Council has a duty to provide.

“Home Point” means the agency or body (or any successor agency or body) that on behalf of the Council holds the common housing register and operates a choice based lettings system (or any subsequent lettings system) through which Affordable Housing in the administrative area of the Council is advertised.

“Intermediate Housing” means homes for purchase and rent provided at a cost above levels for Social Rented Housing but below Open Market levels subject to the criteria in the Affordable Housing definition above. For the purposes of this Deed this means housing provided by way of Shared Ownership only.

“Library Contribution” means the sum of two thousand five hundred and forty four pounds (£2,544.00) index-linked in accordance with paragraph 3.11 of this deed to improve the Library Facilities.

“Library Facilities” mean existing library services in Colwall.

“Lifetime Homes Standard” means the principles developed by the Joseph Rowntree Foundation establishing 16 design criteria (revised July 2010) intended to maximise good housing design and make homes adaptable for lifetime use.

“Material Operation” has the meaning given by Section 56 (4) of the Act.

“Occupy” “Occupied” and “Occupation” means the first occupation of the Development for residential purposes but excluding occupation for the purposes of construction and fitting out.

“Open Market” means the open market for the sale or letting of housing by a person or body other than (a) a local housing authority (b) a Registered Provider or (c) any other person or body offering housing accommodation to the public at less than the prevailing market sale/rent price.

“Open Market Units” mean the Sheltered Accommodation and the four units of residential accommodation in the Development that are not Affordable Housing Units and which are intended for sale or letting on the Open Market.

“Open Space Contribution” means the sum of six thousand five hundred and sixty pounds (£6,560.00) index-linked in accordance with clause 3.11 of this deed to provide the Open Space Facilities.

“Open Space Facilities” mean off-site open space(s) and children’s play provision and improvements at the play facility adjacent to the Humphrey Walwyn Library Walwyn Road or on priorities in Colwall identified the ‘Play Facilities Study and Investment Plan’ in consultation with the Parish Council

“Permission” means the planning permission subject to conditions to be granted by the Council permitting the Development pursuant to the Application

“Plan” means the drawing numbered 12017(L)201M attached to this deed.

“Recycling Contribution” means the sum of one thousand nine hundred and twenty pounds (£1,920.00) index-linked in accordance with clause 3.11 of this deed towards the Recycling Facilities.

“Recycling Facilities” mean new or enhanced recycling and waste management facilities within Hereford in lieu of such facilities within the Development.

“Registered Provider” means a registered provider of Affordable Housing under Part 2 of the Housing and Regeneration Act 2008 being a preferred development partner listed (or intended

for listing) in the Council's 'provision of affordable housing technical data' which supports the Supplementary Planning Document Planning Obligations dated April 2008 (or any subsequent or updated document), or any such other Registered Provider as may previously be agreed with the Council in writing such agreement not to be reasonably withheld.

"Shared Ownership" means ownership under the terms of a lease by which a lessee may (subject to the restriction in clause 1.9 of the Third Schedule to this Deed) acquire a share or shares of the equity in an Affordable Housing Unit from the Registered Provider who retains the remainder and may charge a rent.

"Sheltered Accommodation" means that part of the Development comprising of 12 two bedroomed units of accommodation the Occupation of which is subject to the qualifying criteria in paragraph 1 of Part 2 of the Third Schedule and shown for identification edged in blue on the Plan.

"Social Rented Housing" means housing owned by local authorities and Registered Providers for which guideline target rents are determined through the national rent regime and may also be owned by other persons and provided under equivalent rental arrangements to the above as agreed with the local authority or with the Homes and Communities Agency (or any successor agency or body).

"Sports Contribution" means the sum of two thousand and six hundred and eighty eight pounds (£2,688.00) index-linked in accordance with clause 3.11 of this deed to provide the Sports Facilities.

"Sports Facilities" mean off-site sport provision and improvements at Cowall Playing Fields or on priorities identified in accordance with the Council's 'Indoor Facilities' and 'Playing Pitch' strategies in consultation with the Parish Council.

"Technical Data" means the data updated annually by the Council entitled 'Provision of Affordable Housing Technical Data to Support the SPD – Planning Obligations April 2008' (or any technical data published by the Council in support of any replacement planning policy document).

2. Covenant

2.1 The Owner for the purposes of Section 106 of the Act with the intention of binding the Land agrees and covenants with the Council to observe the restrictions and perform the obligations set out in the Third Schedule to this Deed.

2.2 The Council covenants with the Owner that the Council will comply with the obligations on its part set out in the Fourth Schedule to this Deed

3. Agreement and Declarations

IT IS HEREBY AGREED AND DECLARED that

3.1 The restrictions and obligations in the Third Schedule to this Deed are planning obligations enforceable by the Council in accordance with the provisions of Section 106(3) of the Act against the Owner and his successors in title to the Land.

3.2 With the exception of this clause 3.2 and clauses 5, 6, 7, 9 and 13, delivery and any other relevant clauses of this Deed which have effect on the date of this Deed none of the terms or provisions of this Deed will have operative effect until the Permission has been issued by the Council and the Commencement of Development.

- 3.3 If the Permission shall expire before Commencement of Development or shall at any time be revoked this Deed shall forthwith determine and cease to have effect insofar only as it has not already been complied with and without prejudice to the validity of anything done or payments or Contributions made or expended whilst this Deed is in force.
- 3.4 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Permission) granted (whether or not on appeal) after the date of this Deed.
- 3.5 If any provision or part provision of this Deed:
- 3.5.1 shall be held by any court or competent authority to be invalid illegal or unenforceable the validity legality or enforceability of the remaining provisions shall not in any way be deemed to be affected or impaired; and
- 3.5.2 if any invalid illegal or unenforceable provision or part provision of this Deed would be valid legal and enforceable if some part or parts of it were amended the parties shall amend such provision(s) so that as amended it is legal valid and enforceable and so far as possible achieves the original intentions of the parties.
- 3.6 The Owner and the Developer shall not be entitled to any costs or compensation whatsoever from the Council arising from the agreement restrictions and obligations contained in this Deed.
- 3.7 A person who is not a party to this Deed has no right under the Contracts (Rights of Third Party) Act 1999 to enforce any term of this Deed but this does not affect any right or remedy of a third party which exists or is available apart from such act.
- 3.8 No person shall be liable for a breach of a covenant contained in this Deed after parting with all interest in the Land or the part of the Land in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.
- 3.9 The restrictions and obligations in the Third Schedule to this Deed shall not be enforceable against owners or occupiers of the Open Market Units nor against those deriving title from them except for the restrictions on residential occupation in:
- 3.9.1 paragraph 1.2 (Part 1) of the Third Schedule;
- 3.9.2 paragraphs 1.1 and 1.2 (Part 3) of the Third Schedule; and
- 3.9.3 paragraph 1 (Part 2) of the Third Schedule in relation to the Occupation of the Sheltered Accommodation only .
- 3.10 The restrictions and obligations in the Third Schedule to this Deed shall not be enforceable against any Registered Provider or their mortgagees or chargees with a legal interest in the Affordable Housing Units or occupiers thereof except for the restrictions and obligations contained in paragraphs 1.4 to 1.9 inclusive in the Third Schedule (Part 1) of this Deed.
- 3.11 The Contributions payable in accordance with the obligations contained in Part 3 of the Third Schedule to this Deed shall be uplifted by reference to:
- 3.11.1 any increase in the BCIS tender price index published by the Royal Institute of Chartered Surveyors occurring between the date of its publication prior to the date of this Deed and the date that such sum is actually paid to the Council; or

3.11.2 an equivalent index that the Council may at their discretion reasonably select in the event that the BCIS tender price index shall cease to be published before such sums are paid.

3.12 The Contributions paid to the Council under the terms of this Deed may at the Council's discretion be pooled with other contributions paid or intended for payment to secure such facilities as referred to in this Deed for the benefit of the Development and for the wider locality.

3.13 The headings in this Deed are for convenience only and shall not be taken into account in the construction and interpretation thereof.

3.14 It is hereby agreed that where the consent or agreement of the Council is required under this Deed then that consent or agreement shall not be unreasonably withheld or delayed.

4. Reservations

For the avoidance of doubt nothing in this Deed shall prevent the Council from exercising any of its statutory powers or functions in relation to the development of the Land.

5. Local Land Charge Provisions

5.1 This Deed is a local land charge and shall be registered by the Council as such.

5.2 On the written request of the Owner at any time after each or all of the obligations have been performed or otherwise discharged the Council will issue a written confirmation of such performance or discharge.

5.3 Following the performance and full satisfaction of paragraphs 1.1 or 1.2 of Part 3 of the Third Schedule or all the terms of this Agreement or if this Deed is determined pursuant to clause 3.3 the Council will on the written request of the Owner record such performance or determination in the Local Land Charges Register in respect of this deed.

6. Costs

On or before the date of this Deed the Owner shall pay to the Council its reasonable and proper costs in the preparation and completion of this Deed and before the Commencement of Development an administration fee of £666.24 towards the cost to the Council of monitoring the obligations in this Deed.

7. Notices and Notice of Commencement of Development

7.1 A notice under this Deed is valid only if it is given by hand sent by recorded delivery or document exchange or sent by fax provided that a confirmatory copy is given by hand or sent by recorded delivery or document exchange on the same day and it is served at the address shown in this Deed for the receiving party or at any address specified in a notice given by that party to the other parties.

7.2 A notice sent to the Council:

7.2.1 in relation to any matters arising from sub-clauses 1.4; 1.5; 1.6 and 1.8 of the Third Schedule of this Deed shall be addressed to the Housing Manager (Development) Homes and Community Services, Herefordshire Council, PO Box 4, Plough Lane, Hereford HR4 0XH; or

7.2.2 in relation to any matters arising from all other obligations in this Deed shall be addressed to the 'Planning Obligations Manager,' Planning Management Team, Herefordshire Council, Blue School House, Blue School Street, Hereford HR1 2ZB quoting reference 1327374.

- 7.3 A notice sent to the Developer or the Owner shall be addressed to Blue Cedar Homes Limited, Eagle House, 1 Babbage Way, Exeter Science Park, Exeter EX5 2FN.
- 7.4 A notice:
- 7.4.1 sent by recorded delivery is to be treated as served on the second working day after posting if sent by first class post or on the third working day after posting if sent by second class post;
- 7.4.2 sent through a document exchange is to be treated as served on the first working day after the day on which it would normally be available for collection by the recipient;
- 7.4.3 sent by fax is to be treated as served on the day on which it is successfully sent or the next working day where the fax is sent successfully after 1600 hours or on a day that is not a working day whenever and whether or not the confirmatory copy is received unless the confirmatory copy is returned through the Royal Mail or the document exchange undelivered
- 7.5 The Council's Planning Obligations Manager shall be given 14 days prior notice of Commencement of Development.

8. Waiver

No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the obligations or other terms of this deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the obligations or other terms of this Deed or from acting upon any subsequent breach or default by the Owner.

9 Settlement of Disputes

- 9.1 Any dispute arising out of the provisions of this Deed shall be referred to a person having appropriate qualifications and experience in such matters (the "Expert") for the determination of that dispute PROVIDED THAT the provisions of this clause shall be without prejudice to the right of any party to seek the resolution of any dispute arising out of the provisions of this Deed by referring the matter to the courts and also or alternatively by the Council in accordance with Section 106(6) of the 1990 Act and the referral of any such dispute to the Expert shall not prejudice prevent or delay the recourse of any party to the courts or to the provisions of Section 106(6) of the 1990 Act for the resolution of any dispute arising out of the provisions of this Deed.
- 9.2 The Expert shall be appointed jointly by the relevant parties to the dispute or in default of agreement then by a person nominated by the President for the time being of the Royal Institution of Chartered Surveyors on the application of any of the parties.
- 9.3 The decision of the Expert shall be final and binding upon the relevant parties (subject to the right of the relevant parties to refer the matters to the court) and the following provisions shall apply:
- 9.3.1 The charges and expenses of the Expert shall be borne equally between the relevant parties unless the Expert shall otherwise direct;
- 9.3.2 The Expert shall give the relevant parties an opportunity to make representations and counter-representations to the Expert before the Expert shall make their decision;
- 9.3.3 The Expert shall be entitled to obtain opinions from others if the Expert so wishes;

9.3.4 The Expert shall make their decision within the range of any representations made by the relevant parties themselves; and

9.3.5 The Expert shall comply with any time limit or other directions agreed by the relevant parties on or before the appointment of the Expert.

10. Warranty as to title

The Owner warrants to the Council that the title details referred to in recital 2 and the First Schedule are complete and accurate in every respect and that no person other than the Owner and the Developer have any legal or equitable interest in the Land.

11. VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

12. Interest

If any payment due under the terms of this Deed is paid late interest calculated at the rate of 4% per annum above the National Westminster Bank Plc base rate from time to time will be payable from the date payment is due to the date payment is made.

13. Jurisdiction

This Deed is governed by and in accordance with the law of England.

14. Developer's Consent and Acknowledgement

The Developer hereby consents to the execution of this Deed and acknowledges that the Land shall be bound by the restrictions and obligations contained in this Deed and that any interest in the Land the Developer may take shall so be taken subject to this Deed.

IN WITNESS of which this instrument has been duly executed as a deed by the parties and delivered on the date set out above

FIRST SCHEDULE

(the Land)

The freehold land on the south east side of Walwyn Road Colwall registered under title number HE6777 and shown edged red on the Plan.

SECOND SCHEDULE

(the Application)

An application for "full planning permission for the demolition of existing buildings. excluding the Grade II Listed Tank House, a small lodge and associated substation, and the erection of 25 new dwellings comprising 12 purpose designed units for older residents, 4 open market units and 9 affordable units, plus a retail unit and 46 bed nursing home" made under the Council's reference 132734/F and validated by the Council on 11 October 2013.

THIRD SCHEDULE

(PART 1)

The Owner covenants with the Council as follows:

1. Affordable Housing
- 1.1 To construct or procure the construction of the Affordable Housing Units at no cost to the Council in accordance with the Permission; and
 - 1.1.1 the 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);
 - 1.1.2 the Lifetime Homes Standard; and
 - 1.1.3 a minimum of level 3 of the Code for Sustainable Homes as updated by the technical guide issued in November 2010 assessed against the building regulations (2010) or any subsequent building regulations that come into force prior to the Commencement of Development; and
 - 1.1.4 independent certification of compliance with sub-clauses 1.1.1, 1.1.2 and 1.1.3 above shall be given to the Council before the Occupation of the final dwelling within the Development.
- 1.2 Not to Occupy or cause or permit the Occupation of more than eight Open Market Units on any part or parts of the Land until the Affordable Housing Units have all been constructed in accordance with paragraph 1.1 above and are ready and available for residential occupation and are accessible by vehicles and pedestrians and have been transferred (by freehold transfer with title absolute and full title guarantee) to a Registered Provider.
- 1.3 The transfer of the Affordable Housing Units to the Registered Provider shall include the following provisions:-
 - 1.3.1 the grant to the acquiring Registered Provider of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units.
 - 1.3.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purposes of the Development.
- 1.4 The Affordable Housing Units must at all times be let or managed by a Registered Provider in accordance with the guidance issued from time to time by the Homes and Communities Agency (or any successor agency) with the intention that the Affordable Housing Units shall not be used for any purpose other than the provision of Affordable Housing by way of (unless otherwise agreed in writing by the Council) Intermediate Housing and Social Rented Housing to persons who are:
 - 1.4.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
 - 1.4.2 satisfy the requirements of paragraph 1.5 below.

- 1.5 The Affordable Housing Units must be advertised through Home Point unless otherwise agreed by the Council and allocated in accordance with the Herefordshire Allocations Policy for occupation as a sole residence to a person or persons one of whom has:-
- 1.5.1 a local connection with the parish of Colwall; or
 - 1.5.2 in the event of there being no person having a local connection to the parish of Colwall a person with a local connection to one of the following parishes: Eastnor and Dorrington; Wellington Heath; Cradley; Bosbury and Coddington and Ledbury Town; or
 - 1.5.3 in the event of there being no person with a local connection to a relevant parish referred to in sub-paragraphs 1.5.1 and 1.5.2 above any other person who has a local connection to the County of Herefordshire of a type described in sub-paragraphs 1.6.1 to 1.6.5 below and is eligible under the allocations policies of the Registered Provider if the Registered Provider can demonstrate to the Council that after 20 working days of any of the Affordable Housing Units becoming available for letting the Registered Provider having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraphs 1.5.1 or 1.5.2 above.
- 1.6 For the purposes of sub-paragraphs 1.5.1 or 1.5.2 of this schedule 'local connection' means having a local connection to one of the parishes specified above or the County (if appropriate) because that person:
- 1.6.1 is or in the past was normally resident there; or
 - 1.6.2 is employed there; or
 - 1.6.3 has a family association there; or
 - 1.6.4 a proven need to give support to or receive support from family members; or
 - 1.6.5 because of special circumstances
- 1.7 For the purposes of clause 1.6 of this schedule
- 1.7.1 "normally resident" shall be established by having resided in one of the parishes specified in sub-paragraphs 1.5.1 or 1.5.2 of this schedule or the County (if appropriate) for 6 out of the last 12 months or 3 out of the last 5 years.
 - 1.7.2 "employed" shall mean in the employ of another (or a formal offer of such employment) not being of a casual nature but shall not exclude part-time employment of 16 hours or more per week or self employment.
 - 1.7.3 "family association" shall mean where a person or a member of his household has parents, adult children, brothers or sisters currently residing in one of the parishes specified in sub-paragraphs 1.5.1 or 1.5.2 above or the County (if appropriate) and who have been resident for a period of at least 12 months and that person indicates a wish to be near them.
 - 1.7.4 "support" shall mean a proven need to provide or receive personal and physical care to enable a person or a family member to live independently in the community and includes people who are in need of such support but are not normally resident but have long standing links with the local community.
 - 1.7.5 "special circumstances" shall not normally apply but amount to circumstances which in the view of the Council may give rise to a local connection.

- 1.8 The provisions of paragraphs 1.4, 1.5, 1.6 and 1.7 of this schedule shall not be binding on nor enforceable against
- 1.8.1 any mortgagee or chargee of the Registered Provider of the land or any part thereof which exercises its power of sale appointment of a receiver or power of entry as mortgagee or chargee or its successors in title deriving title under such mortgagee or chargee shall not be bound by any of the restrictions provisions or obligations set out in this Schedule if the mortgagee or chargee shall have complied with its obligations pursuant to Sections 144 to 154 of the Housing and Regeneration Act 2008 and no proposals for the future ownership and management of the Land by a Registered Provider shall have been agreed by the mortgagee or chargee within the moratorium period determined in accordance with Sections 145 to 147 of the said Act and thereupon (for the avoidance of doubt) the covenants in this Third Schedule shall be deemed to be extinguished in respect of the Land or any relevant part thereof; or
- 1.8.2 any mortgagee or chargee of an Affordable Housing Unit designated for Shared Ownership ("SO Unit") shall prior to seeking to dispose of any SO Unit pursuant to any default under the terms of the mortgage or charge give not less than 20 working days' prior notice to the Council and to the Registered Provider with an interest in the SO Unit of its intention to dispose and:
- 1.8.2.1 in the event that the Registered Provider responds within 20 working days from receipt of the notice indicating that arrangements for the transfer of the SO Unit can be made in such a way as to safeguard it as Affordable Housing then the mortgagee or chargee shall co-operate with such arrangements and use its best endeavours to secure such transfer
- 1.8.2.2 if the Registered Provider does not serve its response to the notice served under paragraph 1.8.2 within the 20 working days then the mortgagee or chargee shall be entitled to dispose of the SO Unit free of all the restrictions set out in clause 1 of the Third Schedule which shall from the time of completion of the disposal cease to apply
- 1.8.2.3 if the Registered Provider cannot within 60 working days of the date of service of its response under paragraph 1.8.2.1 secure a binding contract for sale then provided that the mortgagee or chargee shall have complied with its obligations under paragraph 1.8.2.1 the mortgagee or chargee shall be entitled to dispose of the SO Unit free of all the restrictions set out in paragraph 1 of the Third Schedule which shall from the time of completion of the disposal cease to apply
- Provided that at all times the rights and obligations in this clause 1.8.2 shall not require the mortgagee or chargee to dispose of the SO Unit for any sum less than the monies outstanding pursuant to the mortgage or charge; or
- 1.8.3 any occupier of an Affordable Housing Unit who has exercised a statutory right to buy (or any subsequent or substituted contractual right) the whole of the freehold estate in an Affordable Housing Unit nor any mortgagee or such occupier or their respective successors in title.
- 1.9 Where any of the Affordable Housing Units are made available for Shared Ownership housing the occupiers shall not (unless otherwise agreed in writing by the Council) be permitted to own more than 80% of the total equity value of such Affordable Housing Units PROVIDED THAT this clause shall not apply if the Shared Ownership lease of any such unit is in a model form for the protection of Affordable Housing in rural areas published or approved by the Homes and Communities Agency (or a successor body) containing provisions that:

- 1.9.1 permit an occupier to acquire more than 80% of the total equity in such unit ; and
- 1.9.2 require the mandatory buy back of any such unit by the Registered Provider or its nominee in the event of an intended disposal by any such occupier.

(PART 2)

1. Sheltered Accommodation

- 1.1 The Owner covenants with the Council that the Sheltered Accommodation shall not be Occupied by anyone except a person who meets one or more of the following qualifying criteria:
- 1.1.1 is 55 years of age or over;
- 1.1.2 is the spouse or partner of a person described in clause 1.1.1 above;
- 1.1.3 is a licensee or invitee residing temporarily with the persons described in clauses 1.1.1 or 1.1.2 above;
- 1.1.4 a person otherwise approved in writing by the Council (such approval not to be unreasonably withheld or delayed) in respect of a registered carer providing care to a person described in clauses 1.1.1 or 1.1.2 above;
- 1.1.5 the widow or widower of a person described in clauses 1.1.1 or 1.1.2 above.

(PART 3)

1. Contributions

- 1.1 Not to Occupy any of the Open Market Units unless the Sports Contribution; the Library Contribution and the Recycling Contribution have all been paid to the Council.
- 1.2 Not to Occupy any of the Open Market Units (and for the purpose of this sub-paragraph only and for no other purpose the term 'Open Market Units' excludes the Sheltered Accommodation) unless the Education Contribution and the Open Space Contribution have both been paid to the Council.

FOURTH SCHEDULE

(Council's Covenants)

1. Upon receipt of the Contributions the Council will place the same in an interest bearing account.
2. The Council shall apply the Contributions towards the facilities referred to in this Deed or to such other facilities that the Council and the Owner may agree in writing are appropriate as a result of the Development.
3. The Council agree that if any part of the Contributions has not been expended or remains uncommitted following five years from the date of payment then such part of the Contributions as may remain unspent or uncommitted together with interest accrued as aforesaid on the balance shall be returned to the payer of the Contributions.

4. If so requested to provide the payer of the Contributions with such evidence as shall be reasonably requested to confirm the expenditure of the Contributions.

EXECUTED AS A DEED when
THE COMMON SEAL OF
**THE COUNTY OF HEREFORDSHIRE
DISTRICT COUNCIL**
was hereunto affixed BY ORDER

Authorised Officer

SIGNED AS A DEED by
EAGLE ONE MMXI LIMITED
acting by a director and its secretary or two directors

Director (signature)

Name (capitals)

Director/Secretary (signature)

Name (capitals)

SIGNED AS A DEED by
BLUE CEDAR HOMES LIMITED
acting by a director and its secretary
or two directors

Director (signature)

Name (capitals)

Director/Secretary (signature)

Name (capitals)

Dated

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

- and -

EAGLE ONE MMXI LIMITED

- and -

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

BLUE CEDAR HOMES LIMITED

DEED OF PLANNING OBLIGATION
made under the provisions of
Section 106 Town and Country Planning Act 1990 (as amended)
relating to
land at former bottling plant Walwyn Road Colwall
Herefordshire

Legal Services
Legal and Democratic
Herefordshire Council,
Brockington,
35 Hafod Road,
Hereford, HR1 1SH.



MEETING:	PLANNING COMMITTEE
DATE:	23 APRIL 2014
TITLE OF REPORT:	P140531/O - RESIDENTIAL DEVELOPMENT COMPRISING 20 OPEN MARKET HOMES AND 10 AFFORDABLE HOMES. AT QUARRY FIELD, COTTS LANE, LUGWARDINE, HEREFORDSHIRE, HR1 4AA For: Mrs Seymour per Mr James Spreckley, Brinsop House, Brinsop, Hereford, Herefordshire HR4 7AS
WEBSITE LINK:	https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140531

Date Received: 21 February 2014

Ward: Hagley

Grid Ref: 354582,240964

Expiry Date: 27 May 2014

Local Members: Councillor DW Greenow

1. Site Description and Proposal

- 1.1 Planning permission is sought in outline for the erection of thirty dwellings on land known as Quarry Field, Cotts Lane, Lugwardine. The application is a revised proposal following the refusal of application S131964/O on 20 November 2013. The decision notice is appended to this report. The site area, number of dwellings proposed and means of access are consistent with the earlier application.
- 1.2 All matters with the exception of the means of access are reserved for future consideration. The site is an open field down to pasture bounded to the east by properties fronting the A438 Hereford to Ledbury Road, which passes through Lugwardine and Bartestree; both of which are identified as main villages in the Unitary Development Plan (UDP).
- 1.3 Cotts Lane passes to the north of the site and there is an existing field gate into the site from this highway. To the west and south the site is bounded by parkland associated with the Grade II* New Court country house, which lies to the north-west.
- 1.4 There is a mature landscape belt to much of the site's periphery, but particularly along the southern and western perimeters. Site levels descend from Cotts Lane to the north at a fall of approximately 1:20. With the exception of some trees and hedgerow along the northern boundary there are no landscape features within the site itself. The site is traversed by overhead power lines and a mains sewer running on a north-south alignment.
- 1.5 Vehicular and pedestrian access is proposed through the alteration of an existing route direct from the A438 passing between the dwellings Green Croft and Croft Cottage and takes the form of a 5.5m wide estate road with 1.8m footways either side. The submitted layout is indicative only but suggests that the open market units are all detached properties, the 10 affordable dwellings being arranged as two pairs of semi-detached and two terraces of three. Provision is

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

also made for a footway/cycle link onto Cotts Lane with a 2.0m footway along the site's northern boundary with the lane.

- 1.6 The site extends to 1.74ha and the density equates to a comparatively low 17 dwellings per hectare.
- 1.7 The site is outside but immediately adjacent the settlement boundary for Lugwardine as defined by 'saved' policy H4 of the Unitary Development Plan.
- 1.8 The application site was subject to assessment under the Strategic Housing Land Availability Assessment but rejected because the potential for access direct from the A438 was not known at the time of assessment.
- 1.9 It is proposed that foul drainage be connected to the mains, with surface water dealt with via soak-away.
- 1.10 The application is accompanied by a Planning Statement, Landscape and Visual Impact Assessment, Ecological Appraisal and draft Heads of Terms; the latter being appended to this report.
- 1.11 In response to the four reasons for refusal of S131964/O, the application is also accompanied by a Phase 1 Desk Study (contamination) and Heritage Impact Assessment.

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
S3	–	Housing
DR1	–	Design
DR3	–	Movement
DR4	–	Environment
H4	–	Main villages: settlement boundaries
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
T8	–	Road hierarchy
LA2	–	Landscape character and areas least resilient to change
LA3	–	Setting of settlements
LA5	–	Protection of trees. Woodlands and hedgerows

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

- LA6 – Landscaping schemes
- NC1 – Biodiversity and development
- NC6 – Biodiversity Action Plan priority habitats and species
- NC7 – Compensation for loss of biodiversity

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
- 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

Bartestree and Lugwardine Parish Council has designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council will prepare a Neighbourhood Development Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this 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 S131964/O – Residential development comprising 20 open market houses and 10 affordable homes. Refused 20th November 2013. The decision notice is appended to this report.

4. **Consultation Summary**

Statutory Consultees

- 4.1 Welsh Water: No objection subject to conditions
- 4.2 English Heritage: (Previous Comments) No objection but recommend that the planting belt on the western boundary is intensified and the site examined for potential archaeological deposits.
- 4.3 Natural England: (Previous Comments) No objection

Natural England and the Environment Agency have signed a Statement of Intent (SOI) to develop a Nutrient Management Plan (NMP) for the River Wye SAC. The SOI provides an interim

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

agreement for development management, and states that development can be accommodated where discharges to mains are within existing consents at the receiving sewage treatment works.

Natural England notes that the Council has screened the proposal to check for the likelihood of significant effects. Natural England agrees with the conclusion that the development is not likely to generate significant effects.

Given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on this site and advise your authority that the SSSI does not represent a constraint in determining this application.

Internal Council Advice

4.4 Traffic Manager

Whilst falling below the recommended 50 dwelling threshold, this application is supported by a Transport Statement of limited scope to justify the acceptability of the access and the proposed footway improvements along A438 to improve the accessibility of the site.

Visibility Splays

The Drawing titled 'Visibility Splay to North' in Appendix C of the Transport Statement submitted with the application indicates two visibility splays – one of 2.4m x 43m and a second of 2.4m x 90m. The visibility splay of 2.4m x 43m is achievable on site to edge of road and is representative of the value for 30mph in Table 7.1 of Manual for Streets.

The 2.4m x 90m splay, equating to DMRB for 30mph and our Design Guide Table B value for 30mph (and the Table A value for measured speed of 37mph (60kph) to edge of road is not achievable, not due to the boundary wall, but due to the fact that the line of sight between points at the visibility eye height of 1.05m is then obstructed by the existing raised verge and footway fronting High House.

The anomalies in transposing values from the ATC data to the report have already been raised in my original comments, but the ATC data value of 37.4mph was used in my visibility assessment. The ATC survey data indicates the 85%ile speed of approaching vehicles from the east to be 37.4mph, for which Table 7.1 of Manual for Streets gives a required value of 59m. This value is achievable to the north to nearside wheel-track (1m from edge of road as Paragraph 10.5.3 of Manual for Streets 2).

A wet weather correction was considered to be non-applicable and this was confirmed in my original comments on the application. No adjustment was applied to the 85%ile ATC values.

Stopping Sight Distances

The formula in Manual for Streets 2 Section 10 Paragraph 10.1.5 enables calculation of values for Stopping Sight Distance. For the ATC 85%ile speed of 37.4m this would equate to 88m. Manual for Streets 2 in Paragraph 10.1.13 also indicates that above 60kph (37.5mph) TD 9/93 values should be used and Table 3 gives a Desirable Minimum Stopping Sight Distance of 90m. A Stopping Sight Distance in excess of 90m is available to southbound drivers approaching a stationary right turning vehicle.

The geometry of A438 to the north east of the proposed site access is a short length of straight which enters a right hand bend around 70m from the proposed access and which includes junctions with Cotts Lane to the northwest and Lugwardine Court Orchard to the south east. Whilst there are no actual physical features preventing south west bound drivers on A438 overtaking, due to the bend with junctions on both sides and without forward visibility, overtaking would be extremely unlikely to occur through the (to them) left hand bend, more so as it is within a 30mph limit. Therefore it is considered reasonable to take the 90m visibility splay to centreline of road as outlined in Paragraph 10.5.5 of Manual for Streets 2. Should a driver consider

overtaking as they leave the bend onto the straight past the proposed access, their vehicle would remain within the available visibility from the proposed access.

Therefore, whilst a conventional 2.4m x 90m visibility splay to the north east to nearside edge of road (or 1m into road) is not achievable, I am of the view that in this situation, achievable visibility of 90m to centreline means that satisfactory visibility would be available to enable safe operation of the access. This formed the basis of my recommendation as to acceptability of the access in the initial part of my comments dated 18th March 2014.

Footway Improvements

It is acknowledged that the proposed footway widths along A438 would not meet desirable standards, but increases in width are proposed and are what the applicant considers can be achieved within the available highway land. These widths would still fall short of the desirable widths outlined in DMRB, our Design Guide and Inclusive Mobility.

The deliverability of such works to achieve limited increased width is also not certain, particularly based on the limited information submitted with the application.

The desirability of such changes will also need careful consideration, not least in terms of the likely need for retaining walls, and pedestrian guard railing, which even with Visirail or similar railing may have north east visibility implications for the proposed access junction.

Therefore until such time as the proposed works can be confirmed as acceptable and deliverable, the application must be considered in terms of the existing footway provision along the A438 and the proposed link to Cotts Lane.

The current width along A438 is usable by sole pedestrians but the narrowness over some sections would make use by those with walking sticks difficult, as it would for those with pushchairs and for pedestrians to pass would require waiting at a wider section. Therefore I would agree that this route is sub-optimal in its current form.

Recognising the deficiencies of the route along A438, the applicant has proposed a footway link onto, and part way along, Cotts Lane. This would provide an alternative route for wheelchairs, pushchairs and pedestrians, but onto a road without a footway or street lighting. The road is just over 4.1m wide at the point that the footway link would join and widens slightly to 4.5m by the limits of the site frontage and further to around 6.0m by the public house. A footway is available beyond the public house and on the east side of Cotts Lane for the final 25m to the junction with A438. Pedestrians would therefore have to walk on road for just in excess of 100m. The lane could be widened along the site where the footway is proposed to achieve two way traffic width as part of the proposals, but this may be undesirable as it may speed up traffic by allowing free two way flow - to the detriment of pedestrians on or joining the route. Therefore I would agree that the pedestrian connectivity and its impact on travel by sustainable modes, remains a concern.

Sustainability

The site is adjacent to the settlement boundary of Lugwardine which is classified as a main village in the UDP and is also identified as a main village in Policy RA 1 of the emerging Core Strategy. The village is served by 476 bus service which runs between Ledbury and Hereford at hourly intervals, which is good for Herefordshire.

The village facilities are within 2km walking distance and the outskirts of Hereford and Bishops School is similarly 2km, colleges at just under 3km and the city centre under 5km, all of which are acceptable distances for commuter cycling in LTN 2/08 Cycle Infrastructure Design. St Marys RC School is around 500m from the site. Therefore I disagree with the statement that level of accessibility to sustainable modes is poor.

Conclusion on transport issues

It is considered that the visibility and stopping sight distances achievable from the proposed junction are acceptable and that the network has sufficient capacity to accommodate traffic generated by this proposal. Although footway links are not to standard, it will have to be determined as to whether the overall impacts on pedestrian safety are sufficient to weigh against the scheme benefits in the overall planning balance.

4.5 Housing Development Manager

Expresses concern that the indicative layout does not demonstrate that the affordable and open market housing is properly integrated and that the affordable housing is 'tenure blind'. The correct tenure split and mix of housing can be incorporated in the S106 agreement.

4.6 Conservation Manager (Landscapes): (Previous Comments) The landscape scheme that has been provided is a fully detailed planting plan. This includes a native hedgerow to the proposed west boundary. The other species are all suitable to a new residential development.

The landscape scheme does not include hard landscape details or existing / proposed levels, particularly the need for retaining walls or banks that will have a significant impact on the landscape framework.

The two indicative areas of central open space will help to break up the impact of the development, however no details have been provided on how this may be maintained / managed.

4.7 Parks and Countryside Manager

Lugwardine does not have an existing play area and as far as I am aware there are no plans to create one although the Parish Council may have plans through the neighbourhood planning process. If this is the case we would review the level of contribution.

A contribution towards improving access via the public rights of way network (in accordance with the Public Rights of Way Improvement Plan) is sought. Based on the 20 market housing (5 x 3 and 15 x 4 beds) and in accordance with the SPD the level of contribution would be £7,375.

Sport England Requirement:

In the absence of any suitable and compliant investment projects being identified a Sport England contribution towards indoor sport cannot be justified.

4.8 Environmental Health Officer

As recommended previously, the application is now accompanied by a *'Phase 1 Desk Study Report'*. This recommends an intrusive investigation be carried out to more fully assess uncertainties identified. As such it is recommended a condition be appended to any planning approval.

4.9 Conservation Manager (Ecology)

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

The ecological report states that the development proposal “offers opportunities to obtain significant ecological enhancements” including establishment of hedgerows and tree planting to complement the adjacent parkland BAP habitat.

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

Habitat Regulations Assessment

The development is to link to mains sewer drainage for disposal of foul water which will alleviate any significant risk to the SAC. However, the site is less than 200 metres from the R. Lugg part of the R. Wye SAC and in order to safeguard the SAC it will be necessary to submit a Construction Environmental Management Plan.

4.10 Land Drainage Engineer: No objection subject to the completion of percolation tests.

4.11 Conservation Manager (Historic Buildings): (Previous Comments)

The historic centre of Lugwardine is located to the east of the application site and is covered by a conservation area designation. However there are a number of listed buildings and buildings of local interest along the A438 which form an historic entrance to the village when approaching from the west. Add to these built environment, heritage assets, the locally important landscapes of Lugwardine Court and New Court and the entry to the village becomes visually routed in the history of the area.

The proposed housing scheme would place a significant number of new houses behind the current buildings lining the village road. It would have a single entry point to the development located half way up a hill on the A438. This entry appears to be a wider version of an existing access route between Croft Cottage and Green Croft.

The existing appearance of the access, devoid of any greenery and with hardstanding abutting Croft Cottage and the close boarded fence of Green Croft, does not enhance the village character and gives a feel of the proposed character of this entrance once developed. In its current form it is not considered acceptable in design terms as it is cramped and constricted and therefore does not enable any appropriate soft landscaping to help assimilate the scheme into the village character.

The housing development would adjoin the west boundary of Rose Cottage, The Malt House and also The High House, all grade II listed buildings fronting onto the main road. The development would be within the setting of these listed buildings and would therefore have a visual impact. The topographic survey indicates that the housing would be roughly on a level with the listed buildings but is likely to be visually of larger scale which could adversely affect the setting. This would be contrary to Policy HBA4. An outline application is not considered sufficient detail to properly assess the impact of a development on a listed building.

4.12 Schools organisation and capital investment officer

The comments acknowledge the capacity issue at Lugwardine Primary School, with four year groups presently over capacity. In order to address this capacity issue a financial contribution in accordance with the Planning Obligations SPD is sought.

5. Representations

5.1 Bartestree & Lugwardine Parish Council: Objection.

A considerable number of the residents in Bartestree and Lugwardine are of the opinion that the villages would lose their current rural feel if further large developments were to take place beyond

the considerable number that have taken place in the previous two plan periods. The group parish currently holds the position of the third largest village in Herefordshire. They are also incensed that Herefordshire Council has failed to protect them from the present/imminent development by not being able to demonstrate the five-year housing supply required by the National Planning Policy Framework and thus rendering the saved Unitary Development Plan policies H1 and H4 ineffective. Historically, whilst Lugwardine was listed as a main village under Unitary Development Planning policy H4, this plot of land has not had a Strategic Housing Land Availability Assessment (SHLAA) of none or low/minor constraints and therefore does not meet the criteria adopted by Herefordshire Council in July 2012 to allow exemption to policy H7. Whilst a new access has been identified, there is no evidence that the constraints have been revised nor would site integration of the entire site appear to have been overcome.

Traffic/Access

In current policy terms, this outline planning application, whilst meeting the basic access criteria, fails to take into account the volume of traffic using the A438 travelling at speeds regularly in excess of the 30mph speed limit and where there are bends at the limits of splay criteria in both directions. In 2013 the excessive speeds were confirmed by the West Mercia Safer Roads Partnership from the data collected from the Speed Indicator Devices located throughout the village. This resulted in the A438 through Lugwardine and Bartestree being designated an area of concern and triggered the implementation of a speed camera in the area. The proposed access joins the A438 where the A438 is on a steep hill. Stopping distances are therefore greater than those recommended assuming a level road. Westbound traffic coming down the hill has a tendency to speed and HGV's, in particular, have greater difficulty in stopping in an emergency. Residents are already concerned about the volume of traffic using the A438 in both directions between 7.30am – 9.30am on weekdays. This varies from 900 to 1200 vehicles daily in that period and any increase in that number as a result of a building development would be of further concern.

Residents who live in properties along the nearby section of the A438 already experience delays when attempting to exit their driveways on to the main road. A further 60 vehicles would add to the problems.

The only vehicular access into the site from the A438 is still considered to be inadequate in width and therefore dangerous for both drivers and pedestrians. In order to attain a width of 9.1metres (footway 1.8m + road 5.5m + second footway 1.8m), the eastern footway would only be centimetres away from the adjacent cottage, Greencroft. This is an unacceptable situation for a country dwelling.

Footway along the A438

The proposed widening of the footway alongside the A438 back into the village by retaining the existing retaining wall and extending the width of the tarmac area above it would only serve to allow and in fact encourage, pedestrians to walk nearer to the edge of the bank above the busy A438 and to increase the risk of slipping over the edge - a sheer drop of 1.4 m at its maximum - on to the highway. The plan-view drawings submitted with the application are deceptive, as they do not indicate the height of the path above the road. The footway leading from the access to the site and away from the village towards Hereford is equally hazardous and completely disappears so that there is no footway at all over part of the narrow, listed bridge over the River Lugg.

Cotts Lane pedestrian/cyclist access

Cotts Lane is an unclassified, single-track road with passing bays for most of its length. The proposed pedestrian/cyclist access to/from the site into the unclassified Cotts Lane is a footway to nowhere. To consider building a footway between the access gate to the proposed site to the eastern edge of the site within the site boundary, while commendable, simply takes pedestrians a about 25 metres and then delivers them back on to the roadway (Cotts Lane). It is already a very busy road for its size. A recent survey carried out by local residents between 7.30am – 9.00am on weekdays indicated that an average of 200 vehicles used the road. The busiest period was

between 8.30am – 8.50am when an average of 85 vehicles were counted. Vehicles leaving/entering Newcourt Farm via a gate on the very sharp bend have to remain parked on the road while the gate is opened and closed. In the afternoons the A438 end of the lane is further congested by 'school parking'. There is also concern regarding the potential for further heavy traffic on Cotts Lane, which is already in a poor state of repair. Should this development proceed it is considered highly likely that Cotts Lane will be used as a rat run for traffic to the local schools. Also the proposed pedestrian access is an area where there have been a number of collisions in recent years. There are several Public Rights of Way on Cotts Lane, which generates a fair amount of pedestrian traffic.

Setting

The character of this area of Lugwardine is that of the old traditional Herefordshire village. The south-eastern edge of the site abuts and is at a lower level to the gardens at the rear of several listed properties which front on to the A438. The site then slopes upwards to Cotts Lane, a factor that would increase the visual impact of the proposed development on existing properties. Whilst some more modern bungalows have been added along Cotts Lane, it is very difficult to see how a modern development of 30 dwellings could be integrated into the overall area with satisfaction.

Water and Sewerage

Although Welsh Water will have the final say, there are concerns that the current infrastructure would not support the development in terms of water supply, sewerage and surface water disposal. Correspondence with Welsh Water in relation to another proposed housing development in the Group parish would indicate that those responsible for giving the go-ahead for these schemes are not fully cognisant of the many difficulties faced by residents in terms of low water pressure, sewage blockages and overflows. Properties close to the sewage ejector already report regular problems occurring through lack of capacity.

Consultation

The developer made an attempt to consult with the local people in a way that could be described as both cynical and just 'going through the motions'. Notice of the exhibition to be held in the Village Hall was very short, three or four days, was inadequately advertised and poorly managed with any interactive initiative coming from the residents not the developer.

Cumulative Effect

The Parish Council suggests that the cumulative impact of this application should be considered in light of the fact that a refused application for 50 houses is to be taken to appeal and two other applications for major developments in the group parish of 60 and 52 dwellings respectively have sought pre-application advice and are expected to be received imminently. In a very short period of time, Bartestree and Lugwardine could face the prospect of a potential increase of 192 dwellings, which would be increasing the number of properties by something approaching 25%. Whilst there are other areas of concern with the site, they fall within the realms of the reserved matters application. For the reasons outlined above, this Council considers that the application should not be supported.

5.2 85 letters of objection have been received from local residents. The content is summarised as follows:

- The access passes between two dwellings before emerging onto the busy A438. Visibility is limited in both directions.
- Stopping distances are inadequate when the gradient is considered. Traffic waiting to enter the site will shorten the stopping distances, which is considered dangerous in the context of significant levels of HGV traffic.
- Bartestree and Lugwardine have a primary and secondary schools. At drop-off and pick up times traffic congestion can be severe, with queues on the A438 and surrounding roads.

Additional traffic in this context is considered a threat to highway and pedestrian safety on a road identified as a road for concern by the Safer Roads Partnership.

- Pavements in the vicinity of the application site are narrow and elevated above the carriageway. The alternative onto Cotts Lane relies on pedestrians sharing the carriageway with vehicles, which is also unsafe on a recognised 'rat-run' to and from the Worcester Road.
- Increasing the width of the footway along the A438 will remove the existing verge and encourage people to walk closer to the highways edge. This is unsafe. It remains the case that the site cannot demonstrate suitable pedestrian connectivity to the remainder of the village.
- The narrow Lugg Bridge is without pavement, which deters people from walking or even cycling into Hereford.
- Although the bus service is better than many, it is not sufficient to induce people to shift from cars to public transport.
- There are relatively few amenities in Lugwardine beyond the pub and church. The Bartestree stores are a mile walk away along the main road, mostly uphill and requiring pedestrians to cross the road on three occasions; only one crossing being signal controlled.
- There is no employment locally, meaning that the village is increasingly a commuter village for Hereford and employment opportunities further afield.
- The application site is an important open space forming a transition between historic properties fronting the A438 and the parkland associated with New Court. The loss of this space would represent an irrecoverable adverse impact on the setting of the village.
- Water pressure is already low, storm drains at capacity and sewers known to back up. These conditions represent a threat to the water quality of the River Lugg/Wye SAC, which is known to be failing in part.
- The site is thought to be part of the former quarry and in-filled with material that may be prejudicial to human health, water quality and land stability.
- The submitted ecological survey is not fully representative of the flora and fauna interests associated with the site. Bats, barn owls and other birds are regular visitors to the site.
- The development is simply too large to integrate effectively with the existing village.
- The development will adversely impact on the setting of adjoining listed buildings.
- The development is made in outline and it is difficult to properly assess the full impact of the scheme upon the character and appearance of the village and wider landscape.
- The primary school is at capacity and cannot extend further without compromising the play space.
- The development is likely to put additional pressure on Cotts Lane as a secondary means of access into Hereford via the Worcester Road. Cotts Lane is narrow and with limited passing opportunities.
- The scheme could be a precursor for a larger development. Although specified as 30 dwellings, the density is comparatively low and could be increased without exceeding density guidelines.
- The acknowledged adverse impacts outweigh the limited public benefit that accrues from the 10 affordable homes.
- There was no meaningful pre-application consultation with the community.
- The impact of the vehicular access on neighbours living on either side will represent an unacceptable loss of amenity.
- There are more appropriate sites in Bartestree, particularly in terms of the accessibility to the goods and services that do exist within the parish e.g. shop, playing fields and primary school.
- Applications such as this are opportunistic in seeking to exploit a policy vacuum, but remain contrary to the principles set out at Paragraph 17 of the NPPF, which include the empowerment of local people in shaping the places where they live.
- The submitted Phase 1 Desk Study does nothing to resolve the contamination issues, but merely confirms the requirement for further intrusive investigation.
- Will bus services be increased to accommodate the predicted extra demand?
- The road conditions are appalling and additional traffic will make things worse at a time when road repair budgets are already stretched.

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

- The Heritage Impact Assessment does not contest the view that the setting of the listed buildings locally would be affected.
- To suggest that Cotts Lane is suited to additional pedestrian/cycle traffic is ridiculous. Local surveys have quantified the heavy use of Cotts Lane, particularly as school pick-up/drop-off times. Over 100 vehicles were recorded as using Cotts Lane in the half-hour period between 15:20-15:50pm, with similar number in the AM peak.
- Additional traffic will further reduce the likelihood of residents walking on the basis that the roads will become even more hazardous.

5.3 Two letters of support have been received. These cite the need for affordable housing in the parish.

5.4 River Lugg Internal Drainage Board has no objection subject to the conclusion of percolation tests that demonstrate soak-aways will be feasible.

5.5 The application is accompanied by a Planning Statement, the key aspects of which are summarised below:-

- The application site is not subject to any landscape designation. It does not form part of the historic parkland associated with New Court and nor are there any Tree Preservation Orders on site;
- The site is well removed from Lugwardine Conservation Area and the Scheduled Ancient Monument associated with the moated site west of Old Court Farm;
- Lugwardine and Bartestree are sustainably located relative to Hereford, have a good range of village amenities and are comparatively well served by public transport;
- The villages are identified for proportionate growth (approximately 117 dwellings) over the Local Plan period to 2031;
- There are no identified or allocated alternative sites in Lugwardine;
- This revised application makes provision for cycle and pedestrian links onto Cotts Lane and the provision of a footway across the site frontage with Cotts Lane;
- The application also makes provision for improvements to the footway on the A438;
- This application is also accompanied by a Phase 1 desk study into potential contamination and detailed Heritage Impact Assessment, which concludes no significant impact on designated heritage assets.

5.6 The Traffic Manager's comments at 4.4 respond to the "Highways Objection Report submitted on behalf of one of the local objectors.

5.7 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

6. Officer's Appraisal

6.1 The application seeks outline planning permission for the erection of 30 dwellings on land outside but immediately adjacent the settlement boundary for Lugwardine (Policy H4 of the UDP). The application, in common with many considered by Planning Committee recently, is submitted against the backdrop of a published absence of a 5-year housing land supply as required by the National Planning Policy Framework (2012). The application is a resubmission of an application refused on November 20th 2013.

- 6.2 In response to the acknowledged deficit of housing land the Council introduced an interim protocol in July 2012. This recognised that in order to boost the supply of housing in the manner required it would be necessary to consider the development of sites outside existing settlement boundaries. The protocol introduced a sequential test, with priority given to the release of sites immediately adjoining settlements with town or main village status within the UDP. For proposals of 5 or more, the sites in the first rank in terms of suitability would be those identified as having low or minor constraints in the Strategic Housing Land Availability Assessment (SHLAA).
- 6.3 The position as regards the scale of the housing land supply deficit is evolving. Following the Home Farm decision it remains the case, however, that for the purposes of housing delivery the relevant policies of the UDP can be considered out of date. As such, and in accordance with paragraph 14 of the NPPF the Council should grant permission for *sustainable* housing 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 In the context of a housing land supply deficit there can be no legitimate objection to the principle of development outside the UDP defined development boundary; UDP Policy H4 being out of date.
- 6.5 There remains a requirement for the development to accord with other relevant UDP policies and NPPF guidance; paragraph 14 makes it clear that the balance between adverse impacts and benefits should be assessed against the policies in the NPPF as a whole.
- 6.6 As well as consideration of the principle of developing a green-field site the application raises a number of material considerations requiring assessment against saved UDP policies and guidance laid down in the NPPF. Firstly there is the assessment as to whether the development would represent sustainable development. The NPPF refers to the social, environmental and economic dimensions of 'sustainable development'. In this case the site is considered to represent a sustainable location for development. Although officers recognise that the village does not provide the range of goods and services necessary to sustain a typical household, it should be recognised that Lugwardine is the closest main village to the county's main centre of population (Hereford) and the goods, services and employment opportunities located there. As such, it is considered that access to these goods, services and employment opportunities in terms of journey time and distance, is better in Lugwardine than main villages that are more remote from main service centres. This is reflected in the requirement of emerging Core Strategy policies that indicate main villages in the Hereford Housing Market Area should achieve 18% growth over the plan period, compared with 14% and 15% in the housing market areas associated with the market towns.
- 6.7 Officers understand the concerns expressed by local residents in terms of the reliance upon the private motor car to access goods and services, but this argument was not upheld on appeal at Kingstone, which by comparison is more remote from a main population centre and with equivalent public transport provision.

Vehicular and pedestrian access

- 6.8 The point of vehicular access into the site passes between Croft Cottage and Green Croft at a point where the A438 ascends in the Ledbury direction towards the centre of the village. Vehicular access direct from the unclassified Cotts Lane has been discounted. Approaching the site entrance from the north-east the highway descends and there is a long left-hand bend just after the junction with Court Orchard. This bend is at the end of the achievable visibility splay, which the Traffic Manager confirms meets the requisite visibility standard for vehicles leaving the

site and also an adequate stopping distance for vehicles approaching that may encounter vehicles waiting to turn into the site against the flow of on-coming traffic from the Hereford direction.

- 6.9 The visibility for vehicles approaching from the north-east will be maximised by ensuring maintenance of the visibility splay associated with Court Orchard. Although officers are conscious of the objections based on the safety of the proposed junction, the geometry and available visibility splays meet the requisite standards, even when taking into account the highway gradient and associated impact on stopping distances. Likewise, whilst mindful of objections based on the impact of additional traffic, the A438 is a main arterial route. As such officers are advised that objection based on the inability of the network to accommodate the traffic generated could not be sustained. On balance, and having regard to the wider context of housing land supply, officers consider the proposed vehicular access acceptable in accordance with 'saved' UDP Policy DR3.
- 6.10 Officers have also given detailed consideration of the objections based on the lack of integration between the site and the existing village. As well as criticism of the proposed indicative layout, concern has been expressed at the inadequacy of existing footway links. Whilst there is a continuous footway from the site entrance into the village, the limited width of the footway is a cause for concern. Whilst the footpath could potentially be widened, the elevation above the A438 is likely to require the erection of replacement retaining structures and a pedestrian guard rail. No detailed scheme has been worked up and any improvements would require Approval in Principle from the Highway Authority prior to grant of any planning consent.
- 6.11 Taking the impact of improvement works on the setting of adjoining listed buildings and the operation of the A438 into account, officers are of the view that notwithstanding its narrowness, the existing footpath could remain unaltered. In response to this issue the application now proposes a pedestrian/cycle link onto Cotts Lane, with a 2.0m footway installed across the site's frontage with the lane. Whilst this does not afford continuous off-road access onwards towards the public house and bus stop on the main road, the route would require pedestrians to walk on carriageway for approximately 100m at a point where the carriageway affords the passage of two-way traffic and is subject to the 30mph speed limit. Although Cotts Lane is recorded as being heavily used at peak times, this route is considered viable during off-peak periods.

Impact upon landscape character and visual amenity

- 6.12 The application is accompanied by a landscape and visual impact appraisal (LVIA) that concludes that the visual impact of the development, subject to detailed consideration of the scale, layout and architecture, is unlikely to be significant. The application site sits between a row of predominantly period properties and the parkland associated with New Court. It is an attractive open space and yet enclosed for much of its perimeter by mature planting. Although officers accept that development of this site would be visible from the A438 and Cotts Lane, topography, existing planting and existing buildings combine to provide an effective visual screen. Viewpoints submitted with the LVIA reflect the limited number of views into the site from middle and long-distance views, the main impact being glimpsed views from the A438 to the east and Cotts Lane to the north.
- 6.13 The LVIA proposes additional landscaping to the site periphery and landscaping is a Reserved Matter. Having regard to the discrete nature of the site, additional planting proposed and ability to further consider scale, appearance and design at the Reserved Matters stage, officers are satisfied that the proposal would not have an unacceptable adverse impact upon the setting of the village. Officers are satisfied that with due regard to layout, scale and design at the Reserved Matters stage, there should be no unacceptable adverse impact on the setting of the adjoining listed buildings. English Heritage do not object to the proposal in terms of its relationship to the adjoining unregistered park and garden, but recommend additional landscaping on the site perimeter, which as above, can be controlled via condition and at the Reserved Matters stage.

On this basis the scheme is not considered contrary to 'saved' policies LA2, LA3, LA4 and HBA4 or guidance laid out in the NPPF. If harm to landscape character, the setting of Lugwardine and listed buildings is identified, the significance of this harm must be weighed against the benefits of the scheme in exercise the 'planning balance'. In this case, officers are satisfied that the harm to landscape character, the setting of Lugwardine and the listed buildings is capable of mitigation at the Reserved Matters stage such that having regard to NPPF guidance, the application can be recommended positively.

Impact upon residential amenity

- 6.14 The impact upon the living conditions of nearby residents is considered acceptable. Although the submitted layout is illustrative only, and not necessarily reflective of the detailed proposal that may come forward at the Reserved Matters stage, it does demonstrate that thirty dwellings can be laid out on site without requiring undue proximity to the nearest affected dwellings; those lining the A438. Officers are content that in this regard the scheme would comply with 'saved' policy H13 and guidance laid out in paragraph 17 of the NPPF.
- 6.15 The most significant impact on residential amenity arises from the position of the vehicular access relative to Croft Cottage and to a lesser extent Green Croft. Croft Cottage is to the immediate south of the access and the proposed footway adjacent the access road would pass immediately outside the front door to this property. The provision of the footway will also require realignment of the garden fence and relocation of some drainage infrastructure associated with the dwelling. Although both Croft Cottage and Green Croft are within the applicant's ownership, this does not lessen the requirement to consider the relationship. The proposal would result in a noticeable change to the living conditions of residents at this property, imposing a footpath immediately outside the front door alongside an estate road serving 30 dwellings. By comparison with the existing situation, officers acknowledge that the resultant relationship between these properties and access into the development is less desirable. However, in the context of the presumption in favour of sustainable development, the existing impact of passing vehicular and pedestrian traffic on the living conditions at Croft Cottage and Green Croft is not considered severe enough to warrant refusal of the application.

Drainage

- 6.16 Concern has been expressed at the impact of the development on foul drainage infrastructure, water pressure and land drainage. However, the statutory undertaker (Welsh Water) has no objection subject to the separation of foul and surface water run-off. A condition is recommended in the event that outline permission is granted to require the formulation of a SUDs scheme to control surface water and land drainage run-off.

Contamination

- 6.17 The original application was refused on the basis that no investigation had been undertaken into potential contamination on site arising from historic infilling referenced by objectors. A Phase 1 Desk Study Report has been submitted. This identifies potential sources of contamination arising from historic land-use and references the suspected in-filling of part of the site with industrial material. As before, the Environmental Health Officer recommends a condition be imposed requiring the submission, prior to commencement, of a desk study report to assess the likelihood of such material being present and necessary remediation. This condition is reproduced in full in the recommendation.

Ecology

- 6.18 As pasture land adjoining a main settlement the application site has an obvious visual appeal and a significant proportion of objectors have also identified concern at the loss of habitat for a variety of flora and fauna. However, the site is not subject to any statutory nature conservation

designation and the submitted Ecological Survey confirms that the site does not directly support any European Protected Species. The Council's Ecologist is content with these findings but recommends conditions requiring the provision of bird nesting opportunities on site and a further walkover survey of the off-site pond for the presence of Great Crested Newts. On this basis the proposal is considered to accord with the provisions of 'saved' UDP policies and guidance laid out in Chapter 11 of the NPPF.

Affordable housing provision

- 6.19 The Housing Development Officer is content with the number of units provided, but confirms that the housing mix and tenure type will have to be agreed formally via the S106 agreement. Concern is expressed that the indicative layout does not result in acceptable integration of the affordable and non-affordable elements. Officers accept that this is the case insofar as the indicative layout is concerned, but this can be addressed at the Reserved Matters stage. Nonetheless, the provision of 10 affordable units, in the context of current unmet need, is a material consideration to which weight should be attached. The affordable housing would be allocated on the basis of local connection to Lugwardine and Bartestree in the first instance as per the draft Heads of Terms attached to this report.

Neighbourhood Planning

- 6.20 Concern is expressed that this proposal, together with other large-scale schemes being promoted within Bartestree and Lugwardine, is prejudicial to the formulation of a Neighbourhood Plan and also that schemes of this scale are too large for local infrastructure to accommodate. There is, however, no objection from Welsh Water in terms of the capacity of the foul system or the ability to supply water. Whilst concern at the ability of the local primary school to deal with additional demand is acknowledged, the S106 contribution is in line with the requirements of the Planning Obligations SPD. Moreover, in the context of paragraph 47 of the NPPF, officers do not consider that potential conflict with an emerging Neighbourhood Plan would warrant refusal of this application.

School capacity

- 6.21 Lugwardine Primary School is found on Barnaby Avenue, Bartestree. The school is at capacity and without obvious means of expansion. The Schools Capital and Investment Officer has confirmed that admission to non-catchment based pupils is characteristically high and that the Council may have to revert to a policy of giving priority to pupils resident within the catchment area. It is the case that 29% of pupils presently at Lugwardine Primary live outside catchment.
- 6.22 The NPPF identifies the importance of ensuring a sufficient choice of school places for existing and new communities and recognises that local planning authorities will need to work proactively in order to meet this requirement (paragraph 72). In this context the tension is obvious, but on balance, it is considered that the single issue of school capacity is not sufficient to warrant refusal of the proposal.

Conclusion

- 6.23 The consultation process has identified numerous concerns with this application, which are summarised at section 5 above. Officers acknowledge these concerns but note also that Lugwardine is an established main village and is likely to remain as such in the emerging Core Strategy. The site is immediately adjacent the settlement boundary (H4) and Lugwardine is identified as a main village in Policy RA1 of the emerging Core Strategy. The site is considered sustainable in terms of its location and although not previously developed, the principle of development can be accepted in the context of the housing land supply deficit. There are no site specific constraints to suggest conflict with the over-arching thrust of the NPPF so far as housing

land supply is concerned and no identified significant and demonstrable adverse impacts outweighing the benefits associated with the scheme. The recommendation is one of approval subject to the completion of a S106 agreement and the conditions set out below.

RECOMMENDATION

That subject to the completion of a S106 agreement, officers named in the scheme of delegation to officers be authorised to grant planning permission subject to the following conditions. If the S106 agreement is not completed before 27th May 2014, officers named in the scheme of delegation be authorised to refuse the application under delegated powers on that date unless otherwise agreed in writing.

- 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. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:**

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

b. if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors c. if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

2. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason:

- 6. The recommendations set out in the ecologist's report dated May 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.**

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.

- 7. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to carry out a walkover survey immediately prior to commencement of works and to oversee any ecological mitigation work which may be necessary.**

Reasons: 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.

- 8. Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise and vibration arising from the demolition and construction process. The Plan shall identify potential impacts on the River Wye (River Lugg) Special Area of Conservation and be implemented as approved.**

Reason:

- 9. H03 Visibility splays**
- 10. H05 Access gates**
- 11. L01 Foul/surface water drainage**
- 12. L02 No surface water to connect to public system**
- 13. L03 No drainage run-off to public system**
- 14. I20 Scheme of surface water drainage**
- 15. H18 On site roads - submission of details**
- 16. H19 On site roads - phasing**
- 17. H21 Wheel washing**
- 18. H27 Parking for site operatives**
- 19. G10 Landscaping scheme**
- 20. I16 Restriction of hours during construction**
- 21. I55 Site Waste Management**

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. **Non Standard**
3. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
4. **N11C General**
5. **HN10 No drainage to discharge to highway**
6. **HN08 Section 38 Agreement & Drainage details**
7. **HN04 Private apparatus within highway**
8. **HN28 Highways Design Guide and Specification**
9. **HN05 Works within the highway**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

**Proposed Planning Obligation Agreement
Section 106 Town and Country Planning Act 1990**

Planning Application 140531/O

**Residential development comprising 20 open market and 10 affordable homes at
Quarry Field, Cotts Lane, Lugwardine, Herefordshire**

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

£ 2,845.00 (index linked) for a 2 + bedroom apartment / flat open market unit
£ 4,900.00 (index linked) for a 2 / 3 bedroom house / Bungalow open market unit
£ 8,955.00 (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced educational infrastructure, youth service infrastructure, early years childcare insufficiency solutions and the Special Education Needs Schools. The sum shall be paid on or before first occupation of the 1st open market dwellinghouse (or phasing to be agreed), and may be pooled with other contributions.

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

£ 1720.00 (index linked) for a 2 bedroom open market unit
£ 2580.00 (index linked) for a 3 bedroom open market unit
£ 3440.00 (index linked) for a 4+ bedroom open market unit

The contributions will provide for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1st open market dwellinghouse 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:-

Safe Routes for Schools

Improvements to sustainable transport facilities

Traffic Calming

Cycling and walking routes

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

£ 235.00 (index linked) for a 2 bedroom open market unit
£ 317.00 (index linked) for a 3 bedroom open market unit
£ 386.00 (index linked) for a 4 / 4+ bedroom open market unit

To be used as be used in consultation with the local community and Parish Council for the improvement of public open space and rights of way.

The sums shall be paid on or before the occupation of the 1st open market dwelling. The monies may be pooled with other contributions if appropriate.

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

£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 4/4+ bedroom open market unit

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

5. 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 1st open market dwelling, and may be pooled with other contributions if appropriate.
6. The developer covenants with Herefordshire Council that 10 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. Of those Affordable Housing units 5no. shall be for social rent and 5no. for intermediate tenure.
7. 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.
8. 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:-
- 8.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
- 8.2 satisfy the requirements of paragraph 12 of this schedule
- 8.3 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:-
- a local connection with Lugwardine and Bartestree
 - Cascading to the surrounding parishes of Hampton Bishop, Holmer, Mordiford and Dormington or Withington.
9. In the event there being no person with a local connection to any of the above parishes any other person ordinarily resident within the administrative area of Herefordshire 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 10.3 above.

10. For the purposes of sub-paragraph 11.3 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - is or in the past was normally resident there; or
 - is employed there; or
 - has a family association there; or
 - a proven need to give support to or receive support from family members; or
 - because of special circumstances
11. 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.
12. 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.
13. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4, 5 and 6 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.
14. The sums referred to in paragraphs 1,2,3,4,5 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
15. 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.
16. 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.

April 2014

TOWN AND COUNTRY PLANNING ACT 1990

Planning and Compensation Act 1991

REFUSAL OF PLANNING PERMISSION

Applicant:

Mrs E Seymour
c/o Agent

Agent:

Mr James Spreckley MRIC FAAV
Brinsop House
Brinsop
Hereford
HR4 7AS

Date of Application: 16 July 2013

Application No:131964/O

Grid Ref: 354597:240961

Proposed development:

SITE: Quarry Field, Cotts Lane, Lugwardine, Hereford,
DESCRIPTION: Residential development comprising 20 open market homes and 10 affordable homes.

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts that PLANNING PERMISSION has been REFUSED for the carrying out of the development described above for the following reasons:

- 1 The proposed means of vehicular access to serve the development is taken directly from the A438 Hereford to Ledbury Road. At this specific location there is a significant downhill gradient on the westbound carriageway and the speed survey submitted with the application confirms the 85th percentile speed for westbound traffic at this point is 37 mph. Likewise the 85th percentile speed for eastbound traffic is also in excess of the 30 mph speed limit at 34.5 mph. Having regard to the speed data, carriageway width, gradient and approach visibility of stationary right-turning vehicles, the Council is not satisfied that the proposed means of access promotes a safe or attractive pattern of movement into or out of the site. The application is considered contrary to 'saved' Herefordshire Unitary Development Plan Policies S2 and DR3 and guidance contained in paragraph 32 of the National Planning Policy Framework, which requires the provision of safe and suitable access to the site for all people. The Council concludes that the development cannot demonstrate safe and suitable access, and that the adverse impacts of approving the development are significant and demonstrable and outweigh the benefits arising from the development such that paragraph 14 of the National Planning Policy Framework should not take precedence.
- 2 The application site is not well served in terms of pedestrian access to village facilities and is considered likely to increase reliance on the private motor car for access to local schools, recreation facilities and shops. The footway back into the village is narrow and in part elevated above the adjoining A438 carriageway and is not an attractive or suitable pedestrian link having regard to its likely nature of usage by future occupants of the proposed development. Improvements to the footway leading back towards

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

Lugwardine are likely to necessitate engineering works including retaining structures and pedestrian guard rails. Such work would be prejudicial to the setting of the adjoining listed buildings and the prevailing character of this historic approach to the village. The proposal is thus not considered to reduce the need to travel by private motor car and is contrary to 'saved' Herefordshire Unitary Development Plan Policies S1, DR1, DR3, H13 and HBA4.

- 3 The application proposes the erection of thirty dwellings to the rear of the predominantly historic properties, including three individually listed dwellings, lining the A438 on the historic approach into Lugwardine. The application site provides a rural backdrop to these historic properties and provides a buffer between the historic edge of the village and the historic parkland associated with the Grade II* listed New Court country house. The Council concludes that the loss of this important green space would be detrimental to the setting of the village and the listed buildings and would represent a pattern of development that is inconsistent with the prevailing linear settlement pattern and therefore contrary to 'saved' Herefordshire Unitary Development Plan Policies DR1, H13, HBA4, HBA9, LA2 and LA3 and not representative of sustainable development. This significant and demonstrable harm is considered to outweigh the benefits arising from the development such that the presumption in favour of sustainable development enshrined in the National Planning Policy Framework should not apply.
- 4 In the absence of an intrusive site investigation the Council is not satisfied that the site can be developed for housing without undue threat to human health and the potential for ground water pollution. The absence of a site investigation on land which is suspected to be contaminated is contrary to the requirements of 'saved' Herefordshire Unitary Development Plan Policy DR10 and guidance set out in paragraph 120 of the National Planning Policy Framework.

Informative:

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

Planning Services
PO Box 230
Hereford
HR1 2ZB

Date: 20 November 2013

DEVELOPMENT MANAGER

YOUR ATTENTION IS DRAWN TO THE NOTES OVERLEAF

NOTES

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within 6 months of the date of this notice, using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Right to Challenge the Decision of the High Court

Currently there are no third party rights of appeal through the planning system against a decision of a Local Planning Authority. Therefore, if you have concerns about a planning application and permission is granted, you cannot appeal that decision. Any challenge under current legislation would have to be made outside the planning system through a process called Judicial Review (JR).

The decision may be challenged by making an application for judicial review to the High Court. The time limits for bringing such challenges are very strict, and applications need to be made as soon as possible after the issue of the decision notice. So, if you think you may have grounds to challenge a decision by Judicial Review you are advised to seek professional advice as soon as possible.

These notes are provided for guidance only and apply to challenges under the legislation specified. If you require further advice on making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000). For further information on judicial review please go to <http://www.justice.gov.uk>

The Council has taken into account environmental information when making this decision. The decision is final unless it is successfully challenged in the Courts. The Council cannot amend or interpret the decision. It may be redetermined by the Council only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.



MEETING:	PLANNING COMMITTEE
DATE:	23 APRIL 2014
TITLE OF REPORT:	P140221/L - VARIOUS INTERNAL WORKS AT LEADON COURT, FROMES HILL, LEDBURY, HR8 1HT For: Mr Julian Morgan, Leadon Court, Fromes Hill, Ledbury, Herefordshire, HR8 1HT
WEBSITE LINK:	https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140221

Date Received: 20 January 2014

Ward: Frome

Grid Ref: 368459,246640

Expiry Date: 2 April 2014

Local Member: Councillor PM Morgan

1. Site Description and Proposal

- 1.1 The application site is located in an open countryside position east of Fromes Hill, a designated smaller settlement identified under policy H6 in the Herefordshire Unitary Development Plan. The site features Leadon Court, a Grade II listed farmhouse featuring Georgian and Victorian architecture with traditional hop kilns and agricultural outbuildings of the period adjoining. The site is accessed by a private drive from the A4103 Hereford – Worcester Road from which there are glimpsed views of the property.
- 1.2 The proposal is for various internal works.

2. Policies

2.1 Herefordshire Unitary Development Plan:

- S1 - Sustainable Development
- S2 - Development Requirements
- DR1 - Design
- HBA1 - Alterations and Extensions to Listed Buildings

- 2.2 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>

- 2.3 National Planning Policy Framework paragraphs 126 – 141, Conserving and enhancing the historic environment.

3. Planning History

- 3.1 DCNE2001/0161/L Alterations to kitchen and dining room – Approved with conditions.

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

4. Consultation Summary

- 4.1 The comments of the Parish Council had not been received at the time of writing this report.
- 4.2 The comments of the Conservation Manager (Historic Buildings) had not been received at the time of writing this report.

5. Representations

- 5.1 No representations received at the time of writing this report.
- 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

6. Officer's Appraisal

- 6.1 The proposals are internal and minor in nature. They seek to remove some mid-twentieth century partitioning and re-organise the house for the current occupants requirements. The removal of the partitioning will ensure the original proportions of the two rooms can once again be enjoyed.
- 6.2 The above works accord with both national and local planning policies regarding alterations to heritage assets and English Heritage guidance. No historic fabric is lost and the original room proportions reinstated, which enhances and reintroduces the historic character of the listed dwelling.

RECOMMENDATION

That listed building consent be granted subject to the following conditions:

- 1. **D01 Time limit for commencement (Listed Building Consent)**
- 2. **B02 Development in accordance with approved plans and materials**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 140221/L

SITE ADDRESS : LEADON COURT, FROMES HILL, LEDBURY, HEREFORDSHIRE, HR8 1HT

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



MEETING:	PLANNING COMMITTEE
DATE:	23 APRIL 2014
TITLE OF REPORT:	<p>P133440/F and P133445/L - CONVERSION OF EXISTING BUILDING AND ASSOCIATED WORKS TO CREATE 14 NET NEW CLOSE CARE UNITS OF ACCOMMODATION FOR THE ELDERLY; CONSTRUCTION OF A NEW BUILD 70 BEDROOM NURSING HOME; LANDSCAPING; AMENDMENTS TO ACCESS AND CAR PARKING; AND ALL OTHER ANCILLARY WORKS AT STAUNTON-ON-WYE ENDOWED PRIMARY SCHOOL, STAUNTON-ON-WYE, HEREFORD, HR4 7LT</p> <p>For: Mr Kingham per Blake Laphorn, Secourt Tower, West Way, Oxford, OX2 9HN</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=133440

Date Received: 13 December 2013 **Ward: Castle**

Grid Ref: 336490,245009

Expiry Date: 25 April 2014

Local Member: Councillor JW Hope MBE

1. Site Description and Proposal

1.1 The application is located in Staunton on Wye, a designated main village identified under local plan policy H4 as a sustainable, appropriate location for new development. The site comprises the buildings and associated curtilage and land totalling approximately 1.3 hectares forming the former Staunton on Wye Endowed Primary School, which is a Grade II listed building built in the Tudor Gothic Revival style in 1859-60. The site is within a conservation area, however this is limited to the grounds associated with the school and adjoining almshouses only which are also listed and were designed by the same architect as the school. The buildings that are the subject of this application have been redundant from some time and are showing external signs of disrepair, vandalism and neglect. The curtilage is also untidy and litter strewn.

1.2 The site is accessed from three separate points:-

- an historic access to the South of the site serving directly from the A438 which also serves the almshouses and takes one through the formal grounds to the principle elevation
- a new access to the West of the site built to more recent standards to serve the school's historic use formed off School Lane which is an unclassified road linking the village to the A44
- a single track access into the North of the site and rear of the building formed from Weavers Orchard, a cul-de-sac accessed from School Lane serving 12 dwellings, small recreation space and orchard.

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

- 1.3 The proposal is an application for planning permission and listed building consent for the conversion of the existing building and associated works to create 15 new close care units of accommodation for the elderly, construction of a new build 70 bedroom nursing home, landscaping, amendments to access and parking and other required ancillary works.
- 1.4 An Environmental Impact Assessment (EIA) was carried out under request from the applicant prior to the submission of this application. The Adopted Screening Opinion and Screening Determination was issued by the Local Planning Authority on 26 November 2013 finding the proposal not EIA development under Schedule 2 Part 10 of the EIA Regulations 2011 and DETR Circular 02/99.

2. Policies

2.1 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S2	-	Development Requirements
S6	-	Transport
S7	-	Natural and Historic Heritage
S11	-	Community Facilities and Services
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
DR13	-	Noise
DR14	-	Lighting
H4	-	Main Villages: Settlement Boundaries
H13	-	Sustainable Residential Design
T6	-	Walking
T8	-	Road Hierarchy
T11	-	Parking Provision
T13	-	Traffic Management Schemes
T16	-	Access for All
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC4	-	Sites of Local Importance
NC5	-	European and Nationally Protected Species
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement
NC9	-	Management of Features of the Landscape Important for Fauna and Flora
HBA1	-	Alterations and Extensions to Listed Buildings
HBA2	-	Demolition of Listed Buildings
HBA3	-	Change of Use of Listed Buildings
HBA4	-	Setting of Listed Buildings
HBA6	-	New Development Within Conservation Areas
HBA9	-	Protection of Open Areas and Green Spaces
CF1	-	Utility Services and Infrastructure
CF2	-	Foul Drainage
CF5	-	New Community Facilities
CF6	-	Retention of Community Facilities
CF7	-	Residential Nursing and Care Homes

2.2 National Planning Policy Framework: The following paragraphs or chapters as a whole are of particular and specific relevance to the application:

Paragraph 6-10 – Achieving Sustainable Development
Paragraph 17 – Core Planning Principles
Paragraph 28 – Supporting a Prosperous Rural Economy

Chapter 4 – Promoting Sustainable Transport
Chapter 7 – Requiring Good Design
Chapter 8 – Promoting Healthy Communities
Chapter 10 – Meeting the Challenge of Climate Change and Flooding
Chapter 11 – Conserving and Enhancing the Natural Environment
Chapter 12 – Conserving and Enhancing the Historic Environment

2.3 Draft Core Strategy: The following policies are relevant; however, they have limited weight due to the status of the Core Strategy and representations received.

SS1 - Presumption in Favour of Sustainable Development
SS4 - Movement and Transportation
SS5 - Employment Provision
RA3 - Herefordshire Countryside
RA5 - Re-use of Rural Buildings
RA6 - Rural Economy
MT1 - Traffic Management, Highway Safety and Promoting Active Travel
LD1 - Landscape and Townscape
LD2 - Biodiversity and Geodiversity
LD3 - Green Infrastructure
LD4 - Historic Environment and Heritage Assets
SD1 - Sustainable Design and Energy Efficiency
SD2 - Renewable and Low Carbon Energy
SD3 - Sustainable Water Management and Water Resources

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 113581/F and 113582/L – Proposed conversion of redundant school to eight houses and erection of ten houses – Withdrawn.

4. Consultation Summary

Statutory Consultees

4.1 English Heritage has no objection and makes the following points:-

- Conditions should be imposed requiring prior approval of all architectural and landscape details of both the conversion works and the new building, and approval of the scope of the works to the existing building.
- There is concern that this impressive historic building is now in a very vulnerable condition, and should not go through a further winter without works to its roof and rainwater goods. The Local Planning Authority is requested to keep this under review, and use its relevant urgent works powers as appropriate.

4.2 The Victorian Society object to the application on the following summarised points:-

- It is considered there is a lack of information provided. In its present form the application does not provide sufficient information by which to judge the particular significance of the main school building, the drawings submitted are not as illustrative as they might be.
- The vertical and horizontal subdivision of the two schoolrooms would almost certainly cause serious harm to their significance, and to that of the building. The proposed ground plans suggest that the rooms could serve other functions, such as lounge, common room or library, which would more easily accommodate the special significance and spatial qualities of the former school rooms.
- We also remain unconvinced of the need to demolish the two cloistral wings that extend from the rear of the building. These are interesting and characterful elements that were integral to the original design, fabric and function of the building. The case for their demolition has not been made.
- The new care home building would be extremely large and on a much greater scale than the historic building it would sit beside. The drawings provided hint at its magnified proportions and dimensions. The low pitch of the roofs results in a much heavier, lumpen appearance and the flatness of the new design would contrast unhappily with the drama and articulation of the listed building.

4.3 Dwr Cymru Welsh Water has no objection to the proposal, however it requests conditions and informatives are attached to any planning permission. These are set out in the recommendation, below.

Internal Council Advice

4.4 The Council's Transportation Manager has no objection to the proposal. Recommend conditions are attached.

4.5 The Council's Public Rights Of Way Officer has no objection.

4.6 The Council's Conservation Manager (Ecologist) has no objection. Recommend conditions are attached.

4.7 The Council's Conservation Manager (Historic Buildings) has not returned comment however provided significant advice and guidance during the pre application stage. That advice has been followed.

4.8 The Council's Land Drainage Engineer has provided a comprehensive assessment of the application and this is set out in the report, below, and has no objection. Recommend conditions are attached as requested.

4.9 The Council's Adult Wellbeing Manager notes the applicant has not engaged with them to discuss the strategic need for the facilities which are intended to be provided by the proposed development of which it states there is currently no evidence of an undersupply, however as more people live longer with multiple and complex needs, those that do need residential care will be more likely to need nursing provision or specialist dementia support.

4.10 Overall in social care there is a trend towards decreasing service user numbers – but those that do require support have higher needs and require more intensive support. This trend is reflected in residential and nursing care where residential placements are declining but nursing placements are not. More specifically the application should be aware that the

Council will not be looking to commission any placements within the nursing home, other than where individuals choose to use their personal budgets to help fund their residency.

- 4.11 From a strategic perspective the location and accessibility of the proposed development is questioned, being located in a remote rural location, which has little in terms of wider community infrastructure to support the occupants.

5. Representations

- 5.1 Staunton on Wye Parish Council objects to the proposal on the following points:-

- The size of the project is out of proportion to the village size.
- The new part will block off light from existing dwellings in the Weavers Orchard area.
- There is concern about the increased traffic movement in the village in particular the entrance through the Marches Housing lane approach where the playground and the playing field are sited. This lane should not be used as an entrance to the proposed site.
- Concern about the capacity of the sewage system to absorb the greater usage.
- It would be better to use the Old School building as a nursing home but use the remainder of the site as housing for young people.
- The Parish Council recommend that the application be refused.

- 5.2 11 representations have been received from the public. These are classified as 9 objections and 2 mixed comments one of which supports the proposal in principle. The objections contain the following summarised points:-

- The proposal contravenes national and local planning policies applicable to heritage assets.
- The new building is significantly larger than the existing.
- Concern over increased traffic.
- Concern over impact of the parking on adjoining dwellings.
- Impact on local facilities and infrastructure.
- There will be loss of light and amenity to adjoining properties.
- The site should be used for affordable housing.
- Staunton on Wye will become a retirement village.
- The proposal is too big.
- Concern over external lighting.
- Concern over the capacity of the local sewerage system.
- The proposal will have a detrimental impact on the listed building.
- Concern over access from Weavers Orchard.

- 5.3 Additional comments suggest the building should be delisted and the site developed for housing and appropriate provisions for parking, unloading, wheel washing and the existence of a site liaison officer should be in place during the construction.

- 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

6. Officer's Appraisal

- 6.1 The National Planning Policy Framework (NPPF) sets out in paragraph 6 that the purpose of the planning system is to contribute to the achievement of sustainable development. It sets out

in paragraph 7 that there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles which can not be taken in isolation and are interdependent:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

6.2 Paragraph 17 of the NPPF sets out 12 core planning principles that should underpin decision making. These are summarised as:-

- be genuinely plan-led
- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- take account of the different roles and character of different areas
- support the transition to a low carbon future in a changing climate, and encourage the reuse of existing resources, including conversion of existing buildings
- contribute to conserving and enhancing the natural environment
- encourage the effective use of land by reusing land that has been previously developed
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable
- deliver sufficient community and cultural facilities and services to meet local needs.

6.3 This has informed the pre-application advice given, the proposal considered and the assessment of the application. These principles and requirements are considered to be in conformity with the relevant saved policies of the Herefordshire Unitary Development Plan.

Heritage

Policy context:

6.4 The NPPF sets out in paragraph 126 that there should be a positive strategy for the conservation of the historic environment. It is recognised that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance taking into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
 - the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring
 - the desirability of new development making a positive contribution to local character and distinctiveness
 - opportunities to draw on the contribution made by the historic environment to the character of a place.
- 6.5 Paragraphs 131 – 133 of the NPPF set out what and how local planning authorities should consider in determining planning applications featuring heritage assets. This includes:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.6 Furthermore, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater that weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.
- 6.7 Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- the nature of the heritage asset prevents all reasonable uses of the site; and
 - no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
 - the harm or loss is outweighed by the benefit of bringing the site back into use.
- 6.8 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 6.9 Local Plan policies HBA1, HBA3, HBA4 and HBA6 are relevant to this application and directs conservation and heritage aims, objectives and criteria.
- 6.10 Policy HBA1 sets out that proposals to alter or extend a listed building will only be permitted where:-
1. The components which make up the special interest of the building, its features and setting are preserved.
 2. All new work is in keeping with the age, style, materials, detailing and character of the building.
 3. Extensions are subservient in scale and design and relate well to the existing building.
 4. The structural limitations of the building are respected and preserved.

6.11 Policy HBA3 sets out the five criteria against which the change of use of a listed building will be assessed. Relevant to this application, change of use is permitted where it can be demonstrated that:

1. The building is structurally capable of accommodating the new use without substantial rebuilding.
2. The proposed use is compatible with the preservation of the existing building, its features, setting and if relevant any adjacent listed buildings
3. It assists the retention and beneficial use of an historic building.

6.12 Policy HBA4 states the proposals which adversely affect the setting of a listed building will not be permitted. Impact is judged in terms of scale, massing, location, detailed design and the effects of its uses and operations.

6.13 Policy HBA6 sets out nine criteria against which new development within conservation areas should be assessed. Relevant to this application, new development within a conservation area is permitted where:-

1. the type and scale of uses proposed should complement those which presently exist and help to preserve and enhance the character and vitality of the area;
2. the proposed development shall respect the scale, massing and height in relation to adjoining buildings, and the general pattern of heights;
3. where the building line, plan form or density are important characteristics, proposals should integrate successfully into this structure;
4. the quality and type of design, details and materials should reflect those contributing to the area's character and appearance;
5. any hard landscape features, including street furniture, surfaces and boundary treatments, should maintain consistency with, and be appropriate to the use of the area;
6. open spaces, topographical features, trees and other landscape features should contribute to the character or appearance of the area and where such features of importance already exist and make a contribution they should be retained;
7. the creation of unnecessary additional access points and the loss of important ancillary features within visually prominent frontages should be avoided;
8. where the setting of and views into and out of the conservation area, including vistas and landmarks, are important to the character and appearance of the area they should be safeguarded; and
9. ancient and historic thoroughfares should be retained.

6.14 Assessment:

The existing listed building has been redundant for a not inconsiderable time. It is in a near perilous state due to this situation, including being exposed to the weather, vandalism and general disrepair and degradation through standing empty without use. English Heritage notes the condition of the building stating concern that 'this impressive historic building is now in a very vulnerable condition, and should not go through a further winter without works to its roof and rainwater goods. We trust that you will keep this under review, and use your relevant urgent works powers as appropriate'.

6.15 Whilst that situation does not give carte blanche to finding any proposal acceptable, the planning history of the site detailed above and constraints of the site, including the building itself, lead to there being very few viable suitable uses for the building. The proposed conversion scheme, supported by the new build 70 bed care home facility in principle allows the acceptable retention of the building and its character through parallel new development generating a functionally and financially viable use.

Conversion of existing listed building

- 6.16 The listed building will form closed care accommodation over three floors providing 15 flats, 1 house and a guest suite along with community areas and facilities and storage. The basement is retained as a mobility store and charging area. The construction method statement submitted recognises the state of the listed building and urgent repairs to it form phase 1 of the building programme.
- 6.17 The bulk of the existing building is retained, only two cloister wings to the North/ rear elevation are to be removed. Internal alterations are sympathetic to the character and features of special interest within the building. All five original staircases are retained, the insertion of new doorways is located away from external walls and windows to avoid them being masked and features such as windows and fireplaces are retained in situ. The original circulation pattern within the building is also retained. Whilst some of the existing larger spaces are to be subdivided, in other instances partition walls are removed. Flats are proposed on the ground and first floors. The first floor units will be set back from the windows to create full head space within the ground floor units. This not only allows the lofty original character of the schoolrooms to be retained, but also avoids alteration to or cutting across the Gothic windows on the South/ principle elevation and prevents a 'split' lighting effect. The first floor units in turn benefit from the pitched roof space.
- 6.18 For full functionality of the proposed use, a lift is required to be installed within the building. This has been located near the centre of the building in a room historically partitioned to make it as accessible as possible and negate the need for more than one lift installation or additional impact on the listed building.
- 6.19 A chair lift and central hand rail is to be installed on the front entrance negating the need for a ramped access whilst retaining the original steps. The top floor of the water tower has a high ceiling with pyramidal roof. This is to be converted to form part of a guest suite. This creates a functional use that people can enjoy over its historic use, housing the water tank.
- 6.20 The conversion also involves necessary repair work including to the roof, renewal of leadwork, rainwater goods and repointing of brickwork, improvement of windows and insulation and thermal properties of the building.
- 6.21 It is considered, subject to the conditions set out below, the proposed conversion secures and safeguards the listed building, retaining its character and features of interest. The conversion and proposed use is sympathetic and appropriate to the listed building. The external elevations remain overall unchanged.

Erection of new build development

- 6.22 The new build comprises 5,069 sq metres of gross internal floor area over 3½ stories including basement. The main visible building is 2½ stories configured in a 'H' in plan. The proposal as a highest ridge height of 14.2 metres, with lower end sections having stepped sections with ridge heights of 13 and 11.9 metres. The North elevation features three double chimney stacks protruding through the roof with an over height from ground level of 17.2 metres.
- 6.23 The original retained listed building comprises 1,840 sq metres of gross internal floor area provided over 3 ½ stories including basement. The main ridge height is 12.5 metres, however towers and ornamental detailing have heights up to 17 and 18 metres from ground level.
- 6.24 The new build is located to the North/rear of the listed building, this reduces its impact on the listed building and its principal South elevation and its setting, making the most acceptable and suitable use of the site having regard to the heritage constraints.

- 6.25 Drawing No. (100)-10 and (100)-11 illustrate how, despite the size of the new building, it remains to a degree subservient to the original heritage asset and its setting in terms of views, in particular from the important principal/South elevation. This is achieved through the topography of the site and design of the building.
- 6.26 The new building, whilst less ornate in detailing, echoes design features from the listed building, however, it avoids a pastiche facsimile and instead has a contemporary interpretation of the original vernacular. The external elevation features a plinth brick course, dentil course, louvered roof vents, chimneys, gable features within elevations, clock detail, stone cills, heads and copings. A red smooth facing brick and dark red clay tile is proposed for the external elevations and roofs except for the detailing described. Materials will be approved and controlled under appropriate condition.
- 6.27 It is unavoidable to state that the new building is larger than the existing listed building, however it is important to note the following:-
- The listed building remains the dominant feature from South approaches.
 - The principal elevation and its setting is preserved and not compromised.
 - The new build is of significant design merit, respectful of its context.
 - In order to retain and repair the listed building the proposal as a whole provides a viable, suitable economic use for it and the site.

On the basis of the above it is considered the proposal is acceptable having regard to the situation, context, proposal quality and relevant local and national planning policies.

Demolition of Single Storey Wings

- 6.28 The wings each measure 20.2 x 3.9 metres in plan and a height to ridge of 4 metres, extending from the North elevation at the rear parallel with each other. They are modest in comparison to the rest of the building and make a similar modest contribution to the overall building and its setting.
- 6.29 The Victorian Society in its comments states it is unconvinced of the need to demolish the two cloistral wings that extend from the rear of the building. These are interesting and characterful elements that were integral to the original design, fabric and function of the building. The case for their demolition has not been made.
- 6.30 Firstly, it is noted English Heritage do not object to this. Secondly, it is considered the loss of these two wings at the overall retention and restoration of the building is an acceptable compromise in the overall interests of the original building. Furthermore, the removal is required in order to secure the required functionality of the new building. Retention of these wings would require the new development to be higher or wider, significantly impacting on the original building and important views of it.

Impact on the Conservation Area

- 6.31 English Heritage on assessing the conservation area previously, noted Staunton-on-Wye Conservation Area is small and homogeneous consisting of the grade II listed School building dated 1859 and a number of buildings of complementary style and date set in an open parkland setting with fine views across the valley of the River Wye to the south. It appears that little substantial development has taken place in the Conservation Area since the mid-nineteenth century.
- 6.32 The restoration, repair and re use of the listed building will enhance both the conservation area, which is itself formed only due to the presence of the school building and associated almshouses, and those other related listed buildings in the conservation area.

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

- 6.33 The viable functional use proposed on the site will ensure the upkeep and maintenance of the listed school house and its associated land, this will maintain the character and appearance of the conservation area for its own benefit and that of the village and its setting.
- 6.34 The new build does not impact upon the almshouses under third party ownership due to its design and location to the rear of the existing school building. The wider setting of the almshouses will be enhanced through the new landscaping and subsequent maintenance thereof.
- 6.35 Historic accesses into and out of the site are retained and upgraded. However, as set out under the Highways section of this report, restrictions are imposed upon two of these in the interests of highway safety and amenity.

Landscaping

- 6.36 The proposal involves the removal of some trees to enable the new build and access improvements to occur. This will be offset within the proposed landscaping scheme that includes new planting and boundary treatments. As many existing trees are retained as possible. This trade off is considered acceptable having regard to the overall gains achieved through this proposal, including those regarding habitat, species and landscaping.
- 6.37 A courtyard area between the original and new building will be formally planted and feature seating areas and access routes into and over the buildings and grounds. A formal landscaped garden area is introduced to the East of the site adjoining the emergency access and car park. A wildlife area featuring a pond and new planting is proposed to the West. A terraced area is also introduced adjacent to the West of the original building enabling views over the open countryside. All car parking is to be surfaced in grasscrete to minimise its impact.
- 6.38 The proposed landscaping is considered to enhance the setting of the listed building and conservation area, and in turn this part of Staunton on Wye in terms of its wider setting. The landscaping also secures and mitigates ecological considerations and improvements including bat habitat and foraging and a wildflower meadow, whilst creating a desirable, functional living environment for residents, visitors and staff. The precise details, implementation and management of the overall landscaping proposals will be secured through conditions as attached to the recommendation set out below.

Heritage Summary

- 6.39 Having regard to the above and the policy advice contained in the NPPF and Herefordshire UDP, detailed above, the proposal as a whole and its individual elements is considered acceptable having regard to design and heritage aims and objectives. The support of English Heritage is noted, along with their concerns over the future state of this building if it remains in its current state. In line with paragraph 136 of the NPPF, as the proposal involves the loss of part of a heritage asset, reasonable steps are proposed to ensure the new development will proceed within the listed building through condition.

Economic Development and the Rural Economy

- 6.40 The Unitary Development Plan policies E11, E12, RST1, RST13, CF5 and CF6 are in broad conformity with the National Planning Policy Framework, which sets out that planning authorities should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, paragraph 28 of the NPPF directs local planning authorities as follows:-

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings,
 - promote the development and diversification of agricultural and other land-based rural businesses,
 - support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres,
 - promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.
- 6.41 The proposal provides a mix of close care units within the conversion, providing 9 single bed apartment units, 5 two bedroom apartment units and one 2 bedroom house unit. The new build provides 70 nursing bedrooms with dayrooms, communal areas and facilities.
- 6.42 The applicant is an experienced, established provider of residential nursing care for the elderly, operating the existing The Weir Nursing Home, located 5 miles East of Staunton on Wye within a listed building, part of a National Trust holding. It is recognised that to be viable there is a critical mass of numbers required and this includes having regard to the restoration and conversion of the heritage asset.
- 6.43 Herefordshire in particular, and the UK generally, has an ageing population. Demand for care facilities is increasing and will continue to do so. Without private facilities, there will be increased demand upon local care facilities and services. Herefordshire has a higher than average number of people aged 65+ and people are living longer. As more people are offered services that support them to stay independent in their own homes, it is anticipated that the required supply of residential beds will continue to decline. However, as more people live longer with multiple and complex needs, those that do need residential care will be more likely to need nursing provision or specialist dementia support.
- 6.44 The proposal also has potential spin off economic benefits to the locality and wider areas through employment and products and supplies sourced from local suppliers, craftsmen, businesses and labour. Cross business benefits also include visitors and users of the proposal using the local pubs, accommodation, shops and other existing facilities. The proposal in its own right can become a 'local service and facility' benefiting the area and communities. The submitted 'Client Statement' sets out how community integration between the local community and proposal can occur including use of the facilities in the care home.
- 6.45 As such the proposal is considered to conform to the above aims and objectives of the NPPF and Herefordshire Unitary Development Plan regarding economic growth in the rural areas. The acceptability of the proposal is therefore considered on the assessment of material considerations and the acceptable mitigation of any impacts.

Highways and Parking

- 6.46 The site has three vehicular accesses, all of these are to be retained and upgraded and serve specific uses.
- 6.47 The original historic main access to the school and almshouses is located to the South off the A438 and takes one through the formal grounds to the principle elevation. This is to be retained and only serve the close care units provided in the converted listed building. Seven car parking spaces restricted for use to the adjacent close care units will be provided within the landscaping proposal.

- 6.48 A new access to the West of the site was constructed to more recent standards to serve the school's use off School Lane, an unclassified road linking the village to the A44. This is to be upgraded in its width and allow two vehicles to pass within it and will act as the main access for staff, visitors and deliveries. It will connect to the main car park accommodating 26 spaces, service area at the side of the building which includes a basement car park for 11 cars along with cycle storage.
- 6.49 A single track access into the North of the site and serving the rear of the building exists from Weavers Orchard, a cul-de-sac accessed from School Lane serving 12 dwellings, small recreation space and orchard. This will be retained and upgraded, however serve as an access for emergency vehicles and limited staff parking totalling ten spaces.
- 6.50 The Council's Transportation Manager has no objection to the proposal having regard to the design and access construction, proposed use and traffic volumes. The parking provision exceeds the recommended standards in order to prevent overspill at peak times during staff change over and negate any parking on the public highway or landscaped grounds. A staff minibus used in connection with the applicant's other care home will be utilised to serve the proposal and reduce traffic generated. The minibus can also be used for other trips if required to reduce vehicular movements.
- 6.51 It is acknowledged alternative uses, if viable, could generate significant traffic movements over the approximate 50 additional vehicular trips the proposal will generate over its previous use. These include education facilities or hotel accommodation. The 85 residents in the close care and nursing home are anticipated to generate 168 vehicle movements a day. This is phased over the day, typically:-
- Service/ delivery trips between peak periods.
 - Visitors in the main come at weekends or evenings.
 - Staff change over is early morning and afternoon.
- 6.52 Having regard to the existing/ previous use and the above it is considered there is no adverse impact upon highway safety and the free flow of traffic hereabouts generated from the proposal. Access points are where possible, upgrade and restricted to specific use and on site parking is above the required standards. The proposal is located close to the A438 and is highly unlikely to increase significantly vehicular movements through the village core. The additional vehicular movements, having regard to the above, are not considered to have an adverse impact upon adjoining land uses or residential amenity.

Impact on adjoining land uses

- 6.53 The site adjoins five dwellings to the North and the 12 units contained within the listed almshouses to the South East and South West.
- 6.54 Having regard to the previous use of the site and access and parking plans proposed, along with the location of the new building in respect of these dwellings and overall proposed use, it is considered there is no significant adverse impact on the dwellings contained in the almshouses in terms of their privacy and amenity. Indeed, overall it can be considered, as set out previously in this report, there is some benefit to these properties.
- 6.55 Of the five dwellings adjoining to the North, four have rear South elevations adjoining and overlooking the application site. The closest properties in Weavers Orchard, Tamarisk and No.14, will be some 22.5 metres from the North, nearest elevation of the new building which in those positions has a ridge height of 12.2 metres. With the exception of these two dwellings, the new building does not obstruct 'straight line' views from existing facing dwellings and only obstructs no.14's view after 32 metres. Three of the five dwellings, no.13, No.14 and Orchard

Corner overlook and adjoin parking and landscaping with a further dwelling, No.12, having its side elevation adjoining the main car park.

- 6.56 Having regard to the above and previous use of the site as a school, it is considered the proposal will not have an adverse impact on adjoining amenity or privacy of these dwellings including from vehicular movements as assessed. As such the proposal satisfies the relevant criteria of local plan policies S1, S2, DR1, DR2 and DR3. Furthermore relevant conditions will ensure suitable landscaping and boundary treatments, along with external lighting details are appropriate and help mitigate any impact.

Ecology, Habitats and Protected Species

- 6.57 The National Planning Policy Framework 2012 states that “The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity wherever possible”. It goes on to state that “when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity” and “opportunities to incorporate biodiversity in and around developments should be encouraged”.
- 6.58 The application is accompanied with a Phase 1 bat report by Star Ecology from 2011 and a Phase II Ecological report from Nicholas Pearson, together with the Construction Method Statement both dated December 2013. The local planning authority is happy with the content and agrees with the mitigation recommendations proposed for bats, birds and great crested newt. The mitigation will be enforced through appropriate conditions which are set out in the recommendation.

Surface Water, Flooding, Sewerage and Drainage

- 6.59 The assessment in regard to flood risk and land drainage aspects is made with information obtained from the following sources:-
- Environment Agency (EA) indicative flood maps available through the EA website.
 - EA groundwater maps available through the EA website.
 - Ordnance Survey mapping .
 - Strategic Flood Risk Assessment for Herefordshire; Herefordshire Unitary Development Plan - March 2007.
- 6.60 It is based upon the following submitted documents accompanying the application:-
- Completed Planning Permission application form.
 - Site Location Plan.
 - Drawing (100)-08, Rev P1.
 - Site Plan.
 - Drainage Strategy, dated December 2013.

Fluvial Flood Risk

- 6.61 Review of the Environment Agency indicative flood map (Figure 1) indicates that the site is located entirely in the low risk Flood Zone 1. In accordance with the requirements of the National Planning Policy Framework (NPPF), a Flood Risk Assessment (FRA) is required to support the planning application due to the size of the development being greater than 1 ha. A FRA has not been provided to support this application. However, the Drainage Strategy provided by the Applicant includes an assessment of flood risk, with reference made to fluvial and surface water sources. Following review of the location and size of this development, it is considered that the Drainage Strategy provides an adequate assessment of flood risk and that an additional FRA is not required on this occasion.

Other Considerations and Sources of Flood Risk

- 6.62 Review of the Environment Agency Flood Map for Surface Water indicates that the site is not at significant risk of flooding from surface water. The site is not located within a designated Groundwater Source Protection Zone. The use of infiltration techniques for all sources of surface water runoff would therefore be acceptable.

Surface Water Drainage

- 6.63 The Applicant has provided a robust surface water management strategy to accompany the Planning Application. This is summarised within the Drainage Strategy document. The Drainage Strategy states that all surface water runoff will be managed through infiltration to ground. The Applicant states that review of ground conditions within this area indicates that this should be feasible. The Drainage Strategy confirms that infiltration testing will be undertaken during the detailed design phase to confirm infiltration rates and ground water levels. We approve of this approach and request that the results of these studies are provided for review along with a detailed drainage design prior to construction.
- 6.64 The Drainage Strategy makes no reference to potential contamination risks associated with the historical uses of the site. Although review of site maps indicates that the risks are likely to be low, a condition attached to the recommendation ensures that consideration and if required, appropriate mitigation is given to these risks and that this is reflected in the approved drainage design.
- 6.65 The Applicant's Drainage Strategy confirms the need to locate soakaways at least 5m from building foundations. The LPA also require that the base of the soakaway is located a minimum of 1m above the highest recorded groundwater level. If site investigations demonstrate that infiltration is infeasible due to the underlying soil conditions or groundwater contamination risks, the preferred options are (in order of preference):
- (i) a controlled discharge to a local watercourse, or
 - (ii) a controlled discharge into the public sewer network (depending on availability and capacity).
- 6.66 The rate and volume of discharge should be restricted to the pre-development Greenfield values. Reference should be made to Defra/EA document 'Preliminary Rainfall Runoff Management for Developments' (Revision E, January 2012) for guidance on calculating Greenfield runoff rates and volumes.
- 6.67 The Applicant's Drainage Strategy confirms that the proposed drainage system will be designed to accommodate the 1 in 100 year rainfall event, including a 30% increase in rainfall intensity to accommodate climate change effects. The LPA approve of this approach and believe it will prevent increased risk of flooding to the site or to people and property elsewhere as a result of development.
- 6.68 The Applicant proposes to construct the car parking areas using grasscrete – a permeable surface that will permit the infiltration of rainfall through the car park surface. We approve of the use of this material on areas of flat topography. Over time, there is a risk that the permeability of these areas may reduce due to regular vehicular trafficking that will transport sediment and compact the ground's surface. We therefore require that these systems are not used on sloping surfaces that may increase the rate and volume of runoff to adjacent land. We also recommend that a shallow bund (or kerb) is constructed around the periphery of the car park areas to prevent the flow of water to existing properties to the west, north and east of the site. Conditions and informatives to that effect are attached to the recommendation, below.

- 6.69 Welsh Water has no objection to the proposal. In particular it states in regards sewerage treatment, no problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site. In regards water supply no problems are envisaged with the provision of water supply for this development.
- 6.70 It is noted the proposed development is crossed by a trunk/distribution water main. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access its apparatus at all times. Welsh Water's Conditions for Development near Watermain(s) is attached to the recommendation, however it may be possible for this water main to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer.

Summary

- 6.71 There are no objections to the proposed development regarding surface water or fluvial flooding or drainage. The Applicant has provided a robust surface water drainage strategy. Conditions requiring that a detailed drainage design is provided for approval prior to construction, demonstrating that soil conditions are acceptable to support the proposed infiltration techniques is attached in the recommendation set out below. Relevant local plan policies S1, S2, DR1, DR2, DR7, CF1 and CF2 and national planning policies are satisfied.

Other Matters

- 6.72 Staunton on Wye is a designated main village identified under local plan policy H4. This designation is made as the settlement is considered a sustainable rural location for development, having regard to its population, services and facilities. These include a Doctors, Primary School, Public House and Garage within the village, along with public transport links. Outside the defined settlement boundary in relative close proximity is a Church, Country Store including a restaurant and another public house. The location for the proposal is considered acceptable in regards sustainability, facilities and support thereof and in regards a location giving an attractive quality of life.
- 6.73 The Parish Council and some objectors reference a preference for the site to be developed for affordable housing. The planning history illustrates there have been issues with such a use on the site and in regards to preserving and enhancing heritage interests. Furthermore, the application is made to be assessed on its merits for the proposal described. As that use accords in principle with local and national planning policies, the site's ability to function for alternative uses or development is irrelevant.
- 6.74 An application received under reference 113581/F for the conversion of redundant school to eight houses and erection of ten houses received objection from English Heritage who considered such a proposal would materially harm the heritage asset, its setting and conservation area. The Local Planning Authority considers it unlikely that a viable residential development in terms of heritage and economies of scale can be achieved and this conflict between objectives.

Overall Conclusion

- 6.75 The proposal is considered acceptable having regard to applicable local plan policies, the aims and objectives of the NPPF and material planning considerations. The proposal will ensure the restoration and viable use of a listed building that is at risk that also provides an economic and social community function. The new build section is of appropriate design quality and merit having regard to its context and policy requirements. As such approval is recommended for the reasons detailed above.

RECOMMENDATION

In respect of P133440/F:

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. **H13 Access, turning area and parking**
4. **The recommendations set out in Section 7.1 and 7.2 of the Phase I report and Sections 4.1, 4.2, 4.3 and 4.4 of the Phase II report the ecologist's reports dated 2011 and December 2013 respectively should be followed in relation to the identified protected species. Prior to commencement of the development, a full working method statement incorporating all mitigation proposals should be submitted to, and be approved in writing by, the local planning authority, and the work shall be implemented as approved.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, Policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan, the relevant aims and objectives of the National Planning Policy Framework and the NERC Act 2006.

5. **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 comply with Policies NC1, NC6, NC7, NC8 and NC9 of Herefordshire's Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework in relation to Nature Conservation and Biodiversity and to meet the requirements of the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and the NERC Act 2006.

6. **In addition, the recommendations for habitat enhancement for reptiles and amphibians should be incorporated into a habitat enhancement plan for the site which should include the elements of the construction method statement relating to ecology and vegetation on the site.**

Reasons: To comply with Policies NC1, NC6, NC7, NC8 and NC9 of Herefordshire's Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework in relation to Nature Conservation and Biodiversity and to meet the requirements of the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and the NERC Act 2006.

7. **The recommendations set out in Section 4.3 and 4.4 the Phase II Nicholas Pearson ecologist's report dated December 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.**

Reason: To comply with Policies NC1, NC6, NC7, NC8 and NC9 of Herefordshire's Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework in relation to Nature Conservation and Biodiversity and to meet the requirements of the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and the NERC Act 2006.

- 8. No net increase of surface water shall be allowed to connect (either directly or indirectly) to the public sewerage system.**

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment and to comply with Herefordshire Unitary Development Plan policy CF1.

- 9. The development of the site with the Welsh Water Dwr Cymru water main located as shown on the attached plan in Annex 1 to this Decision notice, shall be carried out in strict accordance with the following requirements and conditions:-**

1. No structure is to be sited within a minimum distance of 4 metres from the centre line of the pipe. The pipeline must therefore be located and marked up accurately at an early stage so that the Developer or others understand clearly the limits to which they are confined with respect to the Company's apparatus. Arrangements can be made for Company staff to trace and peg out such water mains on request of the Developer.

2. Adequate precautions are to be taken to ensure the protection of the water main during the course of site development.

3. If heavy earthmoving machinery is to be employed, then the routes to be used in moving plant around the site should be clearly indicated. Suitable ramps or other protection will need to be provided to protect the water main from heavy plant.

4. The water main is to be kept free from all temporary buildings, building material and spoil heaps etc.

5. The existing ground cover on the water main should not be increased or decreased.

6. All chambers, covers, marker posts etc. are to be preserved in their present position.

7. Access to the Company's apparatus must be maintained at all times for inspection and maintenance purposes and must not be restricted in any way as a result of the development.

8. No work is to be carried out before this Company has approved the final plans and sections. Confirmation of this approval shall be sent to the Local Planning Authority by the developer upon receipt.

These are general conditions only and where appropriate, will be applied in conjunction with specific terms and conditions provided with Welsh Water Dwr Cymru's quotation and other associated documentation relating to this development.

- 10. C01 Samples of external materials**

11. **D04 Details of window sections, eaves, verges and barge boards**
12. **D05 Details of external joinery finishes**
13. **D08 Repairs to external brickwork**
14. **D10 Specification of guttering and downpipes**
15. **D11 Repairs to match existing**
16. **D14 Salvage recording**
17. **D24 Recording**
18. **F02 Restriction on hours of delivery**
19. **F06 Restriction on Use**
20. **F16 No new windows in specified elevation**
21. **G02 Retention of trees and hedgerows**
22. **G04 Protection of trees/hedgerows that are to be retained**
23. **G09 Details of Boundary treatments**
24. **G10 Landscaping scheme**
25. **G11 Landscaping scheme - implementation**
26. **G16 Landscape monitoring**
27. **H21 Wheel washing**
28. **H26 Access location**
29. **H27 Parking for site operatives**
30. **H29 Secure covered cycle parking provision**
31. **H30 Travel plans**
32. **I16 Restriction of hours during construction**
33. **I20 Scheme of surface water drainage**
34. **I27 Interception of surface water run off**
35. **I33 External lighting**
36. **M02 Limit rate of surface water discharge**
37. **M15 Car park drainage**
38. **During the construction phase a nominated person shall be appointed as a liaison officer through whom any problems encountered by the local community can be**

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

expressed and resolved. The appointed persons name and contact details shall be displayed on the site entrances during this time period.

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. The proposed development is crossed by a trunk/distribution watermain, the approximate position being shown on the attached plan in Annex 1 to this Decision Notice. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.
3. HN07 Section 278 Agreement
4. HN05 Works within the highway
5. N11A Wildlife and Countryside Act 1981 (as amended) - Birds
6. N11C General

In respect of P133445/L:

That Listed Building Consent be granted subject to the following conditions:

1. D01 Time limit for commencement (Listed Building Consent)
2. D02 Approval of details
3. D04 Details of window sections, eaves, verges and barge boards
4. D05 Details of external joinery finishes
5. D08 Repairs to external brickwork

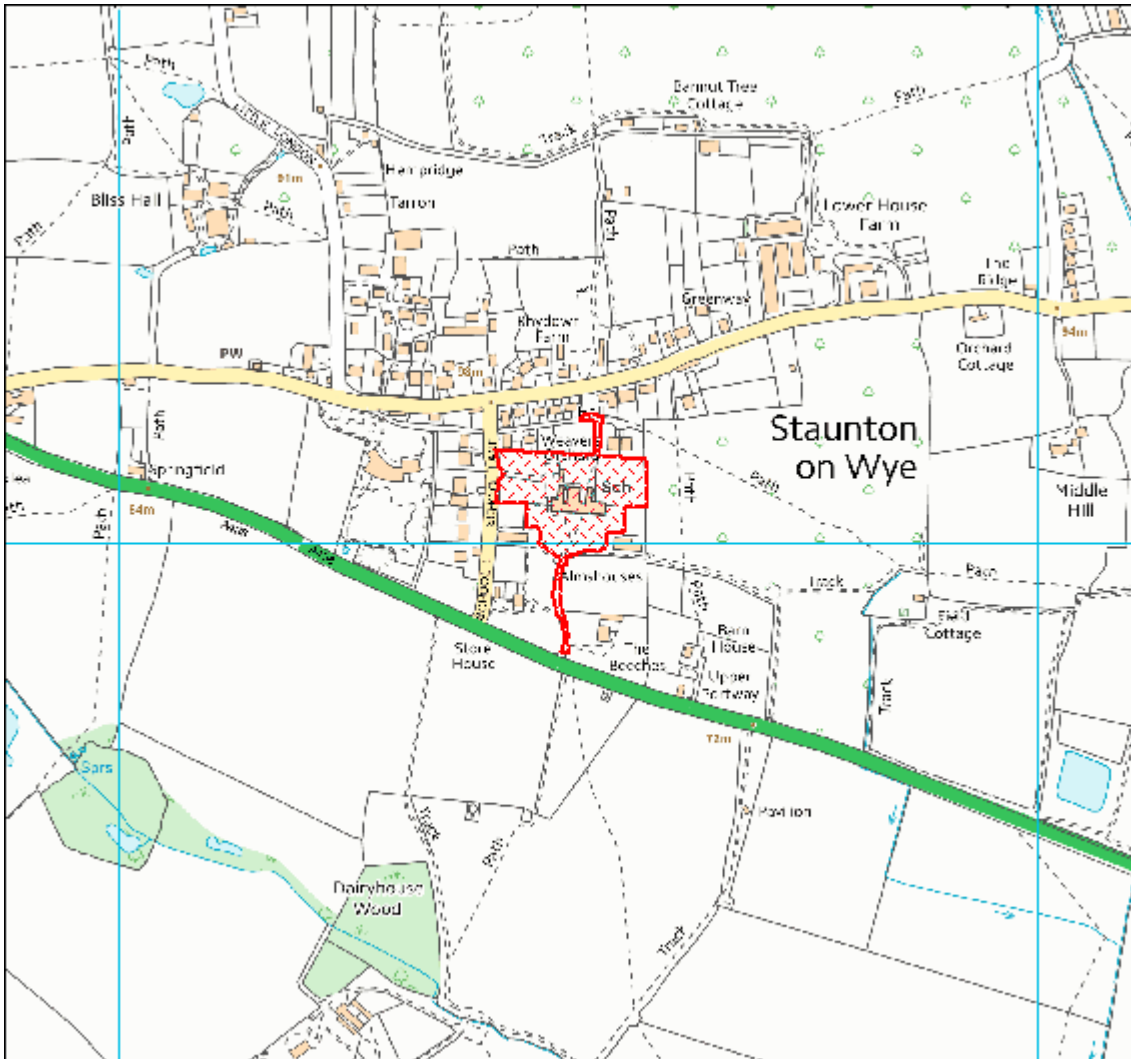
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NOS: P133440/F & P133445/L

SITE ADDRESS : STAUNTON-ON-WYE ENDOWED PRIMARY SCHOOL, STAUNTON-ON-WYE, HEREFORD, HR4 7LT

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