

# AGENDA

## Planning Committee

Date: **Wednesday 11 February 2015**

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Time: **2.00 pm (or on the conclusion of the meeting of the Planning Committee to be held in the morning, if later.)**

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Place: **The Shire Hall, St Peter's Square Hereford HR1 2HX**

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

For any further information please contact:

**Tim Brown, Democratic Services Officer**

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

# **Agenda for the Meeting of the Planning Committee**

## **Membership**

**Chairman**

**Vice-Chairman**

**Councillor PGH Cutter**

**Councillor PA Andrews**

**Councillor AJM Blackshaw**

**Councillor AN Bridges**

**Councillor EMK Chave**

**Councillor BA Durkin**

**Councillor PJ Edwards**

**Councillor DW Greenow**

**Councillor KS Guthrie**

**Councillor J Hardwick**

**Councillor JW Hope MBE**

**Councillor MAF Hubbard**

**Councillor JG Lester**

**Councillor RI Matthews**

**Councillor RL Mayo**

**Councillor PJ McCaull**

**Councillor FM Norman**

**Councillor J Norris**

**Councillor TL Widdows**

**Councillor DB Wilcox**

## AGENDA

		Pages
1.	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
2.	<p><b>NAMED SUBSTITUTES (IF ANY)</b></p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p><b>DECLARATIONS OF INTEREST</b></p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
4.	<p><b>P140890/N LAND ADJ ASHGROVE, EASTFIELDS FARM, BODENHAM, HR1 3HS</b></p> <p>Proposed construction of earth slurry lagoon.</p>	7 - 22
5.	<p><b>P141487/O LAND TO THE EAST OF THE A49, HOLMER, HEREFORDSHIRE</b></p> <p>Site for proposed erection of 52 no. residential dwellings, parking, landscaping, drainage and other associated engineering works. Vehicular access from A49.</p>	23 - 52
6.	<p><b>P141651/O THE FULL PITCHER PUBLIC HOUSE AT LAND TO THE REAR OF THE FULL PITCHER, NEW STREET, LEDBURY, HR8 2EN</b></p> <p>Site for residential development of up to 100 dwellings with associated means of access and car parking.</p>	53 - 66
7.	<p><b>P142517/F LAND TO THE SOUTH OF ROSS ROAD, LEDBURY, HEREFORDSHIRE</b></p> <p>Proposed erection of cricket pavilion, formation of car park and overflow car park and associated engineering works in association with the relocation of Ledbury Cricket Club and the formation of a proposed vehicular access off Orham Lane to serve the site.</p>	67 - 78
8.	<p><b>DATE OF NEXT MEETING</b></p> <p>Date of next site inspection – 3 March 2015</p> <p>Date of next meeting – 4 March 2015</p>	



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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>11 FEBRUARY 2015</b>
<b>TITLE OF REPORT:</b>	<b>P140890/N - PROPOSED CONSTRUCTION OF EARTH SLURRY LAGOON AT LAND ADJ ASHGROVE HR1 3EY, EASTFIELDS FARM, BODENHAM, HR1 3HS</b>  <b>For: Mr &amp; Mrs Pugh per The Courtyard, 9 Timothy's Bridge Road, Stratford-Upon-Avon, Warwickshire, CV37 9NP</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140890&amp;search=140890">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140890&amp;search=140890</a>
<b>Reason Application Submitted to Committee – Re-direction</b>	

**Date Received: 24 March 2014**

**Ward: Sutton Walls**

**Grid Ref: SO 5391, 5008**

**Expiry Date: 23 June 2014**

Local Members: Councillor K S Guthrie, and Councillor JW Millar (adjoining ward)

## **1 Site Description and Proposal**

- 1.1 Eastfields Farm lies on the C1125 Road within the village of Bodenham Moor, approximately 1 kilometre south of the A417 (Gloucester road). The farm is predominantly a dairy enterprise, currently having a herd of between 200 and 400 cattle. The farmhouse lies within Bodenham parish and is surrounded by numerous agricultural buildings in its yard, including a slurry tank and manure store close to residential dwellings.
- 1.2 This application is a resubmission of a previously-refused application to regularise a substantially complete slurry storage lagoon, measuring approximately 1,380 square metres area across the top of the embankments. The site affects land 500 metres west of the applicant's farm complex, on an elevated site over 45 metres higher than the farm. The application site is within Marden parish, and adjoins the parish and ward boundary.
- 1.3 The site is remote, apart from its proximity to the nearest neighbour. The property boundary with Ashgrove Farm is approximately 70 metres from the site boundary, whilst the house and farm buildings are just over 250 metres away. There are no other neighbours within 500 metres of the site. The site is also distant from the public highway. Public footpath MR5 runs north/south through Ashgrove Farm about 300 metres west of the site, and is not affected by the development. The Bodenham primary electricity substation is located below the site on the U94021 road to the north, at the bottom of the steep escarpment about 150 metres away.

## **2. Policies**

- 2.1 **National Planning Policy Framework (NPPF):** This came into force in March 2012 and carries most weight. It defines 'sustainable development' and is regarded in its entirety. In this case, paragraphs 6-17, sections 3, 7, 11 and 12, and paragraphs 186-206 are particularly

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Further information on the subject of this report is available from Mrs D Klein on 01432 260136

relevant. **The National Planning Policy Guidance (NPPG)** was introduced as on-line support in 2014.

- 2.2 **Herefordshire Unitary Development Plan 2007 (UDP):** Determination of planning applications must be made in accordance with the adopted development plan 'unless material considerations indicate otherwise' (s38(6) Planning and Compulsory Purchase Act 2004). Policies formally 'saved' during the development of the Core Strategy remain in force and carry weight, where they accord with the NPPF. The following policies are considered relevant in this case:

Part I

Policy S1	-	Sustainable development
Policy S2	-	Development requirements
Policy S6	-	Transport
Policy S7	-	Natural and historic heritage

Part II

Policy DR1	-	Design
Policy DR4	-	Environment
Policy DR7	-	Flood risk
Policy DR9	-	Air quality
Policy DR10	-	Contaminated land
Policy DR11	-	Soil quality
Policy E13	-	Agricultural and forestry development
Policy LA2	-	Landscape character
Policy LA5	-	Protection of trees, woodlands and hedgerows
Policy LA6	-	Landscaping schemes
Policy NC1	-	Biodiversity and development
Policy NC7	-	Compensation for loss of biodiversity
Policy NC8	-	Habitat creation, restoration and enhancement
Policy ARCH1	-	Archaeological assessments and field evaluations
Policy M5	-	Safeguarding mineral reserves

- 2.3 **Herefordshire Core Strategy:** At the time of writing an Independent Inspector is in the process of examining the Core Strategy (CS) in order to determine its soundness. The majority of the policies were subject to objection. As the examination in public is not yet complete the CS can be afforded only limited weight for the purposes of decision making. The following policies are noted as relevant for reference:

Policy SS1	-	Presumption in favour of sustainable development
Policy SS4	-	Movement and transportation
Policy SS6	-	Addressing climate change
Policy LD1	-	Landscape and townscape
Policy LD2	-	Biodiversity and geodiversity
Policy LD3	-	Green infrastructure
Policy LD4	-	Historic environment and heritage assets
Policy RA3	-	Herefordshire's countryside
Policy RA6	-	Rural economy
Policy MT1	-	Traffic management, highway safety and promoting active travel

- 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:-  
<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>



## 2.5 Legislation:

Water Resources Control of Pollution (Silage, Slurry and agricultural fuel oil) regulations 2010 (England) and as amended 2013 (The SSAFO Regulations)

The Nitrate Vulnerable Zone Regulations 2012 (The NVZ Regulations)

The Conservation of Species and Habitats Regulations 2010 as amended 2012 (The Habitat Regulations).

## 3. Planning History

### 3.1 On site:

P121420/N	retention of slurry lagoon	-	Refused 15 August 2012
P131180/N	resubmission for lagoon	-	Withdrawn 26 July 2013

Relevant agricultural development at Eastfields farm:

85/0920	agricultural building		
91/0144	extend slurry store	-	Approved 29 May 1991
NC99/1367/F	slurry tank	-	Approved 26 Sep. 1999
NC01/2010/S	agricultural building	-	Approved 3 Sep. 2001
NC03/0778/F	silage store	-	Approved 30 April 2003
NC04/0993/F	agricultural building	-	Approved 11 May 2004
P141014/F	slurry separator	-	Approved 22 July 2014

## 4. Consultation Summary

### Statutory Consultees

- 4.1 Environment Agency: No objection. All farmers must comply with the SSAFO Regulations, in order to prevent water pollution. This requirement is regulated by the Environment Agency.
- 4.2 Natural England: Initial concerns, but withdrawn on receipt of the HRA Screening result (see below). The resubmission addresses the reasons for the first objection. No objection. Concur with Environment Agency's view.
- 4.3 Western Power: Whilst the location of the lagoon is not ideal, our engineers are satisfied that the revised design of the lagoon has sufficiently addressed the risks to our substation site. We therefore do not wish to object to this application and would withdraw our previous objection.

### Internal advice

#### 4.3 Conservation Manager (Ecology)

The removal of spoil from around the adjacent mature trees is a priority. Objection due to a lack of any ecological or tree survey. Nonetheless, conditions are recommended to ensure species protection and to secure an arboricultural survey with remedial action recommendations and appropriate landscaping.

Habitats Regulations Assessment (HRA) Screening – No Likely Significant Effects on the River Wye SSSI/SAC, due to inclusion of a sealed liner to the lagoon.

#### 4.4 Conservation Manager (Archaeology)

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Further information on the subject of this report is available from Mrs D Klein on 01432 260136

An archaeological evaluation is urgently necessary, to assess potential harm to significant heritage assets in the vicinity. Subsequently this work was carried out under an approved scheme and a report submitted, which the archaeological Advisor considers acceptable with no further action required.

#### 4.5 Head of Environmental Health and Trading Standards

No objection. The location is such that unacceptable odour levels are not expected. The design must comply with the SSAFO Regulations enforced by the Environment Agency. A condition is recommended to secure a management plan, to incorporate maintenance checks and remedial action in the event of any leakage.

#### 4.6 Transportation Manager:

No highways implications, but if new works are required to culvert beneath the C1120 road, a consent is necessary.

#### 4.7 Land Drainage Advisor

No objections in principle on flooding or drainage grounds. However, ground levels in this field fall from the south toward the pond. Advice given that further storage/freeboard volume may be required to prevent the slurry lagoon from overtopping. A pre-commencement planning condition should require the applicant to provide evidence that consideration has been given to the prevention of surface water runoff from adjacent land flowing into the slurry lagoon or that the lagoon has been sized to accommodate at least an equivalent volume of runoff. We also recommend that the applicant agrees any residual risks associated with the failure of the slurry lagoon with the EA.

### 5. Representations

5.1 Marden Parish Council supports the application, considering that the previous reasons for refusal have been addressed. Request for a condition requiring monitoring/protection of local private water supplies.

5.2 Bodenham Parish Council.

1. The location of the slurry lagoon to which this application relates is in Marden Parish although the livestock slurry would be pumped from the Eastfields Farm intensive livestock unit which is sited at a central village settlement location known as The Moor within Bodenham Parish.

#### Planning History & Background

2. The original retrospective application (S121420/N) for consent for a lagoon was refused on 15 June 2012 on the principal grounds that it would be detrimental to the character and amenity of the area and mitigation was deemed not to be possible. A further part-retrospective application, 131180/N, was submitted on 24 April 2013 but was withdrawn by the applicant on 26 July 2013 after technical issues concerned with groundwater safety and more particularly the design of the lagoon and associated pipework were raised.

3. The current application is, in fact, a re-application of the 2013 application involving remodelling and a reduction in size from 3657m<sup>3</sup> to 3000m<sup>3</sup> with geotextile underground reinforcement and an artificial liner. A lagoon leak detection system which would require regular 'eyeballing' by a farm employee is proposed. Similar farm staff leakage monitoring is proposed for the pipeline/pumping operations. Bodenham Parish Council is concerned that there is no

automated alarm system to immediately highlight risks of pollution. The suggested monthly leak monitoring involving human intervention poses an unacceptable risk at this elevated lagoon site with the potential for a severe pollution incident involving the Western Power Distribution site and groundwater. Such risk of pollution was highlighted by specialist ground water Consultant Steve Bennett in a letter of 26 July 2013 in the context of earlier application 131180 and, although mitigation is now proposed using a liner, there remains an, albeit somewhat lesser, risk of a pollution incident which would still have unacceptable and devastating consequences.

4. The accompanying Planning Statement states that the pipeline will cross Dunfield Lane (U94021) via a culvert but no indication is given whether the necessary consent for this has been obtained from the Highway Authority. Normally such consent is required for the culvert design and to “install private apparatus within the confines of the public highway”.

5. Notwithstanding the above comments the Planning Statement submitted with the current application attempts to address objections and other concerns raised previously about the construction and operation methodology.

### **Planning Policy**

6. Whilst the proposal would need to comply with a wide range of UDP and NPPF planning policies set out previously by Case Officer Debbie Klein ranging from sustainable development (S1), landscape character (LA2), natural and historic heritage (S7) to noise (DR11) and soil & air quality (DR13 & DR9); It is clear that the main purpose of the lagoon is to enable the applicants to comply with the Nitrate Vulnerable Zone (NVZ) Regulations slurry storage regime that requires five months capacity in order to prevent nitrate/phosphate run-off.

7. It is made clear that the proposed lagoon at 3000m<sup>3</sup> will not have such 5 months capacity to handle the current herd size and an unspecified number of additional storage tanks will be required at Eastfields Farm complex to cope with the excess. No indication is given as to the number and design or the proposed specific location of these additional tanks. Similarly there is no information on the methodology for their filling and emptying, nor when this would be done.

8. Eastfields Farm has converted from primarily pasture grazing to wholly intensive husbandry over several years that has led to real community concerns and a recorded history of complaints of odour and fly nuisance by neighbouring residents at this central village location. It is widely recognised that this form of husbandry often gives rise to a wide variety of concerns and impacts including from noise, odour, insects, pollution of biodiversity features, watercourses and groundwater and impact on the landscape. Indeed, this nuisance was recognised by a Planning Inspector who, in rejecting an appeal against refusal of consent for a new house in the immediate vicinity, commented on “serious problems of infestation by flies and offensive smells (Inspectorate Ref. APP/W1850/A/03/1110001). He added “This is clearly supported by the Council’s Environmental Health Officer, who advised “no more can reasonably be done to abate the nuisance at source”. The Inspector summarised “I conclude that there is an unacceptable risk that the living conditions of future residents of the proposed dwelling would be harmed by unreasonable levels of nuisance in these respects”. The County Land Agent has also recently touched on the subject of nuisance in commenting on another application for a farm workers dwelling at the farm (email George Thompson/Matt Tomkins dated 27/11/13)

9. The conversion process to intensive husbandry at Eastfields Farm, including the installation of the existing circular slurry tank alongside the C1125, does not appear to have been covered by the General Permitted Development Order which, in any case, specifically excludes intensive livestock unit developments. Thus the adverse impacts on neighbours’ residential amenity has not been examined and tested through the normal planning process as would be done for new intensive units. As is stated at page 100 of the UDP, intensive livestock units should normally be located at least 400m from residential buildings.

10. The fact that the current applicant has stated, in connection with planning application 132141/F, that it is proposed to double the size of the intensively reared herd raises real issues of what future arrangements there are for the storage and disposal of slurry particularly bearing in mind the limited acreage of the elevated part of the farm holding where it is proposed to apply the slurry. The entire farm holding is sited within a NVZ.

11. Whilst this may not be material to the current application Bodenham Parish Council has real concerns about the effect current, and future developments, could have in creating further nuisance to residents at this central village location.

12. "The Water Resources (Silage, Slurry and Agricultural Fuel Oil) Regulations", 2010 seeks to prevent pollution from slurry stores and it is assumed that the current proposal would need to be assessed for compliance by the Environment Agency.

### **Recommendation**

13. Bodenham Parish Council **objects** to this proposal for the various reasons mentioned above.

14. If, however, the LPA is minded to give consent it is requested that it be conditioned to ensure full compliance with the SSAFO Regs. The Parish Council also seeks assurance, if necessary, by way of suitable conditions that will fully satisfy the objections raised above and also in respect of those raised by the Environment Agency, Western Power Distribution and the Council's specialist landscape, ecology and archaeology staff regarding the previous application.

5.3 Letters and reports have been received from the nearest neighbour, Mr and Mrs Hawnt, of Ashgrove Farm, from a local water bottling company and from Western Power. The points of objection raised personally by Mr & Mrs Hawnt are summarised as follows:

- Threats of pollution to our water supply have been reduced but not removed. Monitoring would only highlight leakage after the event.
- We are unable to secure a mains water supply due to the terrain, so this issue is important;
- Vibrations from the initial excavations adversely affected our medieval property;
- The threat to our livestock has not been addressed. Our veterinary advisor has concerns about the proximity of the lagoon to our boundary and the threat of airborne disease and insects;
- Adverse effects on valuable historic landscape and archaeological features
- Alternative sites exist but have not been followed up;
- Concerns about odour nuisance.

Three professional reports were also commissioned by Mr & Mrs Hawnt to investigate and comment on their concerns. Some of the remarks are repeated from previous applications. The three reports are summarised as follows:

- Veterinary Consultancy Services Ltd (Peter Jinman OBE BVet Med, DipArb, FCI Arb, MRCVS, ARAqs) (undated report): Slurry lagoons must meet the SSAFO Regulations, the Code of Good Agricultural Practice, and Nitrogen Vulnerable Zone requirements. The application is unclear as to how these are, or could be, met. Concerns about proximity, in terms of disease risk and odours, which increases with climate change due to new diseases spreading from Europe. There should be a distance of 400 yards between such lagoons and any non-agricultural building where people work. Ashgrove Farm is a dwelling, agricultural holding and a separate business. The lagoon constitutes a risk to Ashgrove Farm and potentially to human health.
- Fisher German LLP (letter 25 April 2014): This application lacks detail and does not resolve all of the reasons for the previous refusal. Repeat previous concerns about the size

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Further information on the subject of this report is available from Mrs D Klein on 01432 260136

of the lagoon, potential impact on the borehole/water supply, biosecurity risks at Ashgrove Farm, construction methods, landscape, archaeology, ecology and trees. Also concerns as to adequacy of the lagoon's capacity. Serious fears about potential harm to the neighbour's water supplies, as liners are vulnerable to mechanical damage and may leak. Concerns about animal health are expressed in light of the veterinary report noted above. Landscape objections have not been addressed and the site is visible from the public footpath and as a skyline feature on the prominent hilltop. Archaeological work is still outstanding.

- S. Bennett (groundwater consultant) letter 10 June 2013: Risk of pollution from the lagoon, affecting domestic and agricultural private water supplies known to be potable without treatment. The borehole is about 50 years old and penetrates the Raglan mudstone to a depth of over 11 metres. Risks may be mitigated but not eliminated by a lining, even if undertaken to a very high quality. I agree with the Environment Agency's requirement for assurances as to the quality of materials to be used for lining the lagoon.

5.4 Whitemills Ltd: Previous objections in our letter dated 10 July 2013 are maintained. Little Berrington Farm is about 900 metres west of the application site, where we operate a water bottling business reliant on a borehole. Seriously concerns about water contamination should a leak occur. We have sought advice from a hydrologist and understand that the underlying geology is subject to fissures and faults through which polluted water can infiltrate. The local clay on site is not of a quality which can produce a fully impermeable liner. We also maintain our previous concerns about impacts on landscape, archaeology, ecology and trees.

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

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

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

## 6. Officer's Appraisal

6.1 A slurry storage lagoon with substantial embankments was constructed prior to June 2012 when a retrospective application was made (reference 121420/N), which was refused on 15 August 2012. The lagoon was not completed and works ceased at that point. It has not been brought into use, pending regularisation and Environment Agency approval. A further application for a larger facility on a slightly realigned site was made in 2013 (reference 131180/N) but was withdrawn pending receipt of better information and design. This new application is a resubmission to retain, remodel and complete the works, and is therefore part-retrospective. Proposed design amendments would reduce the size of the lagoon from 4,570 cubic metres to 3,000 cubic metres with an additional 750mm freeboard allowance, reduce the gradient of the lagoon sides, and provide an impermeable artificial liner. The lagoon's internal top area would be 1380m<sup>2</sup>. By virtue of its size and location the lagoon falls outside the Permitted Development rights for agriculture. Since the above unsuccessful applications, permission has been granted for a slurry separator at the existing tank in the farmyard (reference 141014/F, July 2014). This reduces the storage capacity demand, by removing solid material bulk volume.

6.2 The National Planning Policy Framework (NPPF) favours sustainable development (as defined), part of which both supports rural economies and protects the environment. The Nitrate Vulnerable Zone Regulations (NVZ Regs) require farmers to provide 5 months slurry storage capacity. The aim is to minimise diffuse pollution from nitrate and phosphate run-off by restricting spreading periods. The initial deadline for compliance was in January 2012. However, other considerations including planning issues are not overruled. Section 7 of the NPPF requires 'good design'. Section 11 seeks to 'conserve and enhance' the natural environment including landscape value, ecology and geology. Section 12 protects heritage and section 13 requires conservation of mineral resources. Paragraphs 188 – 192 express the

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Further information on the subject of this report is available from Mrs D Klein on 01432 260136

benefits of pre-application advice. Paragraph 196 stresses the need for all development to comply with adopted policy.

6.3 The Herefordshire Draft Core Strategy is currently under consideration by the Inspector. Relevant policies are listed above, but carry less weight than the NPPF or UDP at present, noting the retrospective element of this application, which pre-dates the Core Strategy.

6.4 Principle of the development

The need for slurry storage in order to meet new regulations to combat diffuse pollution is recognised. Although a material consideration, this does not override functionality, form and landscape considerations. UDP Policies S2, DR1 and LA2 require all development to achieve a high standard of design, respect the existing surroundings and prevent pollution. In this case there have been serious concerns, which carry weight despite the acknowledged need. The application is substantially retrospective and did not benefit from any pre-application advice. However, since the previous unsuccessful submissions, the applicant's agent has been working with the planning and Environment Agency requirements to find a workable compromise and address the concerns. A pragmatic approach has been adopted in this case. This application differs from previous attempts as follows:

- Reducing the capacity to 3,000 cubic metres (from the original 3,657 cubic metres)
- Remodelling the lagoon embankments to lessen the gradients and move away from the woodland
- Installing an artificial liner.

6.5 Sustainability

The National Planning Policy Framework (NPPF) defines 'Sustainable Development' in terms of three strands. There is a presumption in favour of proposals which meet the criteria. The proposal meets the economic role for farming needs, but must address the social role requirements in terms of a 'high quality build environment' which 'reflects the community's needs'. It must also meet the environmental role criteria, to 'protect and enhance' the natural and historic environment in order to gain support.

6.6 Site choice

Much of the lower-level land comprising Eastfield Farm is on high risk flood plain, and/or on permeable gravels. This, along with groundwater protection requirements, limits location options for slurry storage. Whilst other potential sites might exist, the applicant has not found anywhere suitable near the farm. The proposed site is convenient for accessing land where the slurry would be spread as fertiliser. It would be pumped up from the farm twice a year, using a culvert under the U94021 road. The application states that the lagoon is appropriately located on the underlying Raglan Mudstone Formation. However the original excavation broke through a porous limestone calcrete layer. The Environment Agency instructed the applicant to stop work until remedial work to a satisfactory standard had been undertaken. The lagoon as first constructed could not be used, or signed off under the Silage Slurry and Agricultural Fuel Oil Regulations 2010 (SSAFO Regs). At the same time it became clear that planning permission was also needed.

6.7 It is acknowledged by all parties that mistakes have been made, before the local authority became aware of this development. Since then officers have been working pro-actively with the agent and the Environment Agency to find a workable outcome bearing in mind practicalities and potential alternatives. The location is not ideal, and the geology has in fact proved to be problematic. The site is on the brow of a prominent steep hill, a number of mature trees have suffered from soil level changes to their root systems, and it is close to the neighbouring property boundary. Furthermore, the general area is archaeologically sensitive and the hilltop is a parish boundary of considerable age. There is no easy solution but on balance officers consider that, provided other factors are fully and properly met, it would be more expedient to rectify existing works rather than starting again on a different site. Remedial works to mature trees are required in any case, and form part of this application.

- 6.8 Pollution and nuisance prevention, groundwater protection  
These are key considerations which the previous applications did not fully address. The concerns of the neighbours and the professional reports commissioned and submitted by them have been considered very carefully and taken into account. Particular attention has been paid to the potential for pollution to groundwater and/or private water supplies. Properties and businesses in the vicinity depend upon private water supplies. However the lagoon site is more than 50 metres from any spring or borehole, and more than 10 metres from any watercourse. These are the basic siting requirements set by Defra and the Environment Agency in on-line guidance for farming in NVZs, and for slurry storage, to which the application has referred.
- 6.9 The lagoon sits on a slope. On the high side it cuts into the existing surface by approximately 4.25m. On the low side the embankment is built up to a maximum height of approximately 3m above original ground level. The application proposes raised embankment side slopes of 1 in 1.5, constructed using a geo-grid as reinforcement of the clay used in construction. This would reduce the steep gradient of the as-built bank-sides. The lagoon would be lined with a high density polyethylene (HDPE) impermeable membrane and would include a linear collector drain beneath the lagoon for groundwater sampling.
- 6.10 The groundwater consultant's letter to the objectors dated 10 June 2013, and submitted as part of their objection, proffers geological advice and comments on possible impacts. It concludes that, due to the specific qualities of the Raglan Mudstone Formation in this area, a significant risk to groundwater would arise 'unless mitigated by a high quality natural or artificial liner'. In this new application, an artificial liner is proposed, and details of a leak detection system are proposed.
- 6.11 The Environment Agency has accepted the submitted details and has no objection. It has pointed out that the lagoon could not be operated without compliance with the SSAFO Regulations, quite separately from any planning permission. The advice from Environmental Health & Trading Standards accords with this view, recommending a management plan should be submitted. However, this has been included in the application and so has been addressed. The advice goes on to state 'compliance with these [the SSAFO Regulations] and other legislative requirements as enforced by the Environment Agency should ensure that there is no unacceptable level of risk to Controlled Waters and Private Water Supplies'. As a result, officers now consider the proposal for a lined lagoon can meet the requirements of the NPPF and UDP policies S2, DR1 and DR4.
- 6.12 Construction Quality Assurance Plan (CQAP)  
As a result of previous negotiations with the local authority and Environment Agency, this application includes a CQAP. This sets out the construction methodology for the remodelling of the lagoon, the installation of the liner and the inclusion of a leak detection system. The CQAP must also meet the SSAFO Regulations, and should provide assurances for both this and for planning requirements. Its implementation may be secured by a planning condition.
- 6.13 Operational management  
The application includes an appendix for operational management. The lagoon would be filled twice a year, by umbilical pipes and a tractor-driven pump to cover the height and distance. A culvert would be used for the pipe to cross the U49021 road. The use of a slurry separator at the farm reduces the solid material and thus the risk of pipe blockages, as well as the volume to be pumped. Details are given as to leak prevention or containment during filling, and also for leak detection and actions to be applied on a daily basis at the lagoon. Inspection Operational standards to be met are set by this document, which should also correspond with SSAFO Regulations requirements. Officers accept this approach in principle, in order to meet UDP policies S2, DR1 and DR4.

6.14 Flood Risk and drainage

Calculations for the volume of the slurry lagoon have taken into consideration average surface water runoff from concrete surface areas and the volume of rainfall that will fall on the surface area of the lagoon, based on standard average annual rainfall over a 5 month period. With a 750mm freeboard allowance included within the design, the risk of overtopping of the lagoon is considered low.

6.15 The Drainage Advisor has no objections in principle on flooding or drainage grounds, but recommends a time-limited planning condition for a drainage scheme to be submitted. The aim would be to clarify surface water run-off calculations and to ensure that the applicant agrees any residual risks associated with bank failure with the Environment Agency as the key regulator. The proposed modifications can therefore be considered to capable of meeting UDP policies S2, DR1, DR4 and DR7.

6.16 Odour and disease

The site is less than 400 metres from Ashgrove Farm. The application states that the lagoon would be filled via a pumped line, twice a year. The surface would form a natural crust that would not be regularly disturbed. Slurry storage of this type does not generally create excessive odour out of keeping with a normal agricultural environment other than occasionally, and would not be contrary to the NPPF or UDP policies S2 or DR4. The application includes a letter from Belmont Veterinary Centre as the main vets supporting Eastfields Farm since 2010. The letter adequately responds to the points raised by objectors on any potential disease threat, and offers assurances as to the quality of care and animal health.

6.17 Design and safety

As built, the lagoon has very steep sides which, at the time of inspection, were already showing signs of slippage. The proposed modifications include shallower gradients to a more practical and safer slope. With a very similar overall footprint, this would effectively reduce the volume of slurry held, as noted above. In support of this, planning permission has been granted (reference 141014/F, 22 July 2014) to install a slurry separator at the farm, where there is an existing slurry tank associated with the dairy buildings. By removing solid material, which can be dried and used as fertiliser, the volume of liquid to be pumped to the lagoon would be significantly reduced.

6.18 Western Power has considered the new proposals for remedial works and has withdrawn its previous objection in relation to the sub-station below the site.

6.19 Whilst the lagoon would still have a utilitarian appearance by its very nature, officers do consider that the proposed design would be safer and less stark, with the embankments pulled away from the trees and the brow of the hill. Access ramp arrangements would also be improved, with a concrete apron and wheel stops at the ramp base, to avoid any damage to the liner. Leak detection would be built-in, and the lagoon would be secured with a 1.5 metre high post and rail fence. Overall, officers consider the design and site safety factors to be much improved compared with the initial works. The proposals are therefore considered capable of meeting the requirements of the NPPF and UDP policies S2, DR1 and DR4.

6.20 Landscape and visual impact

The site is not visible from public viewpoints, other than distantly from public footpath MR5 to the west. The proposed remodelling of the embankments and pulling away from the hill-crest should restore the skyline profile view. It has been established that the lagoon does not meet UDP policy LA2, however slurry lagoons are utilitarian by function and nature, in any landscape character type. The improved design goes some way to fit the lagoon into its setting better. Due to new legislation in the form of the NVZ and SSAFO Regulations, farmers are obliged to provide 5 months storage capacity and so a facility of this type is essential if they are to comply. Officers accept that this can override other considerations. The modifications to the pre-existing



lagoon are regarded as an improvement, with particular reference to the parish/ward boundary and hill-crest as noted above.

6.21 Ecology and trees

Conservation comments on the previous unsuccessful applications included the following: 'The clay subsoil on the outer side of the bund has been piled against the trunks of mature woodland trees'. The then Conservation Manager (Landscape) stated '*the woodland edge and transition zone has been completely destroyed. [The] significant damage ... can only be remediated through removal of all the earth back to original ground levels and the implementation of detailed woodland edge planting and management*'. The trees are part of an attractive woodland block which is a prominent skyline feature on the ancient parish boundary between Bodenham and Marden. Although no remedial work has been undertaken, this application does propose to remove the spoil and pull the embankments away from the woodland. The proposal is to undertake a tree health (arboricultural) survey on completion, with recommendations for any necessary restoration works. The Conservation Manager (Ecology) view is that the soil needs to be removed from the trees as soon as possible. Although not ideal, this new application is considered an improvement and a planning condition is recommended under UDP policy LA5 and section 11 of the NPPF.

6.22 The application states that 'no badgers were disturbed by the 2012 excavation works' and 'there are no badger sets in the vicinity'. The Conservation Manager (Ecology) has accepted this, but offers the reminder that badgers remain a nationally protected species under the Protection of Badgers Act 1992. No ecological or arboricultural survey results were included with this or previous applications and it is understood that none was undertaken. Matters relating to trees and biodiversity do not appear to have been addressed. However, officers have been seeking ways to expedite this long-running case in the most practical way. Planning conditions appear to be the best way forward, if permission were granted, to secure compliance with UDP policies S7, LA5, NC1, NC6 and NC7 and section 11 of the NPPF.

6.23 Habitats Regulations Assessment Screening (HRA)

Due to its geological continuity with and proximity to the Lugg valley, the site falls within the catchment area for HRA screening with regard to the River Wye/Lower Lugg SSSI/SAC. The application contains no data which enables HRA screening to be undertaken or any evidence to demonstrate that there would be No Likely Significant Effects (NLSE) on the SAC. Natural England lodged an initial objection. However, the proposal to line the lagoon would prevent impacts on the SAC by default, and the Council has therefore been able to find NLSE as a result. Natural England has withdrawn its objection likewise.

6.24 Archaeology

Previous applications did not take any account of archaeological sensitivity in the general area, despite extensive excavations which have previously taken place nearby, where a Neolithic enclosure and burials were located. This omission was raised by the Archaeological Advisor, and subsequent investigations have been made to an approved scheme. No remains were found and the Archaeological Advisor now has no objections or further comments under UDP policy ARCH1.

6.25 Minerals extraction and spoil spreading

A significant volume of stone has been extracted from the lower part of the original excavation. This is evidenced as a grey layer within the strata, visible towards the bottom of the pit. The surplus stone has been separated from soils and stockpiled. It is visible on the skyline from the highway below. The application suggests that this stone be retained on the farm for future track repairs within the holding. A specific 'agricultural need and purpose' is the qualifying factor in Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended. The application does not take account of UDP policies S9, M3, M5 or M7 on mineral extraction. However, this is a less critical element of the case.

6.26 Surplus spoil from the remodelling would be spread on the land adjoining to the south of the site. This is considered acceptable provided Defra soil-handling techniques would be followed, and provided no significant changes to the land profiling occurred.

6.27 Previous reasons for refusal

The reasons for refusal of application reference 121420/N included 11 clauses. Of these, 6 have been addressed or rendered unnecessary by the new application. The remaining 5 have been partially or substantially addressed, with the exception of the ecological and arboricultural issues outlined above.

Conclusion

6.28 Adequate slurry storage capacity is accepted as being mandatory under current legislation. This resubmission is regarded as a considerable improvement over previous applications, although there are still omissions relating to landscape, biodiversity and trees. However the improved design, operational management details and the inclusion of a liner have enabled a more favourable recommendation to be made. Remedial works and biodiversity issues are dependent on planning conditions to secure appropriate schemes. The operation of the lagoon is subject to the SSAFO Regulations enforced by the Environment Agency, but nevertheless this planning application has secured commitment to quality assurance. On this basis the proposal is recommended for approval subject to conditions

## RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. **The development hereby permitted shall be completed in full as approved within 12 months of the date of this permission. [standard A01 reason]**
2. **B01 (approved plans)**
3. **Within six months of the date of this permission the land and woodland adjoining on the north side of the application site shall be restored to the ground levels which existed prior to the unauthorised development taking place, preparatory to remedial works to the mature woodland and in accordance with the approved plans reference 6863-2000 and 6863-5000.**

**Reason: to restore landscape character and biodiversity, to reinstate the original ground levels and to safeguard existing trees, in accordance with policies S7, LA2, LA5, and NC1 of the Herefordshire Unitary Development Plan and the requirements of the National Planning Policy Framework with particular reference to section 11.**

4. **Between March and September 2015, an ecological survey and arboricultural assessment of the woodland adjoining the north side of the application site shall be carried out by one or more suitably qualified and experienced consultants, to be appointed by the applicant to undertake this assessment and to act as ecological clerk of works to oversee the remediation. Within six weeks of completion of the survey and assessment, a written report of the findings, to include recommendations for remedial tree works (if required), replacement tree planting (if necessary), woodland ecology restoration, specific biodiversity enhancement, and scheme aftercare for a specified period of at least five years shall be submitted to the local planning authority for approval. The works shall be carried out in full, in accordance with the approved details including specified timescales and reporting.**

**Reason: to assess and remediate tree and woodland health and the local ecology in accordance with policies S7, LA2, LA5, and NC1 of the Herefordshire Unitary**

**Development Plan and the requirements of the National Planning Policy Framework with particular reference to section 11.**

- 5. Within three months of the date of this planning permission a scheme for surface water management shall be submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of projected surface water run-off to accepted calculation methodology including allowance for climate change, and either proposing the means for preventing surface water run-off from flowing into the lagoon hereby permitted from adjacent land, or providing evidence that the lagoon has been sized with adequate freeboard to accommodate the volume of run-off shown by the above calculations.**

**Reason: To prevent surcharging or over-topping of the slurry lagoon, to minimise flood risk from surface water and to comply with policies S2, DR1 and DR7 of the Herefordshire Unitary Development Plan, and the requirements of the National Planning Policy Framework.**

- 6. The development shall be carried out in accordance with the ‘Construction Quality Assurance Plan’ submitted as Appendix 3 to the Planning Statement which supported the application (Stansgate, March 2014).**

**Reason : To prevent pollution, to ensure a satisfactory form of development in accordance with planning and other legislation and to comply with policies S2, DR1 and DR4 of the Herefordshire Unitary Development Plan and the requirements of the National Planning Policy Framework.**

- 7. The development shall be carried out in accordance with the ‘Operation Management Plan’ submitted as Appendix 4 to the Planning Statement which supported the application (Stansgate, March 2014), to incorporate regular maintenance checks and remedial action in the event of any leakage.**

**Reason: To prevent pollution, to ensure a satisfactory form of development in accordance with planning and other legislation and to comply with policies S2, DR1 and DR4 of the Herefordshire Unitary Development Plan and the requirements of the National Planning Policy Framework.**

- 8. No minerals or excavated materials shall be removed from the farm-holding or sold on, and no materials classified as ‘waste’ shall be imported to the application site.**

**Reason: Because such activities would require consideration of other policies and legislation not consider under this application, and to ensure compliance with policies S2, DR1, DR4 and DR11 of the Herefordshire Unitary Development Plan and the requirements of the National Planning Policy Framework.**

- 9. The site remodelling and embankment remedial works shall be undertaken in accordance with current Defra soil-handling techniques and under suitable weather conditions.**

**Reason: To ensure a satisfactory form of development in accordance with planning and other legislation, to safeguard soil condition and quality, and to comply with policies S2, DR1, DR4 and DR11 of the Herefordshire Unitary Development Plan and the requirements of the National Planning Policy Framework.**

**INFORMATIVES:**

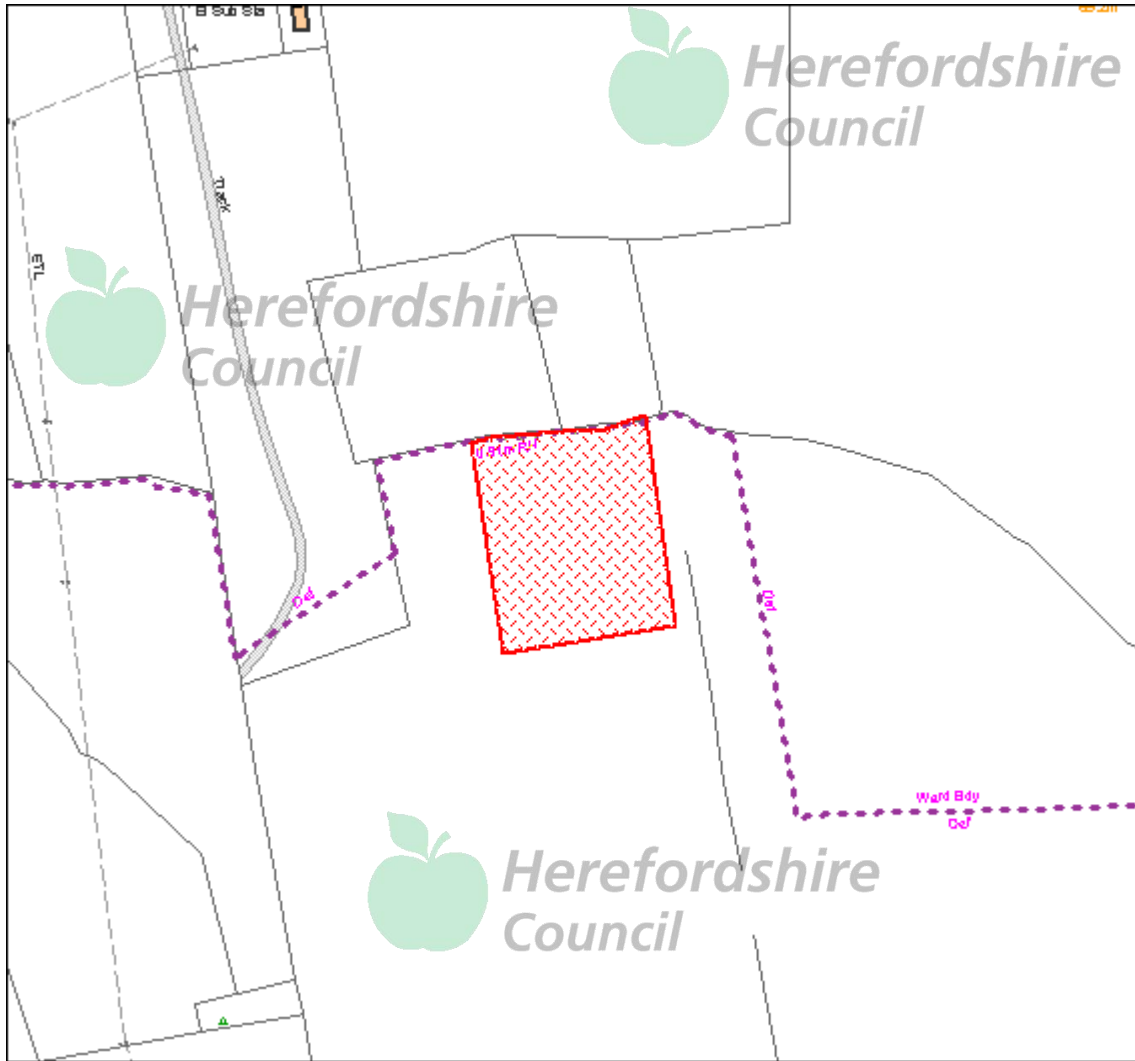
1. The local planning authority has acted positively and pro-actively in determining this application, by identifying matters of concern within the application as submitted. In recognising the retrospective nature of the application, the essential nature of the development to farming requirements, and in negotiating with the applicant's agent for acceptable additional information and amendments a positive way forward has been sought. As a result, whilst not perfect, the majority of issues have been resolved and 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 by the National Planning Policy Framework
2. The Construction Quality Assurance Plan, referred to in condition 6, should be submitted to the Environment Agency as part of the SSAFO prior notification. The applicant is also advised to agree any residual risks associated with the possible failure of the slurry lagoon with the Environment Agency
3. For the surface water drainage scheme required by condition 5, Greenfield runoff to the lagoon should be fully calculated, or a worst case scenario should be adopted, which assumes 100% runoff from the field areas that discharge to the lagoon. Defra's report 'Preliminary rainfall runoff management for developments' provides guidance on how to calculate Greenfield runoff volumes. An allowance should be included (normally +20%) for climate change in these calculations, using the sensitivity ranges suggested in the technical guidance to NPPF. Alternatively, the Applicant must demonstrate how the flow of surface water run-off from surrounding land will be prevented from entering the lagoon.
4. The applicant is advised that this development is subject to regulation by the Water Resources Control of Pollution (Silage, Slurry and agricultural fuel oil) Regulations 2010 (England) and as amended 2013, which now require notification to the Environment Agency before works begin.
5. If the arboricultural assessment required by condition 4 concludes that any existing mature tree cannot be remediated as it is dead or dying, then at least three replacement trees of similar suitable native species shall be planted and the submitted scheme shall include details for this and the locations of the new trees.
6. I11 (HN01) no mud on road
7. I09 (HN04) private apparatus in/on highway [regarding culvert works]
8. I51 (HN51) highway works

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 140890/N

**SITE ADDRESS :** LAND ADJ ASHGROVE HR1 3EY, EASTFIELDS FARM, BODENHAM, HEREFORD, HR1 3HS

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Further information on the subject of this report is available from Mrs D Klein on 01432 260136





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>11 FEBRUARY 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>P141487/O - SITE FOR PROPOSED ERECTION OF 52 NO. RESIDENTIAL DWELLINGS, PARKING, LANDSCAPING, DRAINAGE, AND OTHER ASSOCIATED ENGINEERING WORKS. VEHICULAR ACCESS FROM A49 AT LAND TO THE EAST OF THE A49, HOLMER, HEREFORDSHIRE</b></p> <p><b>For: Mr &amp; Mrs West per Pegasus Group, First Floor South Wing, Equinox North, Great Park Road, Almondsbury, Bristol, BS32 4QL</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/search-and-comment-on-planning-applications/details?id=141487&amp;search=141487">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/search-and-comment-on-planning-applications/details?id=141487&amp;search=141487</a>
<b>Reason Application submitted to Committee – Contrary to Policy</b>	

**Date Received: 21 May 2014**

**Ward: Burghill,  
Holmer and Lyde**

**Grid Ref: 350655,242451**

**Expiry Date: 22 August 2014**

Local Member: Councillor SJ Robertson

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

- 1.1 The site is located on the eastern side of the A49 Trunk Road opposite the layby to St Bartholomew's Church, Holmer, Hereford. It comprises two fields laid to pasture presently used for the grazing of horses. The A49 Trunk Road forms the entire western boundary, the southern boundary comprises a development site for 13 dwellings (P132624) with sporadic housing development and paddocks to the east. The northern boundary contains the Church Burial ground and open fields. The majority of the boundaries are well hedged with sporadic trees. The site rises from the A49 Truck Road and falls away in the north eastern corner.
- 1.2 Listed buildings are located across the A49 Trunk Road at St Bartholomew's Church (Grade 1 and Grade 2) and Holmer House Farm (Grade 2) and to the north of the site in the burial ground. Copelands (Grade 2) is located to the east.
- 1.3 A public right of way (PROW) crosses the site in a east-west direction and a high pressure water main dissects the site in a north south direction.
- 1.4 The proposal seeks outline planning permission for up to 52 dwellings on 1.82 hectares. All matters are reserved with the exception of access. An indicative plan has been submitted with access directly opposite the layby. Either side of the access the indicative plan shows dwellings fronting the main road alongside which a new 2.5m combined footpath and cycleway is proposed. The dwelling types will range from single to two storeys and comprise two to four bedroom units.

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Further information on the subject of this report is available from Mr K Bishop on 01432 260756

## 2. Policies

### 2.1 National Planning Policy Framework 2012. In particular chapters:

Introduction	-	Achieving Sustainable Development
Chapter 4	-	Promoting Sustainable Communities
Chapter 6	-	Delivering a Wide Choice of High Quality Homes
Chapter 7	-	Requiring Good Design
Chapter 8	-	Promoting Healthy Communities
Chapter 11	-	Conserving and Enhancing the Natural Environment
Chapter 12	-	Conserving and Enhancing the Historic Environment

### 2.2 National Planning Practice Guidance 2014

### 2.3 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H7	-	Housing in the Open Countryside Outside Settlements
H9	-	Affordable Housing
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
HBA4	-	Setting of Listed Buildings
HBA9	-	Protection of Open Areas and Green Spaces
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA4	-	Protection of Historic Parks and Gardens
LA5	-	Protection of Trees, Woodlands and Hedgerow
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
ARCH3	-	Scheduled Ancient Monuments
ARCH6	-	Recording of Archaeological Remains
CF2	-	Foul Drainage



## 2.4 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
HD1	-	Hereford
HD3	-	Hereford Movement
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

## 2.5 Neighbourhood Planning

Holmer and Shelwick Parish Council are not progressing a Neighbourhood Plan under the Neighbourhood Planning (General) Regulations 2012.

## 2.6 Other Relevant National Guidance:

Planning for Growth	-	2011
Laying the Foundations	-	2011
Housing and Growth	-	2012

## 2.7 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:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

## 3. Planning History

### 3.1 None on this site

### 3.2 Adjacent to the southern boundary planning permission has been granted for 13 dwellings (P132624) with access off Church Way, Approved 11 July 2014

## 4. Consultation Summary

### Statutory Consultees

### 4.1 Welsh Water raise no objection subject to the following conditions:-

#### SEWERAGE

Foul water and surface water discharges shall be drained separately from the site.

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Further information on the subject of this report is available from Mr K Bishop on 01432 260756

Reason: To protect the integrity of the public sewerage system.

No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

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.

Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

Foul flows from the site shall connection to public foul sewerage system located to the South of the proposed development at manhole SO50426101.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been approved by the Local Planning Authority.

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.

#### WATER SUPPLY

The developer has recently undertaken a potable water Hydraulic Modelling Assessment outlining 4 viable connection options. We are currently in discussion as to how best to proceed and would therefore ask the below condition to be attached to any planning permission:

No development shall take place until a potable water scheme to satisfactorily accommodate the potable water supply to the site has been submitted to and approved in writing by the local planning authority. No part of the development shall be brought into use and no dwelling shall be occupied until the approved potable water system has been constructed, completed and brought into use in accordance with the approved scheme.

Reason: To protect the integrity of the existing public sewerage system and to prevent pollution of the environment.

In addition to the above, the proposed development is crossed by a trunk/distribution water main, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Water main(s). 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. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

#### SEWERAGE TREATMENT

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

4.2 **Highways Agency** directs that any planning permission granted include the following conditions

Condition 1

No part of the development hereby permitted shall be brought into use until the works as shown indicatively on Drawing No. C712/03 Rev A have been completed to the satisfaction of the Local Planning Authority in consultation with the Highways Agency.

Condition 2

No trees or shrubs shall be planted within a strip measured 3m from the back of the visibility splay.

Reason(s) for the direction

To ensure that the A49 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 in the interests of road safety.

The Highways Agency informative' dated 10 October 2014 in respect of planning application P141487/0 relating to the above development is attached and should be appended to any subsequent planning permission:

The highway mitigation works associated with this consent involves works within the public highway, which is land over which you have no control. The Highways Agency therefore requires you to enter into a suitable legal Section 278 agreement to cover the design check, construction and supervision of the works. Contact should be made with the Highway Agency's Section 278 Service Delivery Manager, David Steventon to discuss these matters on [david.steventon@highways.gsi.gov.uk](mailto:david.steventon@highways.gsi.gov.uk)

The applicant should be made aware that any works undertaken to the Highway Agency network are carried out under the Network Occupancy Management policy, in accordance with HA procedures, which currently requires notification/booking 12 months prior to the proposed start date. Exemptions to these bookings can be made, but only if valid reasons can be given to prove they will not affect journey time reliability and safety.

Following further discussion the Highways Agency has submitted the following further information:-

I can confirm that I and a representative from the Highways Agency's Asset Support contractor (EM Highways) met on site with Crest Nicholson and Pegasus on 26 November 2014. In addition, we have previously supplied indicating costings for a pelican crossing.

The outcome of this meeting and site visit was the likelihood that an informal crossing with dropped kerbs and suitable markings would be appropriate, but that this would need to be demonstrated by the designer during the detailed design stage.

We note that Pegasus in its letter of 23 December 2014 was committed to enter into a Section 278 agreement to provide a 2.5 metre wide footpath and the vehicular access to the site.

The technical detail of these proposals will be subject to review by the Highways Agency when the developer/landowner enters into the appropriate agreement, however, the principle of both is agreeable to the Agency. This approach would also apply to a pedestrian crossing should it be provided solely by the developer.

Should a pedestrian crossing be required for the site the Agency is aware that the cost may need to be shared between other nearby development sites and that in those circumstances a Section 106 planning obligation with the Council would be appropriate.

- 4.3 **English Heritage:** Our specialist staff have considered the information received and we do not wish to offer any comments on this occasion.

Recommendation

The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

- 4.4 Internal Consultees

**Transportation Manager:**

The proposed access is onto A49 Trunk Road and the acceptability of that aspect falls under the jurisdiction of Highways Agency. Such access, if approved would require a Section 278 agreement with Highways Agency. The first junction towards Hereford on the existing highway network is Starting Gate roundabout and the Highways Agency's view on the impact of the development traffic will be required to assess the acceptability of the additional traffic and whether mitigation is required.

It is noted that a brief Transport Statement has been provided which only assesses the site junction itself. The Appendices to that document indicate that the site will generate 15 vehicle trips in the morning peak towards Hereford to Starting Gate roundabout. With further distribution at that point, and with the majority likely to follow the A49 into Hereford, the impact on the non-trunk road parts of the highway network will be minimal, and is therefore considered acceptable.

The Transport Statement and drawings indicate that the existing narrow footway in the verge of A49 is to be widened to 2m, and I would suggest that 2.5m would be more appropriate to provide a shared footway/cycleway as far as Church Way which would be preferable, as suggested at pre-application stage.

Whilst the Concept Plan is indicative only, with layout a reserved matter, I will comment on the layout provided.

Two shared private drives are shown immediately adjacent to the radii of the site access from the A49 and are not acceptable. It is noted these are not shown on the separate site access drawing.

The layout should accord with our Highways Design Guide for New Developments, and will require a turning head at the limit of the adopted highway. The segregated footway around the bend will result in separation of the adopted highway parts. This is undesirable and the intervening grass would not be adopted, giving problems with maintenance. Therefore the footway should follow the road. Car parking in accordance with our standards for the number of bedrooms in each dwelling should be provided. Oversized garages of a suitable size to include cycle storage, or separate cycle storage, should be provided.

It is noted that a Draft Heads of Terms has been submitted, but this does only proposes very limited and unclear proposals for Transport, with no details of financial sums or detailed proposals and does not accord with our SPD. Further discussion on this aspect is required.

Subject to resolution of the above points my recommendation is for approval subject to conditions

### **Conservation Manager (Historic Buildings):**

The proposed development is situated to the east of the A49 within the village of Holmer, a small settlement on the edge of Hereford. The outward expansion of Hereford during the 20<sup>th</sup> century has extended towards the village along roads such as Dale Drive but stops short of Church Way. Development within the village consists of dispersed buildings or farmsteads, which include the grade II listed Holmer House, the grade I listed Church of St Bartholomew and its associated grade II listed Bell Tower. To the east of the proposed site are more dispersed dwellings, focussed around Coldwells Road, a historic route through the local area.

While the scheme is in outline, a number of documents have been submitted as part of an application that assess the significance of nearby heritage assets, such as the listed buildings identified above, and that consider the prevailing characteristics of the surrounding built environment. While this is welcomed, there are some real concerns in relation to how this assessment has translated into an indicative layout and indeed, whether development on this scale is appropriate in this location, particularly where there is such a considerable impact on the setting of nearby listed buildings.

The grade I listed church of St Bartholomew is a building of exceptional importance and significance. It has long enjoyed an open, semi-rural setting and while development has begun to encroach upon this setting to the south, the historic landscape setting of the church is largely retained to the east, west and north. This open landscape contributes to the significance of the listed building – the church was constructed as a rural church and the agricultural character of the surrounding area is largely preserved. This setting is vital in understanding the value and significance of the listed building.

The proposed development would extend the suburbs of Hereford to the existing fields opposite the listed church. This would clearly have a significant impact on its setting, creating a more suburban environment that is at odds with the significance of the building. It is also at odds with the general pattern of development in the local area which is concentrated around historic routes.

There is an ambition to create a principal access route on axis with St Bartholomew in order to create a framed view of the listed building. This is entirely artificial, adds an element of formal planning with the context of the church that is inappropriate in a semi-rural context and urbanises the existing landscape and built environment.

Under the terms of the NPPF, the proposals would cause substantial harm to the setting of the grade I listed church, the grade II listed bell tower and the grade II listed Holmer House. There are no demonstrable public benefits of the proposed scheme that could outweigh this harm. The Heritage and Archaeological Report states that the impact of the proposed development would be minor and therefore would cause only 'less than substantial harm' to the setting of the church and its significance. The setting of the listed building(s) would be fundamentally transformed and therefore, this assertion is not supported. Substantial harm is caused through the principle of development and through the proposed layout of the development itself. The proposals are therefore considered unacceptable.

### **Conservation Manager (Landscape):**

#### *Proposed Development:*

The proposal is for 52 residential dwellings with associated access and landscaping.

#### *Site and Surrounding Area:*

The proposal is located within the settlement of Holmer a village beyond the northern edge of the Urban Settlement Boundary of Hereford adjacent to the A49.

### *Landscape:*

The site comprises two agricultural fields currently used for grazing, bounded by the A49 to the west. With the burial ground associated with the Grade I Church of St Bartholomew and further open countryside to the north. To the south and east is further pasture land with outline permission granted for 13 houses.

- The Landscape Character Type is Principal Settled Farmlands these are defined as: *Settled agricultural landscapes of dispersed scattered farms relic commons and small villages and hamlets. This is a landscape with a notably domestic character defined by the scale of its field pattern the nature and density of its settlement and its traditional land uses.*
- The site is bounded by hedgerow on all boundaries apart from a short section to the east. There are no free standing trees on the site but there are mature trees along the northern boundary in addition to several along the eastern boundary, including a mature Holm Oak. The area in which the site is situated was once part of extensive orchards and pasture. Identified within the Green Infrastructure Strategy (Feb 2010) as part of zone HerLEZ4 the following enhancement is recommended: *Maintain and enhance network of hedgerows. Plant traditional orchards. Create species rich grassland areas*
- There are no statutory landscape designations within the site. However the PROW H03 crosses the northern section of the site from west to east.
- The site is noted as High to Medium sensitivity within The Urban Fringe Sensitivity Analysis Hereford and the Market Towns (Jan 2010): *The small scale pastoral fields within a stream valley contribute to an intimate rural character despite the proximity to the city. Much of the historic pattern of field hedgerows has been conserved. The wayside settlement pattern which is characteristic of Principal Settled Farmlands is still discernible particularly along Coldwells Road although there has been some infilling.*
- The site lies at the northern extents of Hereford and thus performs an important role as part of the gateway to city. Development has expanded northwards during the 20<sup>th</sup> century but has stopped short at Church Way, thus preserving the rural character of the settlement.

### *Visual and Public Amenity:*

The site has a relatively limited visual envelope; this is due to its essentially flat raised topography and the degree of mature vegetation surrounding the site to the north.

- However dwellings to the south, east and west, both existing and proposed, will have partial views of the proposal.
- A degree of intervisibility between the Grade II listed; Holmer House and the Grade I listed Church of St Bartholomew exists. Whilst the connection between the two is degraded as a result of the intervening A49, the open countryside of the application site does contribute to the semi-rural setting of the church.
- Public Right of Way H03 crosses the northern section of the site from west to east, linking to a wider network of pathways to the north uninterrupted views of the proposals are envisaged.

- Key receptors are users of the A49 highway travelling southwards; this approach represents the northern gateway to the city.

*Conclusions:*

- The area identified as High to Medium sensitivity, currently retains many of its traditional characteristics, given its proximity to the city boundary it is considered particularly vulnerable to change.
- The LCA states that: *additional housing in hamlets and villages should be modest in size in order to preserve the character of the original settlement.* It is considered that the scale and form of the current proposal is representative of a suburban character which does not follow the existing pattern of dispersed dwellings within the village of Holmer.
- Whilst it is recognised the A49 crosses through the site a visual connection between the agricultural land and the Grade I listed church of St Bartholomew still exists and appropriate consideration to its setting should be given.
- Proposals to remove existing hedgerows H11, H21 in addition to the northern section of H13 and the southern section of H7 should be reviewed; these are considered to represent part of the key characteristics of the site.

**Conservation Manager (Ecology):**

I visited the site as part of the pre-application process and can vouch for the accuracy of the vegetation assessment. In principle I would support this application as I think the biodiversity interest of the site might be secured and enhanced. The report is commensurate with my thoughts concerning some integration of the richer areas of grassland into the development design and landscaping. The semi-improved, species poor nature of the three fields in question has richer patches of botanical richness. The removal of hedgerows is of concern – there is not a clear enough picture of the use of these hedges as flight lines by bat species. This is one recommendation of the report which I would advise is addressed preferably not through condition. I would accept the assessment regarding great crested newt (GCN) and the surrounding ponds; there is no pond on the site and the potential hibernation refugia on the site would appear to be limited excepting the hedgerows to be removed. Pre-development site checks and Reasonable Avoidance Measures should be put in place to ensure that the impact on GCN is minimal. I note the intention to retain as much existing hedgerow as possible, I would call for a review of those intended for removal in the landscape plan and a revised scheme to accommodate more of the existing internal to the site such as the whole length of that flanking the existing footpath across the site at least. It is important for continuity that existing structures are maintained.

I could suggest a condition which accommodates the recommendations in Section 4.13 to 4.16 of the ecologist's report and procurement of a habitat enhancement plan. However, I feel that there needs to be greater consolidation of the ecological information with mitigation within the design scheme before granting any approval. In particular, the arboricultural appraisal also needs to include a category assessment for bat potential. Further clarification is needed of the use of existing grassland sward within the scheme. I would ask that the biodiversity enhancement of grassland areas utilises as much as possible of existing turf with supplementary seeding rather than replacement by sowing a wildflower mix afresh. The reason for this is to preserve any entomological ecology associated with the current botanical communities. Bird's foot trefoil for instance is a food plant for a number of butterfly species including Common Blue and I would not wish to see any elimination of meta-populations of insect dependent upon it for survival. If this requires any turf translocation then I would support this.

## **Conservation Manager (Archaeology):**

Thank you for consulting me about this proposal. I have no objections, although I have the following comments to make:

- I note the submission of a ' Heritage and Archaeological Report' (AC Archaeology, ref ACD901/1/4) with this application. The report is acceptable and fit for purpose, and I need no further information.
- The issue of possible effect on the setting of listed buildings In the vicinity (especially but not limited to The Church of St Bartholomew across the A49) has been raised. As this particular matter would normally fall within the specific remit of my colleague the Senior Building Conservation Officer, I think it more appropriate if she comment on it if she wishes to do so, rather than myself.
- As regards archaeological issues as commonly understood, I would largely agree with the assessment provided in the Heritage and Archaeological Report.
- In summary, this assessment indicates that there are no known [archaeological] heritage assets of substance within to the site , and that there is only limited potential for the presence of currently undiscovered archaeological remains.
- However, particularly since the site does not appear to have been affected by recent intensive agriculture, there is still risk that occasional remains of moderate interest may be present here. Accordingly, in line with Para 141 of the NPPF, and as indeed is anticipated on page 17 of The Report, some archaeological recording may be advisable as mitigation.
- I would suggest the attachment of standard archaeological' programme' of works Condition E01/C47 to permission if granted. In this case, the programme of work would only need to consist of a limited precautionary watching brief.

## **Land Drainage Manager:**

### Overview of the Proposal

The Applicant proposes the construction of 52 new dwellings (with associated access and car parking) on the land adjacent to the east side of the A49 in Holmer. The proposed development site covers an area of 1.86ha and it is currently use for agricultural purposes.

### Fluvial Flood Risk

Figure 1 indicates that the site is located in the low risk Flood Zone 1, where the annual probability of flooding from fluvial sources is less than 0.1% (1 in 1000). As the site is greater than 1 ha, a Flood Risk Assessment (FRA) is required in accordance with National Planning Policy Framework (NPPF) as part of the planning application. A FRA has been provided by the Applicant, which confirms the low fluvial flood risk at the site.

### Other Considerations and Sources of Flood Risk

As required by NPPF, the FRA also gives consideration to flood risk from other sources. The report states that the potential flood risk from surface water and groundwater is considered to be of low risk. However, the EA's Risk of Flooding from Surface water map indicates high risk of flooding from surface water in the location of the proposed access road to the development.



This is most likely associated with a local dip in topography and we recommend that the applicant provides a robust drainage system within the new junction to reduce this risk.

Risk of flooding from reservoirs has not been considered in the submitted FRA. However, the EA's Flooding from Reservoirs map indicates that the site is not located in an area at risk of flooding from such source.

The FRA also includes an assessment of the likely impacts of future climate change on the proposed development.

### Surface Water Drainage

The submitted FRA considers the SUDS hierarchy in relation to the surface water drainage. Soil infiltration tests were carried out on the site and the results shows that infiltration is not feasible. The test results are enclosed in the FRA.

The vast majority of the site slopes down towards the A49, with only small area in the north-east corner that slopes down towards a watercourse located nearby. Discharge of surface water runoff generated by the development to this watercourse was not considered to be practical as a gravity outfall to this watercourse could not be achieved. Surface water runoff generated by the development is therefore proposed to be discharge to the surface water public sewer located at the A49/A4103 junction. The discharge rate will be limited to the rate agreed with Dwr Cymru Welsh Water (DCWW).

Whilst we would prefer to see surface water discharged to a watercourse instead of the public sewerage network, we agree that in this instance a connection to the sewerage network would be an appropriate approach to avoid the need for a pumped outfall.

A separate drainage system is proposed for the surface water runoff generated by the proposed roads within the development. The Applicant proposes to discharge road runoff to the existing highway drainage system in the A49. The discharge rate will be limited to the rate agreed with the Highway Agency (HA). If it is confirmed by the HA that no connection can be made into the A49 highway drainage system, then DCWW have confirmed that they would accept highway flows into their existing public sewerage system.

Where possible and in accordance with the submitted FRA, the Applicant should promote the use of SUDS, particularly the use of on-the-ground conveyance and storage systems that provide attenuation, treatment, biodiversity and amenity benefits.

The Applicant calculated the required surface water attenuation storage volumes for the development and for the new roads. They were calculated for the 1 in 100 year event with 30% climate change allowance. The calculations are found to be satisfactory.

Correspondence with DCWW is enclosed in the submitted FRA.

The Applicant must consider the management of surface water during extreme events that overwhelm the surface water drainage system and/or occur as a result of blockage. Surface water should either be managed within the site boundary or directed to an area of low vulnerability. Guidance for managing extreme events can be found within CIRIA C635: Designing for exceedance in urban drainage: Good practice.

The Applicant makes little reference to the treatment of surface water prior to discharge. Evidence of adequate separation and/or treatment of polluted water should be provided to ensure no risk of pollution is introduced to downstream receptors. Alternatively, evidence is required that confirms DCWW and/or HA do not require treatment prior to the discharge of surface water into their systems.

## Foul Water Drainage

The Applicant contacted DCWW in regards to foul water discharge from the site to the public sewers. DCWW confirmed that the foul water from the development can be discharged to the 225mm public foul sewerage located at the A49/A4103 junction.

Correspondence with DCWW is enclosed in the submitted FRA.

## Overall Comment

Overall, for outline planning permission, we do not object to the proposed development on flood risk and drainage grounds.

Should the Council be minded to grant outline planning permission, we recommend that the submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development is included within any reserved matters associated with the permission. The detailed drainage proposals should include:

## **Schools Organisation and Capital Investment Manager**

Schools affected:

Broadlands Primary - As at the School Spring Census 2014 all year group have space capacity. No Contribution.

St Pauls CE Primary - As at the School Spring Census 2014 5 year groups were at or over capacity.

St Francis RC Primary - As at the School Spring Census 2014 5 year groups were at or over capacity.

Aylestone Secondary - As at the School Spring Census 2014 all year groups have space capacity. No Contribution.

St Mary's RC Secondary - As at the School Spring Census 2014 4 year group were at or over capacity. 8% contribution.

Contribution per house as follows:

Contribution by No of Bedrooms	Pre-School	Primary	Secondary	Post 16	Youth	SEN	Total
2+bedroom/apartment	£117	£1,084	£ 82	£87	£ 432	£ 89	£1,891
2/3 bedroom house/bungalow	£244	£1,899	£155	£87	£ 583	£138	£3,106
4+ bedroom	£360	£3,111	£320	£87	£1,148	£247	£5,273

## **Parks and Countryside Manager:**

On site POS provision

Amount: It is noted in the Design and Access Statement that the on site POS provision totals circa 0.2ha. This includes 2 areas of "POS":

In accordance with UPD Policy H19 and Policy RST3, schemes of 52 houses using the standard population rate of 2.3 which equates to 119 persons approximately would require the following on site provision:

- 0.04ha POS
- 0.09 ha Play to include both formal and informal. This total 0.13ha

Therefore provision of 0.2 ha would adequately meet these requirements. That said, the applicant has indicated 2 areas of on-site POS:

- 1 x larger area centrally located to provide informal recreation and play
- 1 x smaller "gateway" area to provide an attractive pedestrian access as part of the public right of way (PROW).

There is no indication of the individual sizes of these areas and we would only consider the larger of the two which is specifically identified as recreation and play space as "usable" POS in meeting the 0.13 ha requirement, therefore we would ask the applicant to confirm that this is the case. Although the exact size of the small "gateway" POS is not known, given its purpose (the applicant has considered its purpose from an aesthetic point of view) unless otherwise laid out, this would not be considered to provide much if any recreational value therefore should be taken out of the overall offer of POS.

Access and Layout: All POS should be Integrated within the development, provide connectivity to other areas of POS and be easily accessible via a good network of footpaths and cycle-ways. Although the applicant has considered access to the wider network of green spaces and pedestrian links outside of the proposed development there seems to be little consideration to providing "internal pedestrian/cycle links" between the areas of green space, PROW and central POS to create a more joined up network of POS enabling safer and easier access by local residents.

With some changes to the overall housing layout it looks to be possible to create one larger fairly central POS space (possibly linked) incorporating both POS areas. From a user and maintenance point of view this will be more sustainable offering a larger more multi-functional community space.

As per my pre app comments, on a development of this size we would expect to see a combination of one larger formal central play area for all ages, space for a kick about area and opportunities for informal recreation. If appropriate, this could combine semi natural open space, such as SUDs areas which can be used for informal recreation, wildlife corridors and biodiversity If designed appropriately.

At the appropriate time, we would be able to advise further on what we would require on site Including design, size and costs of formal equipment: as a guide the Fields In Trust (which has replaced the National Playing Fields Association 6 acre standard) suggest children's play at 0.25ha per 1000 pop to include 0.25ha formal and 0.55h Informal play per 1000 pop.

### **Future Maintenance and Commuted Sums**

Suitable management and maintenance arrangements will be required to support any provision of open space and associated infrastructure within the open space in line with the Council's policies. This could be by adoption by Herefordshire Council with a 15 year commuted sum plus appropriate replacement costs; or by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

## **Draft Heads of Terms**

Outdoor Sports: It is noted that in the Draft Heads of Terms the applicant has stated that "any further off site contribution to POS and sports facilities will be agreed with Herefordshire Council as required, in accordance with the level of existing provision within the vicinity of the development".

For a development of less than 60 in accordance with UDP Policy H19 there is no requirement to provide either on or off site facilities for outdoor sports.

Indoor Sports: We do ask for a Sport England contribution in accordance with the SPD on Planning Obligations from all residential development of over 10 and a contribution based on market housing only. This is subject to a piece of work currently being undertaken to complete the Indoor Sports Facility Investment Plan. This will include future proofing (2031) to identify deficiencies in existing provision both quantity and quality above and beyond investment required to bring facilities up to a standard which is fit for purpose. This work will identify where additional investment is required in meeting future needs and includes facilities managed by HALO. It may be the case that this contribution is not required.

### **Housing Manager**

I have been in discussions with the developer and can confirm that the tenure split and mix has been agreed in principle as 50% social rent and 50% intermediate tenure. However, having looked at the supporting documentation, I would like to bring to your attention that the Draft Heads of Terms and the Affordable Housing Statement differ with regards to the tenure agreed. I would like to seek clarification that the developer will be providing social rent and not affordable rent as stated in the Affordable Housing Statement.

The units would need to be built to Homes and Communities Design and Quality Standards, Lifetime Homes and Level 3 of the Code for Sustainable Homes with local connection to the parish of Holmer.

The exact location of the affordable housing units will need to be agreed prior to the submission of reserved matters, but would advise that they should be well integrated within the development.

## **5. Representations**

5.1 Holmer and Shelwick Parish Council object to this application for the following reasons:

- The development impacts on three listed buildings in the area
- It impacts the view on a prominent footpath
- The development is too close to the burial ground border
- The density of the development
- The access is proposed to go out onto the A49 on a bend which the parish council feel is a traffic safety issue.
- The proposal did not mention the 30mph speed limit being extended on the A49 to alleviate any safety issues.

- Pedestrian safety is an issue as the current pavements are not suitable or safe so the development is not sustainable.
- Also the parish Council feels there is a lack of detail in the proposal.

Additional comments have been received as follows:-

The Parish Council would like to clarify the position regarding the burial ground.

When Crest obtained their consent for the Furlongs on Roman Road they agreed as part of the Section 106 monies to give the Parish £15,000 to extend the burial ground.

Due to the physical constraints, being the A49 on the Western boundary, a pond to the North and a high pressure network water main to the East, the burial ground can only be extended to the South.

Crest Development will have doubled the population of the Parish with their Furlongs development and therefore should acknowledge the need to make provision for burials.

The Parish will require the squaring off of the Southern boundary, making a worthwhile extension.

## 5.2 Hereford Civic Society

Hereford Civic Society objects to this application. At a full Council meeting (7.3.14) a motion was passed that:- all new housing proposals should consider "the highest possible energy efficiency standards, Passivhaus, AECB Silver Standard or similar. Orientation and suitability for renewable energy systems, especially passive solar and large-scale active solar should also be included at the design stage of any development." Clearly that hasn't occurred here, where even the most basic of environmental considerations - that of orientation - has not been considered. There is concern that this is just a big cul-de-sac.

## 5.3 Nine letters of objection/representation have been received the main points are:-

1. Highway concerns on a very busy road where the 30mph sign only starts by the burial ground. If approved 30mph restriction should be moved further north.
2. Pavement to east side of A49 would be helpful.
3. Traffic lights are required to provide a safe access.
4. Traffic calming measures required.
5. Need for a crossing facility.
6. Lack of infrastructure, roads, sewerage.
7. Set a precedent for more dwellings.
8. Burial ground is nearly full.
9. Insensitive development next to burial ground.
10. Impact on setting of listed buildings.
11. Loss of privacy and security

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Further information on the subject of this report is available from Mr K Bishop on 01432 260756

- 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:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

## 6. Officer's Appraisal

The application is made in outline with all matters reserved except for access and involves the erection of up to 52 dwellings on land east of the A49 Trunk Road opposite St Bartholomew's Church, Holmer, Hereford. The site is outside but near to the settlement boundary for Hereford City as defined by the Unitary Development Plan, but falls within the parish of Holmer.

The key issues are considered to be:-

- An assessment of the principle of development at this location in the context of 'saved' UDP policies, the NPPF and other material guidance;
- An assessment of the sustainability of the scheme having regard to the scheme's impact on the existing settlement in terms of landscape character and amenity and surface water drainage;
- An assessment on the impact of the development on listed buildings/structures and Ancient Monuments( Heritage Assets); and
- Impact on Highway Safety

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

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

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

- 6.3 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The plan is time-expired, but relevant policies have been 'saved' pending the adoption of the Herefordshire Local Plan - Core Strategy. UDP policies can only be attributed weight according to their consistency with the NPPF; the greater the degree of consistency, the greater the weight that can be attached.

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

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

- 6.5 The effect of this paragraph is to supersede the UDP with the NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply

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Further information on the subject of this report is available from Mr K Bishop on 01432 260756

deficit, the housing policies of the NPPF must take precedence and the presumption in favour of approval as set out at paragraph 14 is engaged if development can be shown to be *sustainable*.

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

- *“Approving development proposals that accord with the development plan without delay;&*
- *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

*any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.”*

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

6.7 The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years’ worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and 11-15. Paragraph 47 underlines that UDP housing supply policies should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

#### ***The Council’s Housing Land Supply***

6.8 The Council’s published position is that it cannot demonstrate a five year supply of housing land. *This was the published position in April 2012 and again in July 2012 and has been reaffirmed* by the recently published Housing Land Supply Interim Position Statement – May 2014. This, in conjunction with recent appeal decisions, confirms that the Council does not have a five year supply of deliverable housing land, is significantly short of being able to do so, and persistent under-delivery over the last 5 years renders the authority liable to inclusion in the 20% bracket.

6.9 In this context, therefore, the proposed erection of 52 dwellings, including 35% affordable, on a deliverable and available site is a significant material consideration telling in favour of the development to which substantial weight should be attached.

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

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

6.11 The pre-submission consultation on the Draft Local Plan – Core Strategy closed on 3 July. At the time of writing an Independent Inspector is in the process of examining the Core Strategy in order to determine its soundness. The majority of the Core Strategy policies were subject to objection and, as the examination in public is not yet complete, can be afforded only limited weight for the purposes of decision making. It is the case, however, that within the draft Local Plan, Hereford, as the main population centre, remains the principal focus for housing and related growth over the plan period (2011-2031).

## **An Assessment of the Sustainability of the Proposals**

- 6.12 The presumption in favour of the approval of sustainable development may only be engaged if a development proposal demonstrates that it is representative of sustainable development. Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions. The NPPF thus establishes the need for the planning system to perform a number of roles including, *inter alia*, providing the supply of housing required to meet the needs of present and future generations and by creating a high quality built environment.
- 6.13 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes.
- 6.14 Although not allocated for housing development; it being the intention in Herefordshire that specific area and neighbourhood plans fulfil this function, the site has been assessed via the Strategic Housing Land Availability Assessment as having major constraints due to landscape sensitivity; although the current application is testimony to the site's availability and deliverability. In the context of persistent under-delivery, officers consider the immediate deliverability of this site to be a material consideration.
- 6.15 The Council's Conservation Manager (Landscapes) has objected to the development on the basis that it represents an incursion into the sensitive part of the urban fringe identified as High to Medium sensitivity. The objection is made on the basis that residential development is uncharacteristic of the principal settled farmlands character type and likely to be highly visible and impact upon the historic setting of nearby listed buildings. It is concluded that the proposal would represent urbanisation contrary to the existing pattern of dispersed dwellings in the locality contrary to 'saved' UDP policies DR1 (3), and LA2, which directs refusal of development that would adversely affect either the overall character of the landscape or its key features.
- 6.16 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the local and natural environment by "protecting and enhancing valued landscapes".
- 6.17 Paragraph 113 recognises, however, that it is necessary to make distinctions between the hierarchies of landscape areas in terms of whether the designation is of international, national or local significance. This is in order that protection is "commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks." As such, although the harm with adopted UDP policies is acknowledged, the site itself is not subject to any of the specific policies of the NPPF that indicate that development should be restricted in relation to Conservation Areas or AONB. To this extent, therefore, although conflict with the environmental role of sustainable development is identified, it is necessary to weigh this harm against the benefits of the proposal in conducting the 'planning balance'. Refusal should only ensue if the decision taker considers that the adverse impacts associated with approval "significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF when considered as a whole" – the paragraph 14 'test'.
- 6.18 In addressing the planning balance, decision-takers need to consider both benefits and adverse impacts.
- 6.19 Beyond the benefits associated with affordable housing provision and increased breadth of housing choice locally, the site is considered to represent a sustainable location for housing growth in terms of good access to, amenities and employment. The Highways Agency and Transportation Manager have confirmed that accessibility can be achieved through non-car borne access to local shops, schools and employment opportunities and it is this potential that

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Further information on the subject of this report is available from Mr K Bishop on 01432 260756



off-sets concerns in relation to the potential for increased pressure on the A49 Trunk Road. The provision of a combined cycle/footpath along the frontage of the site to link into Church Way and further enhances non-car borne access as well as improving accessibility in the area. In this respect, therefore, officers consider that the proposal would be consistent with the economic and social dimensions of sustainable development.

- 6.20 The site has been assessed for surface water drainage and flood risk, the Council Drainage Consultants confirm no objection subject to a robust drainage system particularly within the junction which is identified as high risk to surface water flooding most likely due to the dip in the road. At paragraph 103 the NPPF sets out the expectations that development should not increase flood risk elsewhere. Applications should be informed by a site specific Flood Risk Assessment, as is the case here, and opportunities offered by new development to reduce the causes and impacts of flooding should be taken (para.100).
- 6.21 Officers are thus satisfied that an NPPF compliant drainage scheme is capable of being delivered in the event that planning permission is granted.
- 6.22 The application is made in outline and by definition all matters except access are be reserved for future consideration. Officers consider, however, that in terms of the economic and social dimensions of sustainable development, the development proposal is sustainable. The delivery of housing, including 35% affordable, in the context of a significant under-supply is a significant material consideration telling in favour of approval. Likewise the site is well related to a range of goods, services and amenities and well served by public transport provision. Positive impacts in relation to job creation and within construction and related sectors and the new homes bonus are also material considerations.
- 6.23 It has been identified, however, that the development would be at odds within the prevailing landscape character. The development would encroach upon open countryside in its relationship with Hereford City. Despite the concerns raised by the Council's Landscape Manager your officers consider this is a well contained site on the edge of the built up area which does not impact upon the wider landscape setting and importantly does not have a designation such as Conservation Area or AONB.
- 6.24 Listed Buildings and their settings located across the A49 road at St Bartholomew's Church and Holmer House Farm together with Copelands further to the east have been considered. The Conservation Manager has identified that substantial harm to the setting would occur. However English Heritage raise no objections and the applicants' report confirms it would be minor and therefore would cause only 'less than substantial harm'. This is an important aspect of the Planning Balance as when harm is identified considerable weight should be given creating a strong presumption against granting planning permission. Your officers consider that the separation of the site from St Bartholomew's Church and Holmer House Farm by the A49 Trunk Road and layby limits substantially the impact of the site from their settings. Also Copelands is sited over 65m to the east where the topography again limits impact albeit that the site boundary is contiguous with the western boundary of the curtilage of Copelands. I am therefore satisfied that any harm is less than substantial and that the benefits of the scheme outweigh the less than substantial harm it would cause in accordance with paragraph 134 of the NPPF.
- 6.25 Officers recognise this conflict and the aspiration that sustainable development should positively encompass the three dimensions as being mutually dependent. However, in the context of the housing supply deficit, officers do not consider that the limited conflict with one of the dimensions should necessarily lead to refusal and in taking this view are mindful of the absence of an international or national landscape designation on site. On balance, therefore, officers conclude that the presumption in favour of sustainable development can be engaged and that a decision should be taken in the light of paragraph 14 of the NPPF.

## Other Matters

### *Highway Safety*

- 6.26 The Highways Agency has no objection to the proposal. The proposed junction is in accordance with standards and gives adequate visibility to the nearside of the carriageway in each direction. The impact of additional traffic on the network is not considered sufficient to cause concern in relation to the NPPF advice which confirms that “development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.” On this matter the scheme is considered to comply with saved UDP Policy DR3 and the NPPF. The Council’s Transportation Manager is also satisfied but will require significant improvements to the indicative plan at the Reserved Matters stage when the finer detail can be resolved.

### *Ecology*

- 6.27 The applicant has confirmed that prior to commencement of the development, a full working method statement will be submitted to the local planning authority for written approval, and the work shall be implemented as approved.
- 6.28 The working method statement will be prepared in respect of protected species potentially present including bats, great crested newts and nesting birds.
- 6.29 The Conservation Manager in principle supports this application as the biodiversity interest of the site can be secured and enhanced.
- 6.30 In order to ensure there are no adverse effects on great crested newts and that no offences are committed in relation to this species the Working Method Statement will include detail of specific mitigation measures to be implemented. These will include:
- Details of methodology for trapping and removal of great crested newts from site under a licence from Natural England.
  - Protection and retention of suitable terrestrial habitat within the site.
  - Protection and retention of habitat connectivity between ponds.
  - Details of creation of suitable habitats within proposed green-space including rough grassland and scrub/ structure planting, two drainage ponds suitable to support great crested newts and refuges and hibernacula.
  - Enhancement of existing ponds.
  - Design prescriptions for a wildlife culvert to allow amphibians and small mammals to cross under the access road.

### *Foul Drainage*

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

### *S106 Contributions/Off Site Improvements*

- 6.32 Off-site highway improvement projects have been identified as measures to increase the likelihood of non-car borne movements and include a new 2.5m combined cycle and footpath, funding towards a pedestrian controlled crossing of the A49 (278 Highway Agreement),

improvements to bus passenger waiting facilities and extension of the 30mph limit. These projects will be included within the Draft Heads of Terms (attached) for clarity. Other contributions include education, library, recycling facilities and public open space.

- 6.33 Contributions for the burial ground have been investigated, however, due to space still available at Holmer and spaces available in the main Hereford Cemetery for the next twenty years contributions could not be justified.

#### *Impact on the Amenity of Nearby Property*

- 6.36 The indicative layout confirms the site is capable of accommodating the 52 dwellings proposed without undue impact on the living conditions associated with dwellings nearby. The density is equivalent to 28dw/ha, which is comparatively low, but appropriate within this zone of transition between town and country. However the layout could be better informed with single storey buildings on the higher ground near the burial ground and dwellings moved away from the boundaries to enhance landscaping particularly on the eastern boundary. It should also be noted that the burial ground is at a higher level than the development site with a mature hedge. These are matters that can be resolved in the subsequent Reserved Matters application. It is therefore considered that in terms of impact upon adjoining land uses the scheme complies with saved UDP policies DR2 and H13.

#### *Affordable Housing*

- 6.37 The scheme makes provision for 35% affordable housing, which accords with policy. This proposal has the support of the Housing Development Manager which includes the proposed mix and tenure.

#### *Conclusions*

- 6.39 In accordance with S38 (6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 6.40 In the weighing of material considerations regard must be had to the provisions of the NPPF; especially in the context of a shortage of deliverable housing sites. It is acknowledged that the development places reliance upon the presumption in favour of sustainable development as set out at paragraph 14 of the NPPF in the context of a housing land supply deficit, but equally that the emerging policies of the Core Strategy are not sufficiently advanced to attract weight in the decision-making process.
- 6.41 The contribution that the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged. S106 contributions are also noted (although a signed undertaking has not been completed). When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged.
- 6.42 Officers consider that there are no highways, drainage or ecological related issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits. It is therefore recommended that planning permission be granted subject to the completion of a legal undertaking and appropriate planning conditions as stated below.

## RECOMMENDATION

Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary.

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. E01 Archaeological site investigation
6. I17 Scheme of foul drainage disposal
7. H01 Single access - no footway
8. H03 Visibility splays
9. H04 Visibility over frontage
10. H06 Vehicular access construction
11. H08 Access closure
12. H11 Parking - estate development (more than one house)
13. H17 Junction improvement/off site works
14. H21 Wheel washing
15. H27 Parking for site operatives
16. Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

17. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

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.

18. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

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Further information on the subject of this report is available from Mr K Bishop on 01432 260756

19. **Foul flows from the site shall connection to public foul sewerage system located to the South of the proposed development at manhole SO50426101.**
- Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.**
20. **No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been approved by the Local Planning Authority.**
- 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.**
21. **No development shall take place until a potable water scheme to satisfactorily accommodate the potable water supply to the site has been submitted to and approved in writing by the local planning authority. No part of the development shall be brought into use and no dwelling shall be occupied until the approved potable water system has been constructed, completed and brought into use in accordance with the approved scheme.**
- Reason: To protect the integrity of the existing public sewerage system and to prevent pollution of the environment.**
22. **No structure is to be sited within a minimum distance of 4.5 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.**
- Reason: In order to protect the integrity of the water main in accordance with policy**
23. **Adequate precautions are to be taken to ensure the protection of the water main during the course of site development.**
- Reason: In order to protect the integrity of the water main in accordance with policy**
24. **No part of the development hereby permitted shall be brought into use until the works as shown indicatively on Drawing No. C712/03 Rev A have been completed to the satisfaction of the Local Planning Authority in consultation with the Highways Agency.**
- Reason: To ensure that the A49 Trunk Road continues to serve its purpose as part of a national system of routes for the through traffic in accordance with Section 10 (2) of the Highways Act 1980 in the interest of road safety.**
25. **No trees or shrubs shall be planted within a strip measured 3m from the back of the visibility splay.**
- Reason: To ensure that the A49 Trunk Road continues to serve its purpose as part of a national system of routes for the through traffic in accordance with Section 10 (2) of the Highways Act 1980 in the interest of road safety.**

**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. **I05 - HN10 No drainage to discharge to highway**
3. **I06 - HN02 Public rights of way affected**
4. **I07 - HN08 Section 38 Agreement & Drainage details**
5. **I11 - HN01 Mud on highway**
6. **HN28 - Highways Design Guide and Specification**

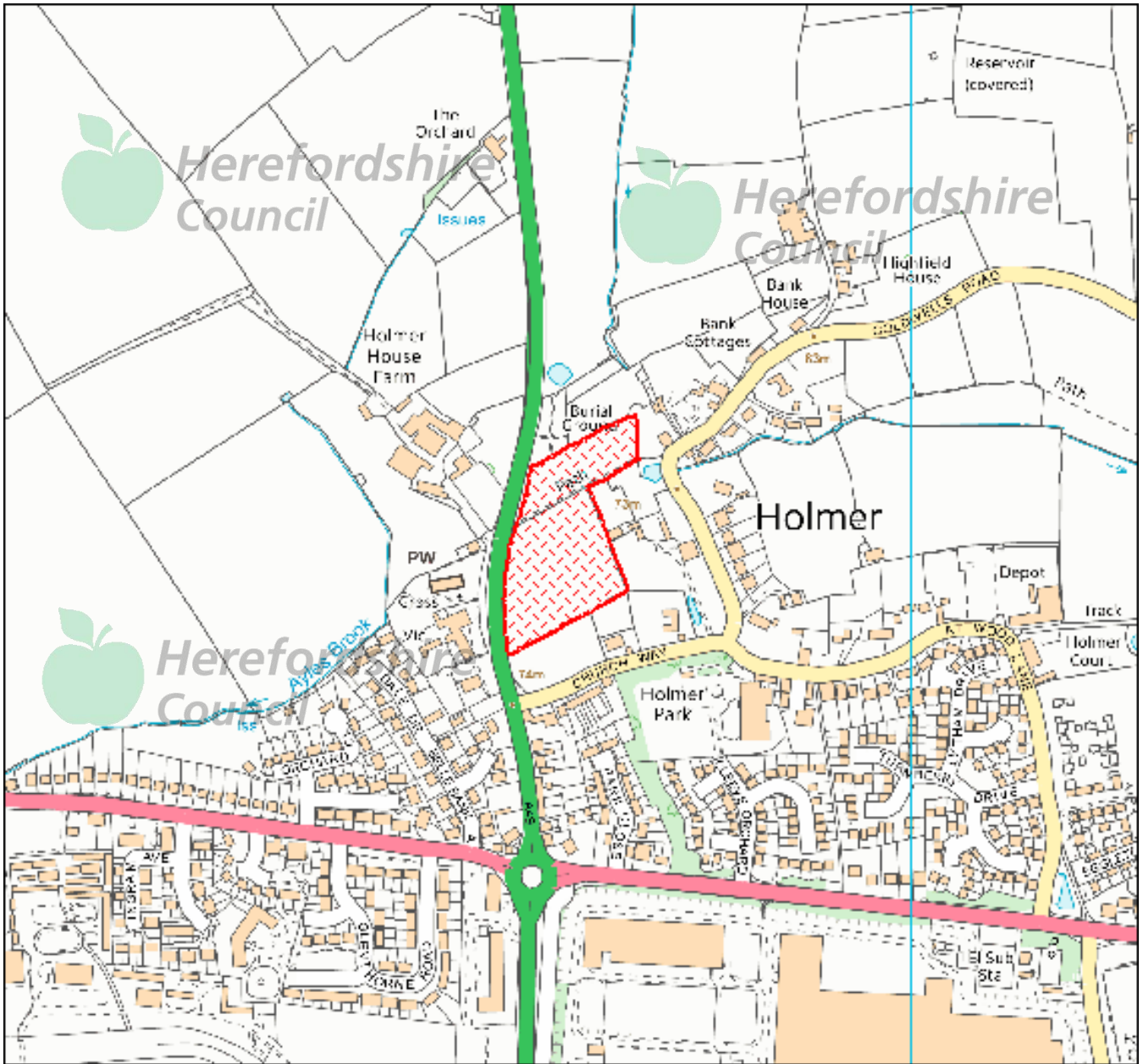
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 141487/O

**SITE ADDRESS :** LAND TO THE EAST OF THE A49, HOLMER, HEREFORDSHIRE

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Further information on the subject of this report is available from Mr K Bishop on 01432 260756

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

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2088. **All contributions are assessed against general market units only.**

Planning application: P141487/O

Site for the proposed erection of 52 no. residential dwellings, parking, landscaping, drainage and other associated engineering works. Vehicular access from A49. On land to the east of the A49, Holmer, Herefordshire.

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

<b>£1,891.00</b>	(index linked) for a 2 bedroom open market dwelling
<b>£3,106.00</b>	(index linked) for a 3 bedroom open market dwelling
<b>£5,273.00</b>	(index linked) for a 4+ bedroom open market dwelling

The contributions will provide for enhanced educational infrastructure at North Hereford Early Years, St Pauls Church of England Primary School, St Francis Roman Catholic Primary School (5% of contribution), St Marys Roman Catholic Secondary School (8% of contribution), youth services and the Special Education Needs Schools (1% of contribution). The sum shall be paid on or before first occupation of the 1<sup>st</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.

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

<b>£1,720.00</b>	(index linked) for a 2 bedroom open market dwelling
<b>£2,580.00</b>	(index linked) for a 3 bedroom open market dwelling
<b>£3,440.00</b>	(index linked) for a 4+ bedroom open market dwelling



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

The sustainable transport infrastructure will include:

- Pedestrian controlled crossing of the A49.
- Improvements to bus passenger waiting facilities within the vicinity of the development with the provision of shelters and dropped kerbs
- Extension of 30mph limit

*Note: A 2.5m footway/cycleway will be delivered by the developer adjacent to the A49 to Church Way, Holmer. This will be delivered as part of the section 278 highway agreement with the Highways Agency.*

3. The developer covenants with Herefordshire Council to provide 0.13 hectares of on-site Public Open Space comprising;
  - 0.04 hectares of Public Open Space (POS)
  - 0.09 hectares of play to include both formal and informal play

The POS shall be integrated within the development, providing connectivity to other areas of POS and be easily accessible via a goof network of footpaths and cycleways. Consideration should be given to providing 'internal pedestrian/cycle links' between the areas of green space, the Public Right of Way and the central POS to create a more joined up network of POS enabling safer and easier access by local residents. The on-site public open space shall be made available on or before occupation of the 1<sup>st</sup> open market dwellinghouse.

4. The developer covenants with Herefordshire Council to either pay Herefordshire Council a 15 year commuted sum for maintenance of the on-site Public Open Space (POS), if to be adopted by the Council. Such sum to be calculated in accordance with the Council's tariffs. Alternatively, the maintenance of the on-site Public Open Space will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable ongoing arrangement; or through local arrangements such as the parish council or a Trust set up for the new community for example. There is a need to ensure that good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

*Note: The attenuation basin will be transferred to the Council with a 60 year commuted sum. This will be done as part of the land transfer.*

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

<b>£120.00</b>	(index linked) for a 1 bedroom open market dwelling
<b>£146.00</b>	(index linked) for a 2 bedroom open market dwelling
<b>£198.00</b>	(index linked) for a 3 bedroom open market dwelling
<b>£241.00</b>	(index linked) for a 4+ bedroom open market dwelling

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

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£120.00** (index linked) per dwelling. The contributions will provide waste reduction and recycling in Hereford. The sum shall be paid on or before first occupation of the 1<sup>st</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.
7. The developer covenants with Herefordshire Council that 35% (up to 18 units) of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations 2008.
8. Of those 18 Affordable Housing units, at least 9 shall be made available for social rent with the remaining 9 being available for intermediate tenure occupation.
9. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 80% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.

10. 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:-

10.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and

10.2 satisfy the requirements of paragraph 12 of this schedule

11. 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:-

11.1 a local connection with the parish of Holmer;

12.2 in the event there being no person with a local connection to the parish of parish of Holmer the parishes/wards of Pipe & Lyde, Sutton St Nichols, Withington, Lugwardine, Three Elms and Aylestone;

12.3 in the event there being no person with a local connection to the above parish 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 11.1 above

13. For the purposes of sub-paragraph 12.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:

13.1 is or in the past was normally resident there; or

13.2 is employed there; or

13.3 has a family association there; or

13.4 a proven need to give support to or receive support from family members; or

13.5 because of special circumstances

14. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
15. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
16. In the event that the Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 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.
17. The sums referred to in paragraphs 1, 2, 5 and 6 above shall be lined to an appropriate index of indices selected by the Council with the intention that such sums will be adjusted according to any percentage in prices occurring between the date of the Section 106 Agreements and the date the sums are paid to the Council.
18. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before commencement of the development.
19. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>11 FEBRUARY 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>P141651/O - SITE FOR RESIDENTIAL DEVELOPMENT OF UP TO 100 DWELLINGS, WITH ASSOCIATED MEANS OF ACCESS AND CAR PARKING FOR THE FULL PITCHER PUBLIC HOUSE AT LAND TO THE REAR OF THE FULL PITCHER, NEW STREET, LEDBURY, HR8 2EN</b></p> <p><b>For: The Silverwood Partnership &amp; Enterprise Inn Plc per Ms L Wilkinson, D2 Planning, Suites 3 &amp; 4 Westbury Court, Church Road, Westbury on Trym, Bristol, BS9 3EF</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141651&amp;search=141651">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141651&amp;search=141651</a>
<b>Reason Application Submitted to Committee – Contrary to Policy</b>	

**Date Received: 5 June 2014**

**Ward: Ledbury**

**Grid Ref: 370470,236849**

**Expiry Date: 10 September 2014**

Local Members: Councillors PL Bettington, EPJ Harvey and TL Widdows

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

- 1.1 The site comprises 2.75 hectares of generally flat recreation land located to the east of New Street, Ledbury, on an area to the rear of The Full Pitcher Public House. The land is currently used as a cricket pitch and is an area of managed grassland. The boundaries to the north, south and east are formed with tall and unmanaged hedgerows while the western boundary is a post and wire fence along the rear of The Full Pitcher Public House. A public footpath also crosses the existing cricket pitch. A football pitch is also used on the cricket outfield during the winter. The land rises gradually from the rear of the Public House to the top of the site.
- 1.2 The site is located on the south-western edge of the town and adjacent to the A417. The site is adjoined to the north by Ledbury Town Football Club, to the east by an area of open space associated with a neighbouring residential estate with New Street and Leadon Way (A417) forming the western and southern boundaries respectively.
- 1.3 The application is made in outline and is for the erection of up to 100 dwellings. All matters apart from means of access are reserved for future consideration. The proposal also includes details of a revised parking layout for The Full Pitcher Public House. The detailed arrangements for access show a new junction on New Street.
- 1.4 The application is submitted with the following documents:
  - Design & Access Statement
  - Transport Assessment
  - Flood Risk Assessment and Surface Water Drainage Strategy

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

- Open Space / Recreational Needs Assessment
- Ecological Appraisal
- Affordable Housing Statement
- Draft Heads of Terms Agreement

## 2. Policies

### 2.1 National Planning Policy Framework:

The following sections are of particular relevance:

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

### 2.2 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
T8	-	Road Hierarchy
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
NC1	-	Biodiversity and Development
NC8	-	Habitat Creation, Restoration and Enhancement
RST4	-	Safeguarding Existing Recreational Open Space

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

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land For Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
LB1	-	Development in Ledbury
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

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

SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

### Neighbourhood Planning

- 2.4 An emerging neighbourhood plan may be a material consideration once it has reached submission / local authority publication stage (Regulation 16). In the case of the Ledbury, a neighbourhood area was designated on 12<sup>th</sup> November 2012 and work has commenced on a plan but this has not yet reached Regulation 14 stage. Therefore no material weight can be applied in the Planning Balance.
- 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:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

### **3. Planning History**

- 3.1 There is no history on the application site that is specifically relevant to this application. However, the following relate to an adjoining site and are considered to be relevant:

100939/F - Proposed new access and car park layout and demolition of existing bungalow – Refused 30<sup>th</sup> June 2010.

112337/F - New access and car park layout following demolition of existing bungalow – Refused 11<sup>th</sup> November 2011

Whilst not clear from the description of development, both of these applications sought to provide car parking for Ledbury Town Football Club. Both applications were refused for similar reasons relating to the over-engineered design of the access onto New Street, the fact that the schemes over-provided parking at a level in excess of the Council's adopted parking standards and due to the detrimental effect that the proposal would have had on the street scene.

### **4. Consultation Summary**

#### Statutory Consultations

- 4.1 **Sport England** - It is understood that development of the site, and its replacement will in principle allow the cricket club to have a bigger, better site with security of tenure allowing the club to grow as they aspire. It is noted that the Open Space Needs Assessment accompanying the application refers to a concurrent planning application for the relocation of the existing cricket club facilities to a brand new, purpose built site to the south of Ross Road/west of Orllham Lane. The site is stated to provide a junior and senior cricket pitch as well as a new cricket pavilion and is half a mile from the existing site.

Whilst the intentions are set out and Sport England could in principle support the proposal as it would meet our Exception E4 to the loss of playing fields, it is vital that the replacement facilities are subject to a detailed planning application which is determined at the same time/before this application.

In order for Sport England not to object to this current planning application, the planning application, P142517/F, for the relocation would need to be approved, and the facilities be operational before work could start on the redevelopment of this site for housing.

Therefore, Sport England maintains its objection to this application on the basis that it will result in the loss of playing field, until a suitable Section 106 agreement, or other legal mechanism is delivered, or arrangements are confirmed on replacement provision.

Sport England can confirm that once a suitable section 106 agreement or other legal mechanism has been signed, we will withdraw our objection. Sport England would be pleased to discuss the contents of the section 106 agreement or other legal mechanism, with a view to withdrawing the current objection.

Should your Authority be minded to approve the application without an acceptable section 106 agreement or other legal mechanism in place, then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, and the National Planning Policy Guidance, the application should be referred to the National Planning Casework Unit.

#### 4.2 Severn Trent – No objection subject to conditions

##### Internal Council Consultations

4.3 Transportation Manager - I am content that the speed regime south-bound in New Street, and the roundabout works will bring speeds down to that where the Stopping Sight Distance is small enough that rear-end shunts into vehicles waiting to turn right into the development will be unlikely. In any case, the peak flows south-bound on New Street show that there will be sufficient breaks in the traffic to limit queueing behind right turning vehicles.

The amendments to the roundabout, once implemented will slow traffic exiting the roundabout to New Street. This will obviate the need to provide a right turning lane into the proposed development.

4.4 Conservation Manager (Ecology) – No objection subject to the imposition of a condition to secure an ecological mitigation and enhancement scheme in accordance with the recommendations of the ecology report submitted as part of the application.

4.5 Public Rights of Way Manager – No objection as the proposal does not appear to affect public footpath LR35

4.6 Housing Development Officer – No objection subject to the provision of affordable housing.

4.7 Parks & Countryside Manager - The principal of this proposal is supported in meeting the need identified by the Herefordshire Playing Pitch Assessment 2012 and policy requirements to require alternative provision of at least equivalent community benefit. A comprehensive proposal to show that It is possible for the cricket club to develop facilities of a least equivalent quality which are sustainable and that the proposed site is suitable, both in planning terms and In meeting the clubs needs in being fit for purpose is required before this application is determined. This should include details of phasing/ timescales/ estimated costs/financial support. The new facility should be ready for use prior to the closure of the existing.

In their Design and Access Statement, the applicant acknowledges that open space provided within the development will be by agreement with the Local Authority.

4.8 Education: No objection subject to the provision of financial contributions as outlined in the Heads of Terms Agreement that accompanies the application.

4.9 Environmental Health and Trading Standards Manager - Records indicate two areas of unknown filled ground within the proposed development. They also suggest that the proposed development is within 250m of a known closed landfill site with some of the proposed residential development being within 100 metres. It will therefore be necessary for the applicant to



undertake a site investigation to consider the risk from the landfill to the development. Therefore we would recommend a condition be appended to any planning approval to ensure the site is both safe and suitable for its intended use.

## 5. Representations

5.1 Ledbury Town Council - Object to the application on the following grounds:

- The site is currently protected under UDP Policy RST4 Safeguarded Open Space.
- There is no provision made for the loss of the existing sporting facility on the site.
- Concerns over access and egress.

5.2 Ramblers Association – Pleased to note that the development does not require any diversion or extinguishment of the footpath but object to the application. The footpath passes through a pleasant open green space and is readily accessible to the nearby population. This proposal will completely change the nature of the site, both literally and visually, to detriment of the footpath users.

5.3 CPRE – Object to the application for the following reasons:

- It is important to protect open spaces within Ledbury.
- The built up area of Ledbury will be extended beyond its natural boundaries and would create a precedent for further development.
- Ledbury has made a substantial contribution towards housing development in recent years. More development will bring further pressure on the town's infrastructure.
- The problems experienced by the cricket club due to the nature of their tenancy should not carry much weight in the determination of this application.

5.4 Ledbury & District Civic Society – Object to the application on the following grounds:

- It has been suggested that the 100 dwellings proposed here will not contribute to the housing numbers required for Ledbury in the emerging Core Strategy. If this is the case then this is unreasonable.
- The application is made on the basis that a replacement cricket ground will be found. This should be fully established before outline planning permission is granted on this site.
- Ledbury is short of green spaces within the town. If permission is granted here there should be robust protection for the football ground next door.

5.5 Six letters of objection have been received in response to the public consultation period. In summary the points raised are as follows:

- The proposal results in the loss of a recreational area that is protected by UDP policy
- Ledbury lacks green spaces within the town environment
- The development will bring pressure to close the public footpath which crosses the site
- The existing open space on Villa Way, and adjacent to the application site, is not properly maintained. This is why the cricket pitch is used by dog walkers
- The proposal represents over-development
- There are inadequate services and facilities in Ledbury with particular concern about the capacity of schools and doctors surgery
- Concern about highway safety and intensification of traffic along New Street
- There is insufficient space to create a protected right turn and its implementation would increase the likelihood of accidents

- 5.6 One letter of support has been received. In summary the points raised are as follows:
- More houses are needed in the area
  - The proposal to replace the cricket pitch is in relatively close proximity to the town and will provide more opportunities for young people to be involved in sport
  - The provision of a protected right turn will improve highway safety
- 5.7 Correspondence has also been received from the freehold owners of the adjacent football ground. In summary the points raised are as follows:
- The scheme will result in the loss of the club's training pitch
  - Residential development immediately adjoining the boundary of the ground will be affected by existing floodlighting and match day attendances
  - Is there an intention for a landscaped buffer or other form of noise attenuation between the site and football ground?
  - Would it be possible to condition any planning permission, should it be forthcoming, to reserve a point of vehicular access from the estate road to the football ground?
- 5.8 The consultation responses can be viewed on the Council's website by using the following link:-
- <http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

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

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

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

- 6.1 The site to which this application relates is currently used as a cricket pitch by Ledbury Cricket Club, and also contains a football pitch that has been used for training purposes by Ledbury Town Football Club. It lies within Ledbury's settlement boundary and therefore in this case the primary issue is not that of the release of land that has previously been considered as open countryside, but the potential loss of sports pitches. The key policies to consider are S8, RST1 and RST4 of the Herefordshire Unitary Development Plan (HUDP).
- 6.2 Specifically, Policy RST4 deals with the safeguarding of existing recreational open space. It is a criteria based policy that suggests that proposals that would result in the loss of public or private open spaces with recreational value, or facilities that help meet the needs of the community will not be permitted unless:
- There is a clear excess of outdoor playing space provision and/or open space in the area; or
  - Alternative provision of at least equivalent community benefit is provided in a convenient and accessible location.
- 6.3 The application site is privately owned and is rented to Ledbury Cricket Club on a short term lease. The club are reluctant to invest in the current site as they have no security of tenure and their short lease has meant in the past that they have been unsuccessful in their attempts to secure grant funding for improvements.
- 6.4 The public have a right of access across the field via a public footpath. However, as private land it is not otherwise generally available for public use. An area of public open space on Villa Way is located immediately to the east of the application site, separated from it only by a hedgerow.

- 6.5 The Herefordshire Playing Pitch Assessment advises that there is a shortfall of formal playing pitches in Ledbury and therefore the first of these criteria is not applicable. However, it will be noted that a separate application is to be considered for the provision of new cricket and junior football pitches on land at Orlham Lane, approximately 500 metres to the west of this application site (application reference P142517/F), and that the application is to be considered by Planning Committee with a recommendation for approval from officers.
- 6.6 The application for replacement facilities demonstrates that improved cricket and junior football provision would be made for the town were planning permission to be granted. The application has the support of the Council's Parks & Countryside Officer and of Sport England, and your officers are satisfied that the new facilities meet the second criteria of Policy RST4. Therefore the loss of the existing sports pitches and the principle of developing the land for housing is considered to be acceptable, subject to all other material planning considerations.
- 6.7 The comments received in relation to this application from Sport England are caveated that permission should not be granted unless alternative provision is secured. Both your officers and the applicant's agent acknowledge the importance of ensuring that new cricket facilities are provided and are capable of use before the re-development of the site takes place and this is reflected by a clause in the Heads of Terms Agreement attached to this report, which requires alternative provision to be made and capable of use before the development of this site takes place.
- 6.8 Paragraph 32 of the NPPF is key to the highway impact debate where it states:
- Plans and decisions should take account of whether improvements can be undertaken within the transport network that, cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*
- 6.9 The application has been amended since its original submission in terms of the manner in which access to the site is provided. It was initially intended to create a protected right turn into the site for vehicles approaching from the west. However, this is now omitted from the scheme following further discussions between the applicant's highway consultant and the Council's highway engineers. The changes to the proposal have resulted from separate proposals to make alterations to the roundabout that forms the A417 / A449 / New Street junction to improve its safety. These plans would see the narrowing of access / egress points on the arms of the roundabout, including New Street. With a proposal to create a protected right turn into the site these plans would not be feasible and therefore the applicant was asked to investigate the possibility of its omission. A 7 day traffic count on New Street within the locality of the proposed access was subsequently completed and a supplementary Transport Assessment has been submitted.
- 6.10 The Assessment shows that the peak flow in a single hour over the seven day period was 305 movements in a northerly direction (into Ledbury) and 102 in a southerly direction. The report also includes an assessment of the gap in traffic flows within the peak hour to see whether there would be capacity for vehicles turning right to be safely accommodated. This part of the assessment assumes that, based on a development of 100 dwellings, 50 vehicle movements would occur within the peak hour. The summary shows that there were 50 occasions where the gap between southerly traffic movements were in excess of 25 seconds. The report considers that, with vehicles travelling at a speed of 30mph, a five second gap is reasonable required to make a right turn safely, and it concludes that it is unlikely that the development would give rise to a situation where vehicles would be caused to queue back onto the roundabout as they wait to make a right turn.
- 6.11 The Council's Highway Engineer has considered and accepts the findings of the supplementary Transport Assessment. It is accepted also that there is not a requirement for a protected right

turn, thus facilitating the improvements to the roundabout. Although they are not required as a consequence of the development proposed, the applicant has indicated a willingness to part fund the improvement works as the costs of providing access to the site are reduced through the omission of the protected right turn.

- 6.12 The information contained within the supplementary Highway Assessment serves to demonstrate that, with the amended access arrangements, the proposal can be accommodated into the existing highway network with detriment to the safety of highway users. The alterations to the roundabout are considered to represent an improvement to safety and therefore the proposal is considered to accord with Policies DR3 and T8 of the HUDP and paragraph 32 of the NPPF.
- 6.13 The site is immediately adjacent to existing residential areas and forms a logical addition to the town for housing. The boundaries of the town are constrained to the south by the A417 and the substantial tree belt that runs along its northern side. The site has an obvious visual relationship with the town's built form and the proposal is considered to accord with Policy LA3 of the UDP which assesses the impact of development upon the setting of settlements.
- 6.14 Some of the letters of objection raise concerns about the proposed density of the scheme and consider that it represents over-development. The site amounts to 2.75 hectares and, based on a development of 100 dwellings, this would amount to 36 dwellings per hectare. This is not considered to be high density and would reflect the pattern of development within the locality and the proposal is considered to accord with Policies DR1 and H13 of the HUDP in this regard. The application is of course made in outline and therefore, should planning permission be granted, the detailed design of a scheme would be subject to further scrutiny through a reserved matters application.
- 6.15 On the basis of the amendments made to the proposed access, and that alternative cricket and football provision will be secured on an alternative site, it is concluded that the proposal represents a sustainable form of development and accords with the Herefordshire Unitary Development Plan and the National Planning Policy Framework. It has not been demonstrated that there are any material planning considerations that outweigh the presumption in favour of sustainable development and therefore the application is recommended for approval subject to the completion of a Section 106 Agreement and the conditions outlined below.

## **RECOMMENDATION**

**Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary.**

- 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 approved plans**
- 6. H02 – Single access - footway**
- 7. H06 – Vehicular access construction**

8. **H17 – Junction improvements / off site works**
9. **I18 – Scheme of foul drainage disposal**
10. **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 and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

11. **The Remediation Scheme, as approved pursuant to condition 10 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:** In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

12. **If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.**

**Reason:** In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

13. **The recommendations set out in Section 4.2 to 4.4 and 4.7 of the ecologist's report from Crossman Associates dated May 2014 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, a full working method statement with a habitat enhancement plan 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 and to comply with Policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

**INFORMATIVES:**

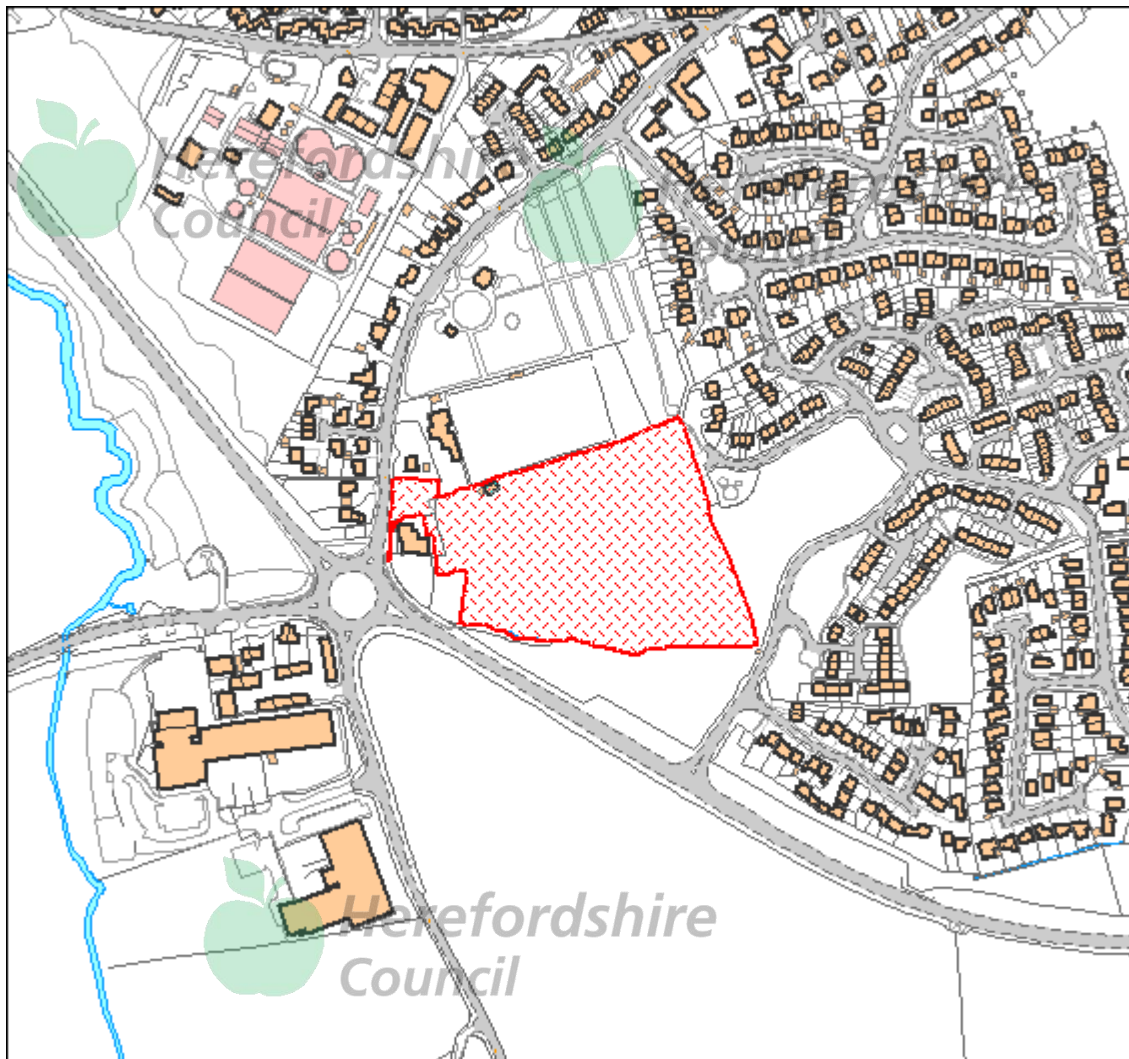
1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. The contaminated land report as required by condition 10 shall be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012. All investigations of potentially contaminated sites must undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.
3. I09 – Private apparatus in the highway
4. I35 – Highway Design Guide
5. I45 – Working within the highway

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 141651/O

**SITE ADDRESS :** LAND TO THE REAR OF THE FULL PITCHER, NEW STREET, LEDBURY, HEREFORD, HR8 2EN

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

# DRAFT HEADS OF TERMS

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

Planning Application – P141651/O

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

Site for residential development of up to 100 dwellings, with associated means of access and car parking for the Full Pitcher Public House, New Street, Ledbury

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

£2,845	(index linked) for a 2 bedroom apartment open market unit
£4,900	(index linked) for a 2/3 bedroom open market unit
£8,955	(index linked) for a 4+ bedroom open market unit

to provide enhanced educational infrastructure at Ledbury Early Years, Ledbury Primary School, John Masefield Secondary School, St Marys RC High School, Post 16, Youth Services and Special Education Needs. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

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

£1,967	(index linked) for a 2 bedroom open market unit
£2,952	(index linked) for a 3 bedroom open market unit
£3,933	(index linked) for a 4+ bedroom open market unit

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

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

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

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

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

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



4. 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 Ledbury. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.
5. The developer covenants not to permit the development of that part of the site currently used for sporting activities until such time as the new cricket pitches to secure the relocation of the cricket club to the site at Orham Lane, Ledbury (application reference P142517/F) have been completed and are capable of use, and a written offer has been made to the cricket club to transfer to the relocated site for consideration of One Pound (£1.00)
6. The developer covenants with Herefordshire Council that 40% (40 units – on basis of development of 100) 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.
7. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 80% 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 at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-:
  - 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 paragraphs 9 & 10 of this schedule
9. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
  - 9.1. a local connection with the parish of Ledbury
  - 9.2. in the event of there being no person with a local connection to Ledbury any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 9.1 above.
10. For the purposes of sub-paragraph 9.1 of this schedule ‘local connection’ means having a connection to one of the parishes specified above because that person:
  - 10.1. is or in the past was normally resident there; or
  - 10.2. is employed there; or
  - 10.3. has a family association there; or
  - 10.4. a proven need to give support to or receive support from family members; or
  - 10.5. 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 such subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation ‘Lifetime Homes’ standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
12. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 4 of the ‘Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes’ or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the

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

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 sums in paragraphs 1, 2, 3 and 4 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 and 4 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.

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

**30<sup>th</sup> January 2015**



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>11 FEBRUARY 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>P142517/F - PROPOSED ERECTION OF CRICKET PAVILION, FORMATION OF CAR PARK AND OVERFLOW CAR PARK AND ASSOCIATED ENGINEERING WORKS IN ASSOCIATION WITH THE RELOCATION OF LEDBURY CRICKET CLUB AND THE FORMATION OF A PROPOSED VEHICULAR ACCESS OFF ORLHAM LANE TO SERVE THE SITE AT LAND TO THE SOUTH OF ROSS ROAD, LEDBURY, HEREFORDSHIRE,</b></p> <p><b>For: The Silverwood Partnership &amp; Ledbury Cricket Club per Ms L Wilkinson, D2 Planning, Suites 3 &amp; 4 Westbury Court, Church Road, Westbury on Trym, Bristol, BS9 3EF</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142517&amp;search=142517">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142517&amp;search=142517</a>
<b>Reason Application submitted to Committee – Linked to application 141651</b>	

**Date Received: 14 August 2014**

**Ward: Ledbury**

**Grid Ref: 369726,236469**

**Expiry Date: 14 November 2014**

Local Members: Councillors E P J Harvey, PL Bettington and TL Widdows

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

- 1.1 The site comprises 5 acres of land located approximately 0.5km to the south west of Ledbury. The site is adjoined to the north by the A449 (Ross Road) and to the east by Orham Lane. The site is considered to be located in open countryside and is characterised by an undulating landscape within which small groups of houses and farmsteads have developed. Accordingly residential development is sporadic along Ross Road, whilst five dwellings are located on the eastern side of Orham Lane, opposite the application site.
- 1.2 The site itself is Grade 2 agricultural land and slopes from a high point in its north eastern corner to a low point at its southern boundary. It is bounded to the north and east by mature hedges, whilst southern and western boundaries are currently open as the site forms part of a larger agricultural field, with agricultural land further beyond.
- 1.3 The proposals comprise the erection of cricket pavilion, formation of car park and overflow car park and associated engineering works and the formation of a proposed vehicular access off Orham Lane, in association with the relocation of Ledbury Cricket Club from its current location to the rear of The Full Pitcher Public House, approximately 0.5 km to the east of the application site.

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

- 1.4 The site will provide 2 cricket squares - one for the senior team and one for the junior team. The site will also provide a junior football pitch, measuring 72m x 45m. A new cricket pavilion will be constructed in the north eastern corner of the site with car parking and a new access proposed onto Orlham Lane behind. The pavilion measures 16.3m x 9.75m and has an eaves height of 2.5m to the eaves and 5m to the ridge and will provide home and away changing rooms, a club room and associated kitchen/toilet facilities.
- 1.5 The application is separate from an application for the re-development of the existing cricket pitch for housing submitted under application reference P141651/O. The two proposals do however have a clear link and this is reflected in both submissions. The application for the housing site has made it clear that the existing site would not be developed until such time as alternative cricket facilities have been provided and this proposal seeks to ensure this. The applicant has also indicated a willingness to include clauses in a Section 106 Agreement for the re-development of the existing site to ensure that development should not commence until work to provide a new cricket pitch has reached an agreed level of completion.
- 1.6 The application has been amended since its original submission in order to provide more detailed information about drainage arrangements. The proposed pavilion has been re-positioned and re-designed to address initial concerns raised by Sport England. In its amended form the application is supported by the following documents:
- Amended elevations for the pavilion
  - Amended layout plan
  - Design & Access Statement
  - Supporting Statement
  - Highways Statement
  - Flood Risk Assessment
  - Planning notes and site specification
  - Ecological Appraisal
  - Feasibility Study

## 2. Policies

### 2.1 National Planning Policy Framework

- Achieving sustainable development – paragraphs 7 to 10
- The presumption in favour of sustainable development – paragraph 14
- Core planning principles – paragraph 17
- Promoting sustainable transport – paragraph 32
- Promoting healthy communities – paragraphs 70 and 73
- Conserving and enhancing the natural environment – paragraph 109

### 2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S8	-	Recreation, Sport and Tourism
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
NC1	-	Biodiversity and Development
RST1	-	Criteria for Recreation, Sport and Tourism
RST4	-	Safeguarding Existing Recreational Open Space

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

## 2.3 Core Strategy (Deposit Draft)

- SS1 - Presumption in Favour of Sustainable Development
- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- OS2 - Meeting Open Space, Sport and Recreation Needs
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity

## 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:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

## 3. Planning History

### 3.1 P142062/F – Change of use of land to form new cricket pitch – Withdrawn

The application provided insufficient information about the detailed elements of the proposal and was withdrawn once the current detailed application had been submitted at the request of officers.

## 4. Consultation Summary

### Statutory Consultations

#### 4.1 Severn Trent Water – No objection

#### 4.2 Welsh Water – No objection

#### 4.3 Sport England - We are satisfied that if the pavilion and pitch was to be laid out as shown on the drawings and specification, then the proposal would be fit for purpose. However it is our view that given there have been several reiterations of the scheme, it would be appropriate to refer to these drawings and specification in a planning condition to avoid any doubt or confusion.

This being the case, Sport England does not wish to raise an objection to this application.

### Internal Council Consultations

#### 4.4 Transportation Manager – No objection subject to the imposition of conditions

#### 4.5 Conservation Manager (Landscape) - The amended plans shown in drawing 1Q (dated Nov 2104) indicating the relocation of the single storey pavilion to the north east of the site are noted. The relocation is considered an acceptable amendment which has the potential to reduce the visual impact of the pavilion given its siting on lower land with additional hedgerow screening.

Further to a second site visit conducted on the 1st December, it is recognised that the proposal will require a degree of earthworks in order to facilitate the levelling of the pitch, thereby altering the natural landform to thus creating a manicured landscape. Notwithstanding the above the degree of harm is not considered to be such that it is significant to either the landscape character or visual amenity and therefore no objection is made.

It is recommended that landscaping proposals are submitted in conjunction with a management plan as part of a condition. The proposals should incorporate mitigation in the form of hedgerow

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tree planting along the northern boundary in addition to the reinstatement of a mixed native hedgerow along the southern site boundary in keeping with the restoration of the Landscape Character Type; Settled Farmlands on River Terrace.

Conservation Manager (Ecology) – No objection subject to condition

- 4.6 Land Drainage Engineer - Whilst we would prefer additional information to be submitted by the Applicant to support this application for development, we are confident that the options for surface water and foul water drainage as discussed by the Applicant will be adequate to prevent any increased risk of flooding to people and property elsewhere or pollution of the natural environment.

However, we do recommend that the following information is submitted to the Council for review and approval prior to construction:

- Provision of infiltration rates and depth to groundwater, with tests undertaken in accordance with BRE 365, to demonstrate that the proposed solution is appropriate to underlying soil conditions;
- Provision of a detailed surface water strategy for the entire development including the pavilion, sports pitch, car park and overflow car park, informed by the results of on-site infiltration testing;
- Details of the proposed outfall to the existing ditch along Orlham Lane;
- Provision of detailed calculations of the size of the proposed soakaways and/or attenuation features, demonstrating that discharge from the site will be limited to existing greenfield rates for a range of events up to the 1 in 100 year event and that sufficient onsite attenuation will be provided up to the 1 in 100 year event and allowing for the potential effects of climate change;
- Demonstration that appropriate pollution control measures are in place in the car park and overflow car park prior to discharge;
- Demonstration that the Applicant has considered designing for exceedance;

- 4.7 Parks and Countryside Manager - The proposed full planning application for the relocation of Ledbury Cricket Club to land off Orlham Lane/Ross Road in Ledbury and the development of a new facility and associated infrastructure is in support of loss of existing public open space and as such it needs to be considered together with the concurrent planning application at land behind The Full Pitcher for a residential development of up to 100 houses (P141651/0). The applicant has agreed from the evidence bases that the existing facility is not surplus to requirement and a replacement facility is required to meet both current and future needs of the club as identified in the Playing Pitch Assessment.

This application is supported in light of this and in recognition of the limitations of the club's existing facility which is not fit for purpose and cannot meet their future needs for an additional pitch. It is recognised that the proposed new facility will help meet this deficiency and those experienced by junior football. It will provide a bespoke new sustainable facility, meeting the future needs of the cricket club and will be of a better quality and community benefit to the current one. In providing additional junior football facilities it will enable more effective and sustainable use of existing facilities at Ledbury Town Football club and Ledbury Rugby club. To this end it is considered to adequately meet the needs of existing UDP policies S8, RST1 and RST4.

Existing Facility to be replaced: The existing facility at the Full Pitcher provides facilities for cricket and to a lesser degree football;

- 1 x cricket pitch and senior wicket used by Ledbury Cricket Club.
- 1 x football pitch used by Ledbury Town Football Club once the cricket season is over and at the behest of the cricket club. Use is therefore limited.
- 1 x cricket pavilion

Limitations of Existing Facilities (cricket and football): Playing Pitch Assessment for the Ledbury Area 2012:

supported by Ledbury Cricket Club/Ledbury Swifts: Junior Football/Ledbury Town Football Club.

- Quantity: Deficits in both cricket and junior football pitches:
  - o Ledbury Cricket Club requires a second pitch/wicket. There is no opportunity at the current site to do this.
  - o Lack of appropriate junior football pitches (9v9, 7v7 and 5v5s) creates over use at Ledbury Town Football Club by both senior and junior football and over use at the Rugby Club Ross Road for junior football as well as impacting on ancillary facilities including parking.
- Quality: Although the Playing Pitch assessment rated the cricket pavilion and changing provision as good this was prior to 2012 and in the meantime the wooden facility has further deteriorated and will soon need to be replaced to meet new modern standards of provision.
- Access: The Full Pitcher is a town centre site within easy access of residential areas but has limited parking as it is shared with the pub which creates security issues.
- Security: One of the biggest issues holding Ledbury Cricket club back is having a short-term rolling lease on their current ground. This precludes them from bidding for external funding to improve their facilities and grow the sport.

## 5. Representations

- 5.1 Ledbury Town Council – Resolved to support the application as originally submitted but did not comment on the amended plans as one councillor declared a disclosable pecuniary interest. His absence from the debate left the meeting inquorate.
- 5.2 CPRE object to the application on the basis that it will result in the loss of high quality agricultural land. They have also questioned the long term viability of the cricket club as no indication is given about future funding.
- 5.3 Eight letters of objection have been received from local residents. In summary the points raised are as follows:
- The proposal will result in the loss of prime agricultural land
  - The proposed use is out of character with the surrounding area
  - It would lead to nearby properties being overlooked and overshadowed by the proposed pavilion
  - There are concerns about safety from cricket balls falling into nearby properties
  - General disturbance to neighbouring properties resulting from the use of the land as proposed
  - The proposal is contrary to Policy RST4 as it is not 'in a convenient and accessible location'

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- Concerns about highway safety at the junction of Orham Lane and the A449
- Orham Lane is already used by commercial and private vehicles accessing Siddington Farm and the proposal will further intensify its use.
- Concerns about safety as pedestrians would be required to cross the A449
- Car parking provision is insufficient
- The creation of a new access onto Orham Lane will cause surface water run off from the land onto the A449
- Consideration should be given to amalgamating cricket with the existing rugby club site
- The proposed development will impede access to a private septic tank serving two properties to the west of the site. The only current means of access to it is via the field gate on Orham Lane
- The proposal doesn't benefit the community but simply eases the re-development of the existing cricket site for housing. The situation is being driven by profit

5.4 One letter of support has been received. Its author considers that Ledbury's sporting facilities need to be improved and that that the proposal allows for this

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

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

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

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

## 6. Officer's Appraisal

6.1 The application has arisen as the current cricketing facilities at the site behind the Full Pitcher are considered to be inadequate and are preventing the further expansion of the club. The Supporting Statement that accompanies the application highlights these facts and points out that they are also acknowledged in the Herefordshire Playing Pitch Assessment 2012. This is confirmed in the detailed comments from the Council's Parks & Countryside Manager.

6.2 The cricket club occupies its current site on a short term lease. This has meant that they have been unable to secure grant funding for the development of the site as they have no security of tenure. The consequence is that the existing cricket club only has one pitch, meaning that both junior and senior teams use the same pitch, causing a high level of degradation during the course of a season. The existing facilities are also of a poor standard and require replacement but, without funding, the club have been unable to achieve this at the current site. A growing membership has brought about an increased need to find a new site.

6.3 The proposal provides separate pitches for junior and senior use and also bespoke training facilities through the provision of three nets which are currently lacking at the existing site. Although the loss of the existing facilities will be considered under a separate application for the re-development of that site, the basic tenets of Policy RST4 are applicable in that the proposal will improve existing sports facilities. The comments from the Council's Parks & Countryside Manager confirm that there is currently a deficiency in junior cricket and football pitches and that this proposal will improve this situation. Facilities at the rugby club to the east of the application site are already overstretched as it currently caters for some junior football alongside its use as a rugby club. The use of this site for cricket and junior football is considered to be complementary as they are both seasonal activities. No objection has been raised to this aspect of the proposal by Sport England.

6.4 It is therefore concluded that the proposal meets an initial requirement of Policies S8 and RST1 of the UDP in that the new facilities proposed will address recognised shortages in formal provision, as identified by the Herefordshire Playing Pitch Assessment 2012.



- 6.5 The policies also require that the site should be readily accessible to the local population by a variety of means of transport and that it should reduce land take by ensuring shared use of facilities by different user groups. The supporting statement identifies a number of other sites that have been considered but these were either unavailable, prone to flooding, inappropriate in terms of their topography or, in the case of the rugby club, already subject to significant use. As the situation currently stands the application site is considered to be the best available in terms of its proximity to Ledbury. Although it will result in the loss of agricultural land, your officers are satisfied that there is no realistic proposition for the cricket club to share facilities at the rugby club as its facilities are already shared with local football clubs.
- 6.6 The need for additional sports provision has been highlighted by the Herefordshire Playing Pitch Assessment 2012, particularly cricket and football pitches as proposed by this application. This accords with the requirements of paragraph 73 of the National Planning Policy Framework which advises that planning policies for sport and recreation provision should be based on robust and up-to-date assessment of needs and opportunities for new provision. The proposal is also considered to fully accord with Policies S8, RST1 and RST4 of the HUDP for the reasons given above, and is supported by Sport England and the Council's Parks and Countryside Officer.
- 6.7 It is acknowledged that the scheme will have some landscape impact as it will require the land to be re-modelled in order to provide a flat playing surface. The information provided by the applicant's agent shows that this can be achieved through a process of cut and fill across the site and that there will not be a need for spoil to be exported from the site. Whilst the topography of the site will be changed and the creation of playing pitches will create a more formal appearance, it will remain as an open area and, but for the construction of a pavilion, storage building, car park and cricket nets, the majority is free from development. It should also be noted that the Council's Landscape Officer does not object to the proposal. She has visited the site on two separate occasions and concludes that the proposal will not unduly harm the landscape character of the area, subject to the imposition of landscaping conditions. On this basis the proposal is considered to accord with Policy LA2 of the HUDP.
- 6.8 It has been demonstrated through the completion of an ecological appraisal that the site currently has limited ecological value. This could be enhanced through additional boundary planning and is reflected in the recommendation of the Council's ecologist. The proposal is also compliant with Policy NC1 of the HUDP.
- 6.9 The pavilion and car park are discretely positioned in the north eastern corner of the site and, due to the existing roadside hedgerows in this location, are unlikely to be visually prominent in the wider landscape. The pavilion is modestly proportioned and is in excess of 30 metres from the closest property and is also intersected by the existing roadside hedge along Orlham Lane which is to be retained. Therefore the concerns raised by local residents regarding overlooking and overshadowing are considered to be unwarranted and do not justify the refusal of the application.
- 6.10 Paragraph 32 of the NPPF is key to the highway impact debate where it states:
- Plans and decisions should take account of whether improvements can be undertaken within the transport network that, cost effectively mitigate, the significant impacts of the development. Development should only be presented or refused on transport grounds where the residual cumulative impacts of the development are severe.*
- 6.11 The Highways Statement that accompanies the application highlights the existence of a footpath along the A449, from its junction with the A417 for the 500 metres to Orlham Lane. Although it is on the opposite side of the road to the application site, it does offer an opportunity for pedestrians to access the application site safely. It also provides details of the proposed visibility splays at the access onto Orlham Lane and also at the junction of Orlham Lane and the

A449. It concludes that in both cases visibility is entirely appropriate for the development proposed and can be achieved within the confines of the highway. The verges are wide both on Orham Lane and the A449 and this helps to provide unimpeded visibility. The proposal also includes a limited amount of widening of Orham Lane between the site access and the junction with the A449. It is considered that this aspect of the proposal will address the concerns raised by local residents about the narrowness of the lane and difficulties that are currently experienced with opposing vehicles passing one another, particularly with commercial vehicles accessing Siddington Farm.

- 6.12 The Council's Transportation Manager has visited the site and has considered the contents of the Highway Statement and, subject to the imposition of conditions, does not object to the proposal. On the basis of the details provided it is not considered that the proposal would give rise to severe cumulative highway impacts, and the proposal to widen part of Orham Lane would serve to mitigate existing traffic conflicts. It is therefore concluded that there is sufficient capacity within the local road network to accommodate the development proposed and that the proposal accords with Policies DR3 and T8 of the HUDP in respect of highway safety matters.
- 6.13 The Feasibility Study that accompanies the application sets out in some detail the works that are likely to be required to produce a pitch that is compliant with Sport England guidelines and, when read in conjunction with the drainage design plan and Flood Risk Assessment provides sufficient detail to satisfy the Council's Land Drainage Manager that the proposal will not give rise to unacceptable risk in terms of surface water run off. The submission of further details by condition are recommended and this is reflected in the recommendation. On this basis the proposal is also considered to accord with Policy DR4 of the HUDP.
- 6.14 The concerns raised by one local resident about access to a private septic tank are considered to be a civil matter between the property owner, landowner and applicant and are not material to the determination of the application.
- 6.15 In conclusion, it has been demonstrated that Ledbury has a shortfall of playing fields, particularly in respect of cricket and junior football, by the Herefordshire Playing Pitch Assessment. The scheme represents betterment of existing facilities and therefore the proposal accords with Policies S8, RST1 and RST4, and also the NPPF which requires local authorities to demonstrate the need for additional sporting facilities. Although the creation of cricket squares will formalise the appearance of the landscape and will require engineering works to create a level pitch, this is not considered to be so harmful to the appearance of the landscape to warrant refusal and can also be mitigated through new planting along southern and western boundaries. This will also serve a ecological enhancement. Your officers are satisfied that the development can be accommodated by the local road network and will not be detrimental to highway safety. The scheme is compliant with national criteria as set out by Sport England and they have confirmed that they do not object to the proposal. It is therefore concluded that the scheme is compliant with the HUDP and the NPPF and the application is accordingly recommended for approval, subject to the list of conditions as set out below.

## **RECOMMENDATION**

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

- 1. A01 – Time limit for commencement (full permission)**
- 2. B01 – Development in accordance with approved plans**
- 3. G10 – Landscaping scheme**
- 4. G11 – Landscaping scheme (implementation)**

5. H05 – Access gates
6. H13 – Access, turning area and parking
7. H17 – Junction improvements / off site works
8. H29 – Secure cycle parking provision
9. I41 – Scheme of refuse storage (commercial)
10. The development hereby approved shall be carried out in accordance with the ecological enhancements as set out in Section 4 of the ecologist's report from Crossman Associates dated July 2014. 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, and Policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006

11. Prior to the commencement of development the applicant shall submit the following information to the local planning authority for its written approval:
  - Provision of infiltration rates and depth to groundwater, with tests undertaken in accordance with BRE 365, to demonstrate that the proposed solution is appropriate to underlying soil conditions;
  - Provision of a detailed surface water strategy for the entire development including the pavilion, sports pitch, car park and overflow car park, informed by the results of on-site infiltration testing;
  - Details of the proposed outfall to the existing ditch along Orham Lane;
  - Provision of detailed calculations of the size of the proposed soakaways and/or attenuation features, demonstrating that discharge from the site will be limited to existing greenfield rates for a range of events up to the 1 in 100 year event and that sufficient onsite attenuation will be provided up to the 1 in 100 year event and allowing for the potential effects of climate change;
  - Demonstration that appropriate pollution control measures are in place in the car park and overflow car park prior to discharge;
  - Demonstration that the Applicant has considered designing for exceedance.

The development shall be carried out in accordance with the approved details.

**Reason:** In order to prevent groundwater pollution and to ensure that any surface water run-off from the site is mitigated, and to comply with Policy DR4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

**INFORMATIVES:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
  
- 2. I09 – Private apparatus in the highway
  
- 3. I35 – Highway Design Guide
  
- 4. I45 – Working within the highway

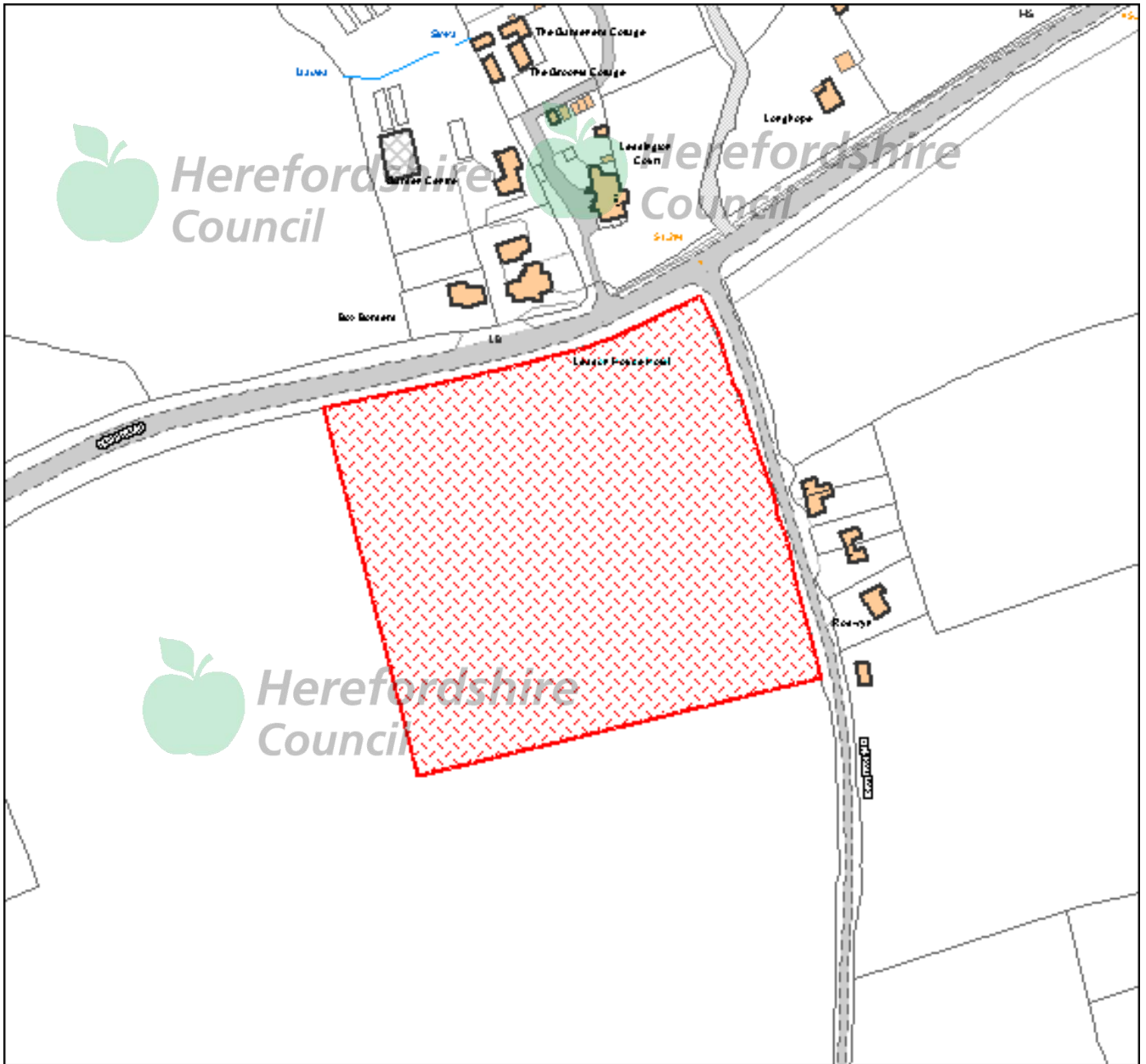
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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 142517/F

**SITE ADDRESS :** LAND TO THE SOUTH OF ROSS ROAD, LEDBURY, HEREFORDSHIRE

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

