

# AGENDA

## Planning Committee

Date: **Monday 16 March 2015**

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Time: **2.00 pm (or on the conclusion 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>P140928/N GELPACK INDUSTRIAL LTD, UNIT 4, STONEY STREET INDUSTRIAL ESTATE, MADLEY, HEREFORD, HR2 9NQ</b></p> <p>Proposed polythene film recycling and production facility, with associated parking and access.</p>	7 - 22
5.	<p><b>P143390/F THE ELMS, EARDISLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9BN</b></p> <p>Proposed erection of 10 houses with associated highway infrastructure and landscaping.</p>	23 - 42
6.	<p><b>143124 LAND REAR OF 53 YORK ROAD, BROMYARD, HEREFORDSHIRE, HR7 4BG</b></p> <p>Proposed development of 1 x 2-bedroom bungalow, together with 2 off road parking spaces.</p>	43 - 48
7.	<p><b>DATE OF NEXT MEETING</b></p> <p>Date of next site inspection – 24 March 2015</p> <p>Date of next meeting – 25 March 2015</p>	



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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MARCH 2015</b>
<b>TITLE OF REPORT:</b>	<b>P140928/N - PROPOSED POLYTHENE FILM RECYCLING AND PRODUCTION FACILITY, WITH ASSOCIATED PARKING AND ACCESS AT GELPACK INDUSTRIAL LTD, UNIT 4, STONEY STREET INDUSTRIAL ESTATE, MADLEY, HEREFORD, HR2 9NQ</b>  <b>For: Mr Northover per HLN Architects, 3rd Floor, 14 Cathedral Road, Cardiff, CF11 9LJ</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140928&amp;search=140928">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140928&amp;search=140928</a>
<b>Reason Application Presented to Committee – Council Land</b>	

**Date Received: 27 March 2014**      **Ward: Stoney Street**      **Grid Ref: 341622,237156**  
**Expiry Date: 30 July 2014**  
 Local Member: Councillor DC Taylor

**1. Site Description and Proposal**

- 1.1 The applicant's premises comprise an industrial complex just under 9 kilometres west of Hereford. Gelpack Industrial has operated here for approximately 20 years, and is associated with its sister establishment in Hereford, the Excelsior plant. Both manufacture polyethylene packaging and technical film, bags and sacks, mainly for the food and waste industries. The combined sites employ over 200 people.
- 1.2 The premises occupy part of the former wartime airfield between the villages of Clehonger and Madley. Madley Industrial Estate (MIE) adjoins the site and comprises a number of large buildings, including surviving WW2 airfield hangars. To the south east are further industrial units at Webton Court and Dene Villa. South of the main Gelpack site is an engineering factory. Poultry units have proliferated along the old runways to the north, and the western sector of the former airfield is now mainly agricultural. The site is accessed along the U73209 road (Stoney Street). The perimeter track and runways associated with the old airfield remain evident.
- 1.3 The proposal site is adjacent to the Gelpack site on the north side of the factory and the access road into the MIE area. It comprises a former Traveller 'stopover' site covering approximately 0.5 hectare, currently derelict and in the Council's ownership.
- 1.4 Waste plastic resulting from manufacturing processes is currently recycled at the Madley site but this entails transporting materials from Hereford and also to/from a storage facility at Moreton on Lugg. Space at Madley is limited, and outdoor storage has inherent problems.

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

- 1.5 The proposal is to construct a purpose-built recycling facility to process waste plastic to a high re-useable standard from both Gelpack premises. This would be entirely contained within a new modular building as follows:
- Single storey processing and logistics/materials reception;
  - Two-storey working area with a mezzanine element to include offices;
  - Pellet store area;
  - Higher section to accommodate equipment;
  - Two silos at the western end of the main building.
- 1.6 The overall internal floor-space is given as 1675 square metres with a footprint of around 1800 square metres, depending on final materials used. The plans indicate variable heights ranging from 16.2 metres for the silos, 13.7 metres for the machinery tower, 8.1 metres for the mezzanine area sloping down to 7.4 metres, and 5 metres high at the eastern end.
- 1.7 Also included would be parking for cars, and space for HGV deliveries including turning. Access would be from Stoney Street, via an existing shared access which also serves MIE.

## 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, 4, 7, and 11, and paragraphs 186-206 are particularly relevant. The **National Planning Policy Guidance (NPPG)** was introduced as on-line support in 2014. This also includes guidance on waste treatment facilities, formerly covered by Planning Policy Statement 10.
- 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
Policy S10	-	Waste

### Part II

Policy DR1	-	Design
Policy DR2	-	Land use and activity
Policy DR3	-	Movement
Policy DR4	-	Environment
Policy DR7	-	Flood risk
Policy DR9	-	Air quality
Policy DR10	-	Contaminated land
Policy DR11	-	Soil quality
Policy DR13	-	Noise
Policy DR14	-	Lighting
Policy E8	-	Design standards for employment sites
Policy T8	-	Road Hierarchy

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



Policy T9	-	Road freight
Policy LA2	-	Landscape character
Policy LA5	-	Protection of trees, woodlands and hedgerows
Policy LA6	-	Landscaping schemes
Policy NC1	-	Biodiversity and development
Policy NC6	-	Biodiversity Action Plan priority habitats and species
Policy NC7	-	Compensation for loss of biodiversity
Policy NC8	-	Habitat creation, restoration and enhancement
Policy NC9	-	Management of features of the landscape important for fauna and flora
Policy W1	-	New waste management facilities
Policy W3	-	Waste transportation and handling

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. 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 RA3	-	Herefordshire's countryside
Policy RA6	-	Rural economy
Policy MT1	-	Traffic management, highway safety and promoting active travel
Policy W2	-	Location of new waste management facilities

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

The Environmental Permitting (England and Wales) Regulations (as amended – latest 2014)  
The Conservation of Habitats and Species Regulations (as amended – latest 2012) [the Habitats Regulations]  
The Natural Environment and Rural Communities Act 2006 [the NERC Act]

## 3. Planning History

3.1 Planning history on the application site: Development of the Traveller site – 602351 (Hereford & Worcester County Council, approved 17 March 1994; also SH931349JZ (South Herefordshire District Council) consultation file.

3.2 On the existing factory site: Gelpack have obtained a number of permissions since 2000, including a portal frame building (SW2000/0211/F), pump-house, fire tanks and sprinkler system (SW2001/2071/F and SW2003/0033/F), LPG storage tank (SW2004/4315/F), new perimeter fence (P120332/F) and a recycling hall within the factory (P122722/F, amended under P133500/AM).

## 4. Consultation Summary

### Statutory Consultations

- 4.1 Welsh Water: There are no public sewers in this area. However, Welsh Water makes no comments as it appears the applicant does not propose to connect to the public sewer. If circumstances change we must be re-consulted on this application. With regard to water supplies there are no objections to the proposed development.
- 4.2 Environment Agency: The proposal is for a relatively small scale waste operation involving heat processing. It will require a 'Bespoke' Environmental Permit (EP) under the Environmental Permitting Regulations. We have held some pre-permit discussions with the applicant. We normally encourage twin tracking of the EP with the planning application. Without this we require sufficient level of detail to give a reasonable degree of certainty. The combined planning application and EP requirements should demonstrate that "the development is an acceptable use of the land" (NPPF, paragraph 120). Without additional information we are unable to offer a substantive response to confirm whether the proposed development is likely to be acceptable. However, no objection has been made.

### Internal Consultations

- 4.6 Transportation Manager: Initial comment that the proposal as first presented would be unacceptable in highway terms. I require further highway information from the applicant's consultants in order to assess acceptability. Subsequent site meetings and negotiations have resulted in submission of a revised access design which has potential. This could be secured by a planning condition and s278 agreement for highway works. I do not object as long as the revised scheme would be adhered to. The scheme must include new kerbing, road markings, visibility improvements, parking and turning arrangements and advance access signage. A robust Traffic Management Plan (TMP) for the new site, which integrates well with the existing TMP for the factory, is essential and should be adhered to for the life of the site. Planning conditions are recommended.
- 4.3 Head of Environmental Health and Trading Standards: No objection. Noise or other nuisance would be unlikely at this location. Madley Airfield is flagged up as a potentially contaminative previous use. The applicant must demonstrate that the site is both safe and suitable for its intended use. The proposal is understood to require a 'bespoke' Environmental Permit from the Environment Agency. The local authority would have no responsibility for pollution controls at the site. The Environmental Permit may require fire precautions to be in place. However, enforcement of fire safety for premises rests with the Hereford and Worcester Fire and Rescue Service, which is consulted during the construction phase (Building Control stage).
- 4.4 Drainage Advisor: initial advice that a surface water drainage strategy is necessary, to be secured by a planning condition requiring a detailed scheme for approval prior to commencement. The scheme should include the results of infiltration testing and contamination risk assessment in respect of the soakaways. With regard to further information submitted in response: .....[this] is sufficient to address the concerns raised. If the Council is minded to approve, a planning condition should be included to secure a final scheme...'.
- 4.5 Conservation Manager (Ecology): There are no Habitats Regulations issues and no likely significant effect on the River Wye Special Area of Conservation (SAC/SSSI). The Wye is some distance to the north and is not currently failing its conservation objectives. The ecological report (Aspect Ecology July 2014) is adequate, and I agree the proposal presents very little impact in biodiversity terms. However, the derelict brick building on the site has some potential for a bat roost. If approved, a condition should secure the report's recommendations on mitigation for bats, badgers and birds in particular.

## 5. Representations

- 5.1 Madley Parish Council supports this application but would like to make the following comments: *It would be advisable for Gelpack to consult and discuss their proposals with the local residents in the vicinity - on a site visit, the parish council representatives did recommend this to Gelpack. The parish council requests that a S106 agreement be attached to this permission, should it be given, for the car park at the recreation ground to be extended and resurfaced for use by the community.*
- 5.2 Mr Augustine (Gus) Fowler-Wright, MPD Ltd, proprietor of Madley Industrial Estate, has submitted a large number of detailed emails listing complaints about operational matters at the main Gelpack factory including reports relating to alleged pollution incidents, plastic pellets entering the drains, and plastic being allowed to blow about the yard. Further lengthy reports and a large number of photographs relating to HGV movements into and out from the Gelpack site have also been submitted, and allegations of obstruction of the highway (U73209 Stoney Street).
- 5.3 Mr Edward Fowler-Wright has sent emails raising concerns about fire risks, and reports of obstruction by HGVs on the highway and the access to MIE.
- 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

### Principle of the Development

- 6.1 The applicant states that the company aspires to better management of waste from its operations. This includes scrap plastic arising from specification changes from job to job, processing, and machine start-up. The Madley site produces mainly food packaging; waste plastic is currently recycled into re-granulated pellet on two pelletising lines. However, this 're-gran' is not used in food-grade packaging and is taken by road to the sister company in Hereford, where it is used for producing refuse sacks and laundry bags etc. Storage space at Moreton Camp north of Hereford is also in use. As a result of business expansion, the Madley factory is now constrained. The company wishes to process waste plastic under one roof, from both company sites. It has opted to bid for the former Traveller site on adjacent land. This site was set up by the then Hereford & Worcester County Council in 1994, when it was described as an 'Emergency stopping place' for Gypsies and Travellers. It is currently unused and subject of a disposal programme
- 6.2 The proposal is to utilise the derelict site and to improve the way Gelpack and its sister factory manages its waste output. It also seeks to improve the specification of the recycled plastic product in order to secure a wider variety of uses. The site has been chosen due to its availability, and its proximity to the existing factory which is already undertaking waste plastic recycling. Officers accept the proposals put forward as reasonable in principle and land-use terms. However, this is subject to consideration of the topics considered below along with the requirements of the National Planning Policy Framework and Guidance (NPPF and NPPG), and the relevant policies in the Herefordshire Unitary Development Plan (UDP). Particular attention is given to UDP policies S2, DR1 and DR4, and the definition of 'sustainable development' in the NPPF. The proposal meets, or is considered capable of meeting, all three strands of the definition.

## Highways

- 6.3 The application includes a 'Preliminary Transport Management Plan' (TMP). This sets out the objectives summarised as: all vehicles to enter and leave in a forward direction; no reliance on third party land for manoeuvres; no waiting on the highway; minimal impact on the highway network; access to ensure good visibility; free movement for vehicles within the site. Planning permission reference P122722/F, for new/extended warehousing and production areas plus new silos, includes adherence to a TMP previously approved under reference P120332/F (permission for new perimeter fencing and gates). Both permissions were granted in 2012. This existing TMP includes the first three of the points listed above. A new TMP would need to cover the whole site.
- 6.4 The existing site's TMP estimates typical current daily visits to the site as 7 HGV/articulated tankers, 17 smaller vehicles, and 35 cars/vans (employees and visitors). This gives a total of approximately 60 visits, i.e. 120 movements. This new proposal outlines estimated daily movements relating to the recycling plant as 5 HGV/articulated tankers plus 12 visitor and staff cars/vans. The combined figures are therefore 12 HGV/articulated tankers, 17 other vehicles, and 47 cars/vans – total of just over 75, equalling 150 movements per day; an increase of 30. The present application also gives details of existing movements which would actually be reduced, due to consolidation of process activities. These equate to approximately 29 fewer visits per week (58 movements), i.e. 11 - 12 per day. This gives a net daily increase of 9-10 visits (19 – 20 movements).
- 6.5 In principle, the Transportation Manager advises that these figures are unobjectionable in highway use terms. Stoney Street is a straight road with relatively light traffic at this location. The main route is north-east towards Madley, Hereford, and the wider highway network. On the basis of the above figures, the proposal does not conflict with NPPF section 4 or UDP policies S6, DR3, W3, T8 and T9. However there are separate concerns regarding the site access, and the logistics for HGV manoeuvres

## Access and Movements

- 6.6 Access has been a key concern for the main objector, as proprietor of the adjoining industrial land, who has made a large number of representations. The access road to Madley Industrial Estate (MIE) is located between the existing Gelpack factory and the application site. This site access is shared at the point it joins the highway, although the precise property boundary is not physically marked. The objector maintains that the applicant has consistently broken the terms of the existing TMP, supporting his claims with photographs stated to demonstrate this. He reports that parking, waiting, turning and manoeuvring regularly takes place on the highway or as an obstruction to the entrance to MIE.
- 6.7 Positive, pro-active discussions with the applicant have taken place, to address the concerns. Following negotiations further versions of the draft TMP, including physical access design options, have been submitted by the applicant's consultant and discussed in office and site meetings. The Transportation Manager states that the final submission has produced a potentially acceptable access design. The site entrance, as shown on drawing 106C, would require the following works:
- Coloured surfacing within the highway boundary to define (a) pedestrian access across the site frontage and (b) connectivity between the 2 sites.
  - Rumble strip on the north edge to keep vehicles to the centre of the access; required for the HGV turning.
  - 'Give Way' junction markings to delineate 'in' and 'out'.
  - Footpath fronting the existing site, highlighted in red surfacing, to prevent HGVs parking and blocking visibility.

- Planting overgrowth within the entrance to be kept trimmed back, to prevent visibility blocking.
- 6.8 The Transportation Manager confirms his belief that the final design is the best the site can provide, given the constraints and land ownership circumstances. The scheme could be secured by planning conditions, as recommended below. In addition, works within the highway would be subject to a S278 Agreement, requiring commuted sums to ensure maintenance of the arrangements, including the 'Give Way' lines and red surfacing within the site. This is regarded as offering benefits to the MIE site as well as the new recycling centre, if approved.
- 6.9 The Transportation Manager has also commented on HGVs turning into the site off Stoney Street. He has concerns about damage to the highway verge in this location. He suggests that the stretch of road opposite the entrance, and including the turning area, should be reinforced and kerbed. This would also be subject to a s278 agreement.
- 6.10 Further advice is given that advance signing for the whole site is required, including the MIE, to ensure drivers have adequate notice of the site, with clear directions. There are several entrances in close proximity which could be confusing. Drivers not familiar with the location need full information so as to use the correct access. Visibility to the north can be improved as the hedgerow is overgrown, encroaching over highway land.
- 6.11 In conclusion, a comprehensive and robust Traffic Management Plan (TMP) for the new site is required as outlined above, which also encompasses and interacts with the existing arrangements. Traffic associated with the two sites must be managed as set out in the application, subsequently discussed and in the revised scheme proposals. To prevent the location becoming an accident site the TMP and the agreed parking and turning areas will need to be conditioned to remain as detailed for the life of the site. On this basis officers accept that the proposal can meet the NPPF and UDP policies S2, S6, DR1, DR2, DR3 and T8.

### **Environmental Health**

- 6.12 Space constraints at the main Gelpack factory site have highlighted the need for a custom-built recycling facility. An outside yard was being used as over-flow storage for reject rolls of plastic film and sacks of plastic pellets. This was inevitably subject to logistical difficulties and weathering, resulting in untidiness and a pollution threat. Officers of the Council and the Environment Agency have offered advice and support; the yard has now been cleared and tidied up to an appropriate standard. One of the objectives in terms of the current proposal would be to eliminate such outdoor storage and waste, thus removing any risk to surface water drains and watercourses. The proposed new building would include indoor storage and reception, and a planning condition could prohibit outdoor storage of waste materials.
- 6.13 The Environment Agency (EA) would regulate all processes within the proposed recycling unit, through the Environmental Permitting regulations. There would be no responsibility for the local authority in terms of pollution controls.
- 6.14 Fire safety has been raised by the two objectors as a concern. The EA may require fire precautions within the Environmental Permit. However, enforcement of fire safety for premises rests with the Hereford and Worcester Fire and Rescue Service which would be consulted during the construction phase (Building Control stage). Due to the location and industrial nature of the neighbourhood and the lack of any residential neighbours, noise or other nuisance is considered unlikely.
- 6.15 The entire former wartime airfield is flagged up as a potentially contaminative previous use. As a precaution, a planning condition is recommended for development proposals requiring a scheme to demonstrate that the site is both safe and suitable for its intended use.

- 6.16 The applicant has submitted external lighting details prior to determination, as advised during negotiations. The scheme is considered acceptable in preventing light-spill, and may be secured by a condition in order to meet the requirements of UDP policy DR14
- 6.17 Officers are satisfied that, in terms of pollution/nuisance prevention and fire precautions, the local authority's role is minimal, due to the requirement for a bespoke Environmental Permit and the direct control of the Fire and Rescue Service. Therefore, in this instance, there are no concerns on this basis or any conflict with the NPPF and UDP policies S2, DR1, DR4, DR13 and DR14.

#### Environment Agency and Environmental Permitting

- 6.18 The Agency's preference is for planning applications and Environmental Permit (EP) applications to be 'twin-tracked'; i.e. to be submitted simultaneously. The EP requires the applicant to demonstrate "the development itself is an acceptable use of the land" (NPPF, paragraph 120). Key elements of the EP coincide with planning requirements. However it is also recognised that the EP submission is subject to significant expense, and applicants are reluctant to commit themselves ahead of securing a planning permission. Nonetheless, applicants need to provide sufficient level of detail to give a reasonable degree of certainty on the appropriateness of the land use. Without this, the EA cannot confirm whether the proposed development is likely to be acceptable. It has however confirmed that the proposal is for a relatively small scale waste operation involving heat processing, which is a unique operation and will require a 'Bespoke' EP. Some pre-permit discussions have been held with the applicant and the EA has not suggested that a Permit might be refused. The processes involved for this proposal would be regulated by the EA and the plant could not operate without the EA's consent. The Council therefore has very limited input to operational matters and pollution control. Officers accept the principle of the land use for this project, in terms of utilising a derelict site which is close to the key producer. However, the EA may require a more detailed justification for the permit application.

#### Drainage

- 6.19 The site is located in flood risk zone 1 (low risk and suitable for any development). However the application was submitted with only a preliminary drainage strategy containing little detail. The Drainage Advisor outlined initial concerns about the calculation methodology, rainfall volumes/flood risk and soakaway requirements. More detailed information was requested, including alternative proposals if the use of soakaways proved unfeasible, or if adequate capacity were not available. The applicant provided further information as to drainage options on 7 August 2014, to address the comments and concerns, and which the Drainage Advisor has accepted. A condition is recommended requiring the submission of final design details for surface water and dirty water management, for approval prior to commencement. The proposals should include the results of infiltration testing and take account of contamination risk assessment in respect of the soakaways. Such a scheme would be required to meet appropriate standards and the requirements of the NPPF and UDP policies S2, DR1, DR4 and DR7.

#### Ecology and Landscape:

- 6.20 The Conservation Manager (Ecology) accepts the submitted report (Aspect Ecology July 2014), noting no likely effects on the River Wye Special Area of Conservation (SAC) or the Habitats Regulations. The thresholds for phosphate in the middle upper Wye section are reported as being within bounds and the watercourse is not failing its conservation objectives. He has observed that the site in its derelict form is likely to be used as a bat foraging area, and the small brick building has potential as a bat roost. A planning condition should secure the necessary precautions and mitigation for bats, badgers and birds in particular. Although there

would be little space for landscape planting, there should be some modest scope for accommodating biodiversity. This is included in the required scheme.

- 6.21 The local landscape character is Principal Settled Farmland, typified by mixed farming and subject to frequent change. However, at this location the former airfield and large-scale post-war industrial premises have dominated the surroundings of the site. Modern development has continued the trend, including the BT Earth Satellite Station, the vehicle/machinery auction yard to the north-east along Stoney Street, and a series of large new poultry units to the west. All of these contribute to the working character of the area. The proposed building is modular and of varying heights. Although necessarily utilitarian, the design is considered pleasing and regarded as capable of integration.
- 6.22 The proposed development more or less fills the application site with little space to spare. However there is scope for some limited planting or seeding to enhance the surroundings of the plant which, if carefully designed, could benefit wildlife with particular emphasis on invertebrates and small animals. Accommodation for nesting birds and roosting bats could also be incorporated into or onto the building to meet the requirements to 'conserve and enhance biodiversity' as set out in the NPPF
- 6.23 On this basis, no overall conflict with sections 7 and 11 of the NPPF or UDP policies LA2, LA6 or NC1 is indicated.

## 7. Conclusion

- 7.1 New and improved facilities for recycling and reducing disposal of waste are supported in principle at local and national levels. In this case there are both positive and negative aspects to be considered. On the one hand the site is conveniently close to the existing factory, and the waste plastic could be processed to a high quality and specification under one roof. This would be a significant improvement over existing arrangements for storing, processing and managing the inevitable waste arising. The output of recycled materials could be applied to more uses as a result, and the proposal is regarded as sustainable development. The traffic implications are minimal in terms of actual numbers, representing a small increase which the Transportation Manager has accepted. However, the former Traveller site is constrained in size, and the access shared with MIE is not without concerns.
- 7.2 The presence of other industrial premises nearby means that successful traffic management and a top quality design are imperative. Following negotiation, the Transportation Manager has accepted the final design as a workable option provided all commitments are adhered to. Operation of the site and pollution control would be regulated by the Environment Agency rather than the local authority, and other considerations have not been found to be of particular concern provided robust schemes are in place. On balance, and taking all points raised including those of the objectors into account, officers concur with the Transportation Manager's views and other responses. On this basis the proposal is regarded as an appropriate use of land and thus is recommended for approval subject to robust planning conditions being in place.

## RECOMMENDATION

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

- 1. **C01/A01 [Time limit for commencement (full permission)]**
- 2. **C06/B01 [approved plans]**
- 3. **C13/C01 [external materials]**
- 4. **No development shall take place until the following sequential**

investigation 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 establish the nature and extent and severity of any contamination, incorporating the conceptual model for all 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, to ensure that the proposed development will not cause pollution to controlled waters or the wider environment and to comply with the requirements of policies S2 and DR4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

5. Any such remediation scheme submitted under condition 4 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, to ensure that the proposed development will not cause pollution to controlled waters or the wider environment, and to comply with the requirements of policies S2 and DR4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

6. No development shall take place unless or until a finalised comprehensive Traffic Management Plan (TMP) has been submitted to and approved in writing by the local planning authority. The scheme shall include final details of the physical arrangements for the site entrance, to incorporate the following in particular:

- A final detailed and annotated plan based on the previously submitted drawings 106C and 108B (Bay Associates);
- Coloured surfacing within the highway boundary to define (a) pedestrian access across the site frontage and (b) connectivity between the 2 sites;
- Rumble strip on the north edge to keep vehicles to the centre of the access;
- 'Give Way' junction markings to delineate 'in' and 'out';
- Footpath fronting the existing site, highlighted in red surfacing, to prevent HGVs parking and blocking visibility;



- Planting overgrowth within the entrance to be kept trimmed back, to prevent visibility blocking;
- Works to reinforce the roadside verge with kerbing on the opposite side of the U73209 for the length of the site access;
- Comprehensive details of a road signage scheme to inform visiting drivers as to the various accesses and facilities at the site.
- Reference to, and/or incorporation of, the details required in the following nine conditions as required by the Transportation Manager;
- Reference to, and/or incorporation of, the previously approved TMP relating to the existing Gelpack Industrial site on adjacent land;
- Provision for regular review of the scheme, audit, tool-box talks, revision if necessary.

The TMP shall be implemented as approved and maintained for the life of the development hereby permitted.

Reasons: In the interests of highway safety, to ensure that traffic management arrangements are effective, up-to-date and adaptable to current circumstances, to provide safe and workable access arrangements, to prevent indiscriminate parking on the highway and to accord with policies S6, DR3 and T8 of the Herefordshire Unitary Development Plan and the requirements of the National Planning Policy Framework.

7. CAB/H03 – [Visibility splays]
8. CAE/H06 – [Vehicular access construction]
9. CAL/H13 – [Access, turning area and parking]
10. CAO/H16 – [Parking/unloading provision]
11. CAP/H17 – [Junction improvement/off site works]
12. CAT/H21 – [Wheel washing]
13. CAZ/H27 – [Parking for site operatives]
14. CB2/H29 – [Secure covered cycle parking provision]
15. CB3/H30 – [Travel plans]
16. No development shall take place unless or until a comprehensive drainage scheme to show final detailed proposals and supporting calculations for surface water management have been submitted to and approved in writing by the local planning authority. The scheme shall be based upon the submitted Drainage Strategy Report plus the addendum received on 7 August 2014 and shall also include the following in particular:
  - a) Results of infiltration testing and contamination risk assessment in respect of all soakaways and/or any other systems that may be proposed;
  - b) A large-scale site plan showing the location of all clean and dirty water drainage arrangements;
  - c) An operational method statement for clean and dirty water management;
  - d) Details of rainwater harvesting and storage if necessary;
  - e) Details of final disposal or discharge;

- f) Details of proposed ownership and maintenance of the scheme and works;
- g) Evidence of any necessary agreements with other landowners or the highways authority as applicable.
- h) The drainage scheme shall be implemented as approved.

**Reason:** To prevent pollution of the water environment, to ensure adequate drainage arrangements to appropriate standards in advance of the development, and to comply with the requirements of policies S2, DR1, DR4 and DR7 of the Herefordshire Unitary Development Plan and the guidance in the National Planning Policy Framework

17. Before the development hereby approved begins, a working Ecological Method Statement shall be submitted to and approved in writing by the local planning authority. The Method Statement shall include the following in particular:

- a) Confirmation that the protective recommendations set out in Section 6 of the submitted ecological report (Aspect Ecology July 2014) shall be followed;
- b) A habitat and biodiversity enhancement plan;
- c) The appointment of a named appropriately qualified and experienced ecological clerk of works (or consultant engaged in that capacity) to oversee the scheme.

The Method Statement shall be implemented as approved.

**Reason:** To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan, and the National Planning Policy Framework with reference to section 11. Also to comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

18. No external lighting shall be installed on the proposal site, including on the external elevations of the building, unless it accords with the submitted Lighting Scheme (Madera MD04 00 DEL01 002, 9 September 2014), the details of which are hereby approved as submitted.

**Reason:** To safeguard the character and amenities of the area, to prevent adverse effects on nocturnal wildlife, and to comply with Policies DR14, NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan and the requirements of the National Planning Policy Framework.

19. CCC/I43 [No burning of material/substances]

20. Within the application site there shall be no outdoor deposit or storage of any waste, plastic, packaging or other materials

**Reason:** To protect the appearance of the locality and to comply with Policy E8 of Herefordshire Unitary Development Plan.

## **INFORMATIVES:**

1. The local planning authority has acted positively and pro-actively in determining this by identifying matters of concern within the application as original submitted. The authority has actively engaged in dialogue and negotiations with the applicant and his consultants to secure acceptable amendments. 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 in the National Planning Policy Framework.
2. With regard to the requirements of condition 4, the following advice is offered:
  - a). The assessment is required to 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.
  - b). We require all investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.
3. Conditions 7 to 15 inclusive as detailed above may, if practicable, be addressed within the comprehensive Traffic Management Plan (TMP) required by condition 6 provided each of the above conditions is clearly identified. The following notes are intended to assist in informing the content of the TMP.

### **Highways and Transportation Informative Notes**

- (a) I11/HN01 – Mud on highway
  - (b) I45/HN05 – Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)
  - (c) I08/HN07 – Section 278 Agreement
  - (d) I05/HN10 – No drainage to discharge to highway
  - (e) I52/HN21 – Extraordinary maintenance
  - (f) I51/HN22 – Works adjoining highway
  - (g) I47/HN24 – Drainage other than via highway system
  - (h) I41/HN25 – Travel plans
  - (i) I37/HN26 – Travel Plans
  - (j) I36/HN27 – Annual travel Plan Reviews
4. I30/N11A – Wildlife and Countryside Act 1981 (as amended) - birds
  5. I46/N11B – Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations (as amended)
  6. I33/NC11C – Wildlife general

7. This proposal is subject to the issue of an Environmental Permit by the Environment Agency. The information detail to be submitted to the Agency in applying for the Permit should correspond and complement the planning permission and information relating to it.

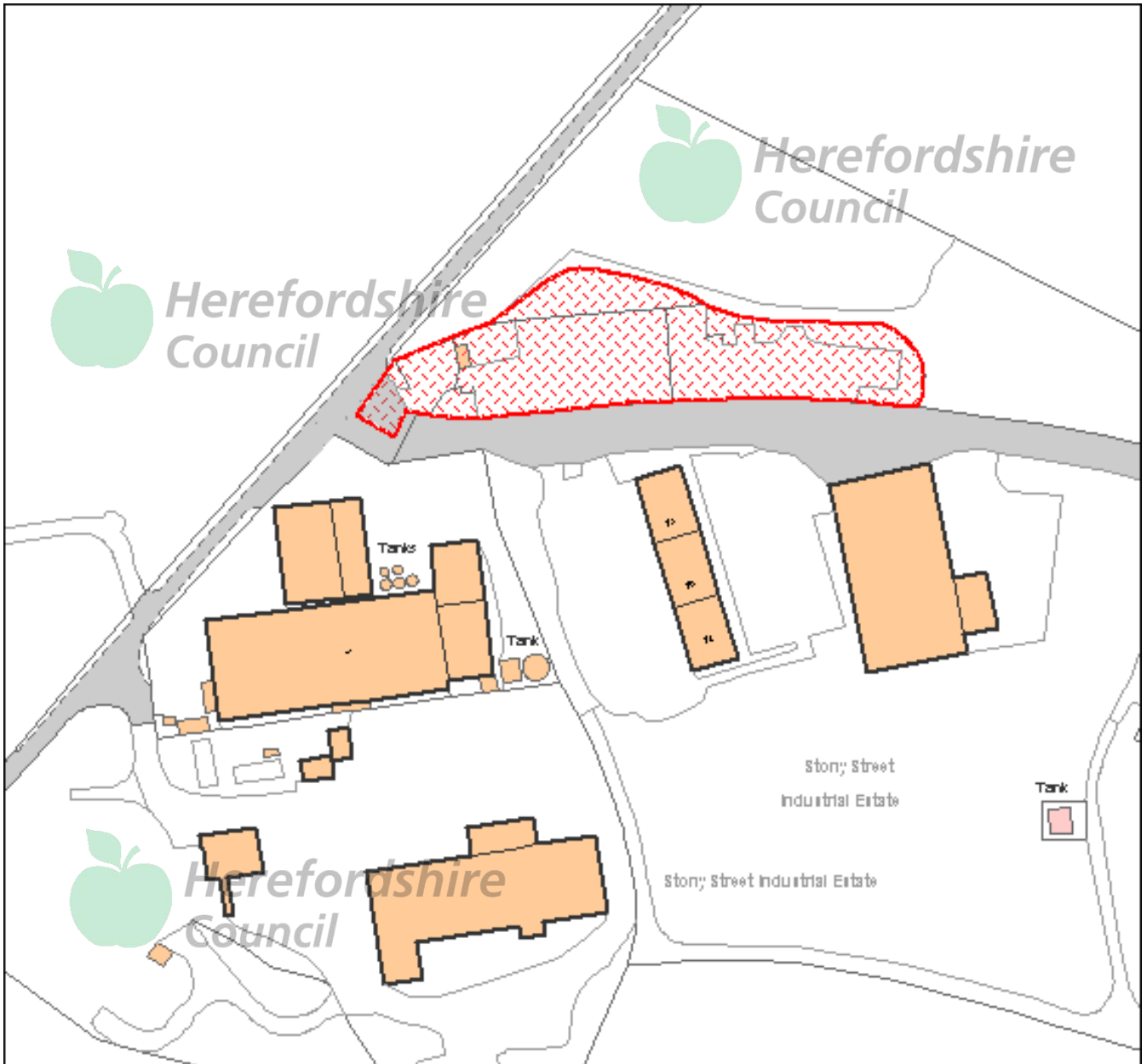
Decision: .....

Notes: .....

.....

### **Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 140928/N

**SITE ADDRESS :** GELPACK INDUSTRIAL LTD, UNIT 4, STONEY STREET INDUSTRIAL ESTATE, MADLEY, HEREFORD, HEREFORDSHIRE, HR2 9NQ

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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>16 MARCH 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>P143390/F - PROPOSED ERECTION OF 10 HOUSES WITH ASSOCIATED HIGHWAY INFRASTRUCTURE AND LANDSCAPING AT THE ELMS, EARDISLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9BN</b></p> <p><b>For: Mr &amp; Mrs Hicks per Mr Jim Hicks, Second Floor Offices, 46 Bridge Street, Hereford, Herefordshire, HR4 9DG</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143390&amp;search=143390">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143390&amp;search=143390</a>
<b>Reason Application submitted to Committee - Contary to Policy.</b>	

**Date Received: 13 November 2014    Ward: Golden Cross    Grid Ref: 341732,258475  
with Weobley**

**Expiry Date: 16 February 2015**

Local Member: Councillor MJ K Cooper.

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

- 1.1 The site, which covers an area of approx. 0.56 of an hectare, is located outside, but adjacent to the recognised settlement boundary for Eardisland, a main village in accordance with Policy H4 of the Herefordshire Unitary Development Plan. The site is located within the Eardisland Conservation Area and although there are no listed buildings within close proximity to the site, there are a number of listed dwellings within the surrounding vicinity to the east of the site.
- 1.2 The site, which is a field used for grazing, is sandwiched between a residential area to the south and east. Located alongside the northern boundary is the applicants' dwelling known as The Elms. To the west of the site is open farmland. Access into the site is from the C1035 highway which is located to the north west of the site.
- 1.3 The application proposes the construction of ten dwellings, and associated access road, which will lead into the site off the existing access road to The Elms. The breakdown of the dwellings is four 4 bed dwellings, three 3 bed dwellings and three affordable dwellings, which consist of three 2 bed dwellings.
- 1.4 The application is made in 'full' and is accompanied by a Planning statement, Design and Access statement, which incorporates a Heritage Statement, ecology survey, flood risk assessment, topographical survey, landscape assessment, transport and a draft Section 106 Planning Obligation. Also accompanying the application are detailed elevations, floor plans, site layout plan and street scene. The Draft Heads of Terms drawn up in accordance with Section 106 of the Town and Country Planning Act 1990 in-line with the Council's Supplementary Planning Document on Planning Obligations, is attached as an appendix to the report.

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Further information on the subject of this report is available from Mr Philip Mullineux on 01432 261808

## 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 10	-	Meeting the Challenge of Climate Change, Flooding and Coastal Change
Section 11	-	Conserving and Enhancing the Natural Environment
Section 12	-	Conserving and Enhancing the Historic Environment

### 2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Environment
S10	-	Waste
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H4	-	Main Villages: Settlement Boundaries
H7	-	Housing in the Countryside Outside Settlements
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
T8	-	Road Hierarchy
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC8	-	Habitat Creation, Restoration and Enhancement
NC9	-	Management of Features of the Landscape Important for Fauna and Flora
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
HBA4	-	Setting of Listed Buildings
HBA6	-	New Development in Conservation Areas.

### 2.3 Supplementary Planning Guidance

Planning Obligations

### 2.4 Herefordshire Local Plan Core Strategy

The pre-submission consultation on the Draft Local Plan – Core Strategy closed on 3 July 2014. At the time of writing this report an Independent Inspector is in the process of considering the Core Strategy following the recent examination. The majority of the Core Strategy policies were subject to objection and can be afforded only limited weight for the purposes of decision making.

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Further information on the subject of this report is available from Mr Philip Mullineux on 01432 261808



SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery.

2.5 Eardisland has been designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council will prepare a Neighbourhood Development Plan for that area. The plan must be in general conformity with the strategic content of the emerging Core Strategy, but is not sufficiently advanced to attract weight for the purpose of decision-taking.

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

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

### 3. Planning History

3.1 None.

### 4. Consultation Summary

#### Statutory Consultees

4.1 English Heritage has responded to the application indicating: 'The proposed scheme will take place within the Eardisland Conservation Area. As the application affects a conservation area, the statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (s.72, 1990 Act) must be taken into account by your authority when making its decision. Under the NPPF it is a core planning principle to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations (para.17 NPPF). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. No other planning concern is given a greater sense of importance in the NPPF. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification (para.132, NPPF). The onus is therefore on you to rigorously test the necessity of any harmful works. Development within this site should seek to promote or reinforce the local distinctiveness of the conservation area in line with NPPF paragraphs 58 to 61. This should be reflected in the materials, rhythm, style of architectural details and form of the proposed development. And we

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Further information on the subject of this report is available from Mr Philip Mullineux on 01432 261808

therefore advise you to consider whether the proposed design takes these matters into consideration.

## **Recommendation**

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.'

4.2 The Environment Agency has responded objecting to the application. Their response states:

'We object to the proposals on flood risk grounds and in particular on the lack of a safe access/egress route to land outside of the floodplain during flood events.

**Flood Risk:** This site falls within Flood Zone 1 (Low Risk) on our Flood Map for Planning and is defined as land assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). However, the site is adjacent to, and surrounded by, Flood Zone 3 of the River Arrow (High Probability) and is effectively a dry island. Eardisland is also known to have surface water flooding issues. National planning policy confirms that More Vulnerable development is appropriate in Flood Zone 1 although, in this instance, the Flood Risk Assessment (FRA) must still demonstrate that the development is safe, does not increase flood risk elsewhere and, ideally, reduces flood risk post development including climate change impacts.

**Sequential Test:** Paragraph 101 of the National Planning Policy Framework (NPPF) requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a 'Sequential Test'. It states that 'Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding'. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required (see Paragraph 102 of the NPPF). **Flood Risk Assessment (FRA):** The submitted FRA uses the 2D hydraulic modelling for the River Arrow from our Lugg and Arrow hydraulic model which is the latest and best available data for Eardisland. The 2D results have been included in Section 2 and Appendix C of the FRA and the 1 % plus climate change modelled flood level to the north of the Elms confirmed at 85.65mAOD used.

We are generally satisfied with the FRA produced and the assessment of flooding in Eardisland. The topographical survey provided in Appendix A is detailed and demonstrates that the vast majority site of the site is elevated above the highest 2D 1 % plus climate change level of 85.65mAOD. Section 1.18 of the FRA confirms that Eardisland is identified in the SFRA as being a heavily flood prone area. However, Section 2.7 and Appendix C of the FRA confirms that the site was not affected by flooding during the 1947 flood event on the River Arrow. It is well known that the main vehicular routes through the village can flood extensively from the River Arrow during high flows with floodwater entering Eardisland upstream of the main road bridge flowing down the main road through the village. However, the main road has also been known to flood from surface water not being able to drain to the river during high flows. Herefordshire Council's drainage team, as the Lead Local Flood Authority (LLFA), will be able to comment on the surface water flooding within Eardisland.

**Finished Floor Levels:** We are satisfied with the proposed finished floor level of 86.25mAOD provided in Section 3.2 of the FRA as it is 600mm above the highest 1% plus climate change 2D flood level to the north of the site.

**Safe Access/Egress Route/Flood Management and Evacuation Plan:** Safe access and flood management are the key issues for this proposal as the FRA clearly identifies (Section 3.5) that

safe access/egress is not possible in a 1% plus climate change event on the River Arrow, as is the case for most existing properties in Eardisland. Using the Environment Agency's River Lugg and Arrow model, the FRA clearly sets out the flood risk in the village both in a 1 in 20 and 1 in 100 year plus climate change flood events. The FRA confirms that the main road is affected in a 1 in 5 year flood event. Potential depths of up to 1.3 metres in a 1 in 100 year plus climate change event are predicted on the main road leading south out of the village. Even potential depths of over 1 metre are possible in a 1 in 20 year event. These sort of depths are not considered safe and Table 13.1 of the EA/Defra document on Flood Risk Assessment Guidance for New Development (FD2320/TR2) states that depths of 1 to 1.5 m, even with low velocities, are considered as 'Danger for Most', a point which is acknowledged in Section 2.18 of BWB's FRA. It is not just the significant depths of flooding that are concerning but also the length of floodwater through which occupants of this site may be expected to walk through, potentially in the dark with obstacles on the route such as and manhole covers removed by flooding. Section 3.13 of the FRA suggests a suitable lead time to evacuate residents but the roads begins to flood from surface water prior to floodwater spilling from the River Arrow. We would support the proposed installation of a more localised/site specific warning system located adjacent to the main Bridge in Eardisland, outlined in Section 3.17, to ensure that the dwellings were evacuated and vehicles moved prior to flooding occurring on the main road. It is important to relate any triggers on the Titley Mill Gauge with flooding occurring in Eardisland. We do offer a flood warning service in this area on which a Flood Management and Evacuation Plan can be based but it is not our remit to comment on the adequacy of the proposed plan as outlined in Section 3.0 of the FRA. We therefore recommend you consult with your Emergency Planning team with regard to specific emergency planning issues relating to new development and would await confirmation that they are satisfied that this level of risk can be dealt with using a Flood Management and Evacuation Plan. If the plan were to fail this would increase the burden on the Emergency Services at a time when they will already be extremely busy and we question whether adding an additional 10 properties to the existing properties in Eardisland, which already have no access during flood events, is the most sustainable approach. The FRA does not confirm if contact with the Emergency Planners has been made by the applicant. However, we believe that the FRA has enough flood risk information to allow the Emergency Planners to make an informed decision on flood risk and the consequence for occupants/the Emergency Services should the plan fail during a 1 in 20 year or 1% plus climate change event.

Surface Water Drainage: Section 4.0 discusses the proposed surface water drainage arrangements for the site but we would expect the LLFA to lead and comment on these proposals.

Summary: We are satisfied that BWB's FRA has provided a thorough assessment of the flood risk to the site in order to allow the LPA to make an informed decision on flood risk and how it will affect the site and its potential occupants. We have no option but to object to the proposals given the potential depth of flooding of 1.3 metres on the main road (Danger for Most) when climate change impacts are considered and the distance of several hundred metres to land outside of the floodplain. However, we appreciate that this would prevent any additional development within Eardisland itself and why the LPA may wish to approve this application against our advice. Should the application be approved we would seek confirmation that the Emergency's Planners are satisfied with the Flood Management and Evacuation proposals'

- 4.3 Welsh Water raises no objections in relationship to the proposed development.

#### Internal Consultation

- 4.4 The Transportation Manager raises no objections.
- 4.5 The Conservation Manager (Ecology) raises no objections indicating: *'I have read the report from Star Ecology and would agree with its findings. The proposals for species and site mitigation/enhancement can be secured by a non-standard condition.'*

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Further information on the subject of this report is available from Mr Philip Mullineux on 01432 261808

I am content that the survey reveals no potential impact upon bats; although there are two ponds nearby and, although it is not known whether they harbour great crested newts (GCN) I believe they are at sufficient distance and location whereby the risk of any newt impacts is negligible. I note the proposals for habitat and species enhancement for the site and, if approved, I would recommend a condition based upon this as follows:

*The recommendations set out in Section 9 and 10 of the ecologist's report from Star Ecology dated August/November July 2013 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, a species and habitat enhancement plan integrated with the landscape 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. To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006'

4.6 The Conservation Manager, (Historic Buildings), has responded with no objections indicating:

'The land to the south of The Elms is within the Eardisland Conservation Area boundary and is located to the rear of a recent development called Orchard Green. There are several grade II listed cottages and a grade II\* property in the vicinity of the site. Pre-application advice was given concerning the site.

From a heritage perspective the relevant policies are saved policies HBA4, relating to the setting of listed buildings, and HBA6, relating to new development within conservation areas.

The site is located to the west of the listed buildings, which line the east side of the village road, and it is behind the buildings on the west side of the road. This has the effect of creating visual separation between the listed heritage assets and the development site such that the setting of the assets is not considered to be compromised. The direct distance between the site and the various listed buildings is relatively short; however there are buildings and mature vegetation within that distance that serve to further separate the two. Overall it is considered that the scheme would not be contrary to Policy HBA4.

The proposed scheme will be visible within the Eardisland Conservation Area but would be situated off the main route through the village. This should reduce the impact of the scheme on the conservation area in visual terms, though for any scheme within a conservation area there should be no need to hide the development.

The layout of the scheme along a slightly winding access road is considered sympathetic to the character of the local road network, as is the relationship between that road and the various dwellings. The spaces between the dwellings and the use of a terrace of three are elements reminiscent of Eardisland village, though the positioning of dwellings to both sides of the road is atypical of the historic village layout.

The dwelling designs are slightly larger forms of local properties with a similar massing but on a slightly larger scale. The use of a traditional materials palette is proposed but with more contemporary detailing and more contemporary sizing of windows.

It is considered that the scheme taken in isolation represents a carefully considered mix of traditional and contemporary features. Assessed in the context of this particular conservation

area it is also considered to be acceptable, though not a pastiche response to one of the “black and white” trail villages.

The materials proposed are considered to be acceptable but I would stress the need to condition the type and appearance of the solar panels as these may easily cause glare and glint which is not considered appropriate for the conservation area. It is recommended that a condition is attached to any consent requiring the solar panels to be of non-reflective glass with a dark frame and dark spacers within the panels. This will minimise the visual prominence of the panels, particularly on the slate roofs.’

- 4.7 The Conservation Manager (Archaeology) raises no objections.
- 4.8 The Conservation Manager (Landscape) has responded to the application raising concerns that no landscape assessment has not been submitted in support of the application. Given that the site is located within the Conservation Area and its prominence; in terms of its elevated landform in relation to the settlement of Eardisland, it is recommended that a landscape appraisal be submitted in order to examine the potential visual impact of the proposal as well as the impact upon the landscape of the site and its surroundings.
- 4.9 The Emergency Planner initially responded to the application acknowledging the comments from the Environment Agency confirming that in his opinion the risk can be mitigated by a Flood Management and Evacuation Plan as discussed during pre-application discussions. As part of the conditions, if the application is approved, a Flood Management and Evacuation Plan (including signing up to flood warning and in-situ sheltering) should be drafted and approved by the Emergency Planning Officer (or another member of the Resilience Team) before any residence is taken. The response also indicated that it should be noted that he was not in a position to accept this risk on behalf of the council and that this decision lies with the planning committee.

A further response in consideration of the Case Officer’s concerns about this application in relationship to emergency flood evacuation indicates:

‘What I wanted to highlight was that in this particular case I believe that the members of the planning committee must make the decision on whether an application that carries this level of risk goes ahead. The NPPF p.103 states that a “development is appropriately flood resilient and resistant, including safe access and escape routes *where required*, and that any residual risk can be safely managed, including by emergency planning”. As I am not an expert on the NPPF I cannot determine whether this application requires safe access and escape routes, I presume this should be based on the advice of the Environment Agency, but in my professional opinion believe that the risk to this site can be managed via a Flood Management and Evacuation Plan. However, this level of risk may still be deemed too high; I am unaware of local council policy of on what is an acceptable level of risk for new planning developments and don’t feel it is my place to make that decision.

If any of the members would like me to speak to them regarding the hazard present at this development and how we might mitigate against it I would be happy to do so.’

- 4.10 The Land Drainage Manager has responded with no objections. The response concludes indicating:

We have no objections in principle to the proposed development, subject to the Council agreeing the proposed emergency response plan with the Emergency Planning Department.

‘Prior to construction we recommend that the following information is provided by the Applicant as part of appropriate planning conditions:

- *A detailed surface water drainage strategy that includes drawings and calculations that demonstrate consideration of SUDS techniques, no surface water flooding up to the 1 in 30 year event and no increased risk of flooding as a result of development up to the 1 in 100 year event and allowing for the potential effects of climate change;*
- *Demonstration of designing for exceedance and the management of overland flows;*
- *Proposals for the adoption and maintenance of the surface and foul water drainage systems;*
- *Results of infiltration testing undertaken in accordance with BRE365 and results of recorded groundwater levels, noting that the base of any infiltration structure should be a minimum of 1m above the highest recorded groundwater level.*

*As discussed above, we also recommend that further clarification is sought by the Council regarding the ownership and future aspirations of the parcel of land to the north of the development. ‘*

- 4.11 The Housing Manager raises no objections indicating that the application meets the UDP requirement to provide 35% affordable housing and the required build standards of the local authority. Therefore, in principal I support the application. However, I would like the tenure of the affordable units to be agreed and as a result, from data available, I propose that the affordable units be 2x2 beds for social rent and 1x2 bed for intermediate tenure.
- 4.12 The Schools Organisation and Capital Investment Manager raises no objections.
- 4.13 The Parks and Countryside Manager raises no objections.

## **5. Representations**

- 5.1 Eardisland Parish Council has responded to the application raising no objections in their response stating:

‘Eardisland Parish Council resolved to support this application, conditional upon assurance from the Environment Agency and the hydrologist employed by the applicant that the flood risk to current residencies will not be exacerbated. The Parish Council wish to receive feedback before a formal decision is made’.

- 5.2 Two letters in support of the application have been received and the main issues raised can be summarised as follows:

- The village needs an injection of new development.
- Application proposes a good mix of affordable dwellings and dwellings that are considered appropriate for the village concerned.

- 5.3 Six letters of objections/comments have been received. Issues raised can be summarised as follows:

- Impact of the proposed development on surrounding public highways with regards to increase in vehicular movements.
- Proposed development is considered to be of poor design and proposes too many dwellings in relationship to the scale of the village.
- Concerns about the location of proposed soakaways in relationship to neighbouring dwellings.
- Potential for increase in flooding in a fragile settlement with consideration to flooding and drainage issues.
- Concerns whether adequate drainage and potential for flooding surveys have been carried out with consideration to the nature of the surrounding environment in relationship to drainage and flooding issues.

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Further information on the subject of this report is available from Mr Philip Mullineux on 01432 261808

- Insufficient consideration has been given to the requirement for an evacuation plan in the event of an emergency in relationship to flooding.

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

6.1 The key issues in relationship to this application are;

- Principle of the development.
- Conservation Area and Listed Buildings
- Landscape and Ecology.
- Flooding and drainage issues

### Principle of the Development

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

6.4 Eardisland is defined as a main village under saved UDP Policy H4 and offers within its built up boundary, a range of public facilities such as two public houses, village stores, community centre, church and also has a public transport bus service to surrounding larger areas such as Leominster and thus is considered a sustainable settlement suitable for residential development. However, the site falls outside but adjacent to the settlement boundary. Development is thus contrary to 'saved' UDP policy H4 and none of the exceptions under Policy H7 are met. It is clear, therefore, that the proposal is contrary to the housing delivery policies of the UDP.

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

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

6.6 The effect of this paragraph is to effectively supersede the UDP with the NPPF where there is inconsistency in approach and objectives. The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and 11-15. Paragraph 47 states:

*“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

6.7 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 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*.

6.8 The Council’s published position is that it cannot demonstrate a five year supply of housing land. This 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 10 dwellings is on a deliverable and available Strategic Housing Land Availability Assessment (SHLAA) site. The assessment indicates it is a site suitable for up to 15 dwellings. although it is classed as a site with significant constraints. It indicates that the site is achievable with suitable highway access. Although the site is higher than the adjoining estate road and is a remnant orchard with grazing the site is suitable for development. This 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.

6.11 On this issue, officers conclude that in the light of the housing land supply issue and NPPF policies, the principle of development at this location outside but adjoining the UDP defined settlement boundary, is acceptable.

#### Conservation Area and Listed Buildings

6.12 The site is located within the Conservation Area for Eardisland on land elevated above the settlement. Residential development surrounds the site on three sides, the only open land being located to the north west of the site. The proposal to site 10 dwellings with appropriate landscaping is considered to be reflective of the surrounding built environment. Listed Buildings (Grade2 and 2 \*) are located within the vicinity of the site however it is considered that this proposal does not cause harm to the setting of these buildings or the Conservation Area which would warrant refusal of the application.

6.13 Paragraph 132 of the NPPF indicates in relationship to the historic environment:

*‘When considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset’s conservation. The more important the*



*asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.'*

6.14 Paragraph 134 of the NPPF states:

*'Where a development proposal will lead to less than substantial harm to the significance of a designated asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.'*

6.15 The Conservation Manager (Historic Buildings) has confirmed no objection to the proposal. The development is therefore considered acceptable in relationship to heritage assets and relevant policies of the UDP and the NPPF on this matter

#### Landscape and Ecology

6.16 The applicants have submitted an ecological assessment which indicates that the site is of low ecological value and the Conservation Manager (Ecology) concurs with the findings.

6.17 The site contains the remnants of a former orchard with few trees remaining. The proposed landscaping scheme seeks to enhance the site with new tree and hedge planting which will also support enhanced bio-diversity of the area.

6.18 On balance it is considered that the proposal is considered acceptable on landscape and ecology matters together with the attachment of appropriate conditions.

#### Flooding and Drainage Issues

6.19 The NPPF in paragraph 103 indicates that "when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where it can be demonstrated that development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning". The application site is located on flood zone 1, (low risk), in accordance with the Environment Agency, (EA), flood risk data maps, however access to the site is located within flood zones 2 and 3 and as a consequence the applicants have submitted a flood risk assessment, (FRA), in support of their application.

6.20 The conclusions and recommendations of the assessment indicate that the proposed development is at an acceptable level of flood risk subject to flood risk mitigation strategies being implemented. The recommendations include finished floor levels to be raised a minimum of 600mm above 1 in 100 year + 20% floor level; residents signing up to the EA flood warning service; and a site wide evacuation plan prepared for the development prior to construction. The potential to increase flood risk elsewhere will be mitigated by maintaining current drainage conditions on site and providing appropriate treatment prior to discharge.

6.21 However the EA have responded objecting to the application. Their response indicates that they are generally satisfied with the FRA produced and the assessment of flooding in Eardisland. The topographical survey provided in Appendix A is detailed and demonstrates that the vast majority of the site is elevated above the highest 2D 1 % plus climate change level of 85.65m AOD. Section 1.18 of the FRA confirms that Eardisland is identified in the SFRA as being a heavily flood prone area. However, Section 2.7 and Appendix C of the FRA confirms that the site was not affected by flooding during the 1947 flood event on the River Arrow. It is well known that the main vehicular routes through the village can flood extensively from the River Arrow during high flows with floodwater entering Eardisland upstream of the main road bridge flowing

down the main road through the village. In addition, the main road has also been known to flood from surface water not being able to drain to the river during high flows.

- 6.22 The response indicates that safe access and flood management are the key issues for this proposal as the FRA clearly identifies (Section 3.5) that safe access/egress is not possible in a 1% plus climate change event on the River Arrow, as is the case for most existing properties in Eardisland.
- 6.23 Using the Environment Agency's River Lugg and Arrow model, the FRA clearly sets out the flood risk in the village both in a 1 in 20 and 1 in 100 year plus climate change flood events. The FRA confirms that the main road is affected in a 1 in 5 year flood event. Potential depths of up to 1.3 metres in a 1 in 100 year plus climate change event are predicted on the main road leading south out of the village. Even potential depths of over 1 metre are possible in a 1 in 20 year event. These sort of depths are not considered safe and Table 13.1 of the EA/Defra document on Flood Risk Assessment Guidance for New Development (FD2320/TR2) states that depths of 1 to 1.5 m, even with low velocities, are considered as 'Danger for Most', a point which is acknowledged in Section 2.18 of the applicants FRA.
- 6.24 It is not just the significant depths of flooding that are concerning, but also the length of floodwater through which occupants of this site may be expected to walk, potentially in the dark with obstacles on the route such as manhole covers removed by flooding. Section 3.13 of the FRA suggests a suitable lead time to evacuate residents but the road begins to flood from surface water prior to floodwater spilling from the River Arrow. The EA indicate they would support the proposed installation of a more localised/site specific warning system located adjacent to the main bridge in Eardisland, outlined in Section 3.17, to ensure that the dwellings were evacuated and vehicles moved prior to flooding occurring on the main road. It is important to relate any triggers on the Titley Mill Gauge with flooding occurring in Eardisland.
- 6.25 The EA offer a flood warning service in this area on which a Flood Management and Evacuation Plan can be based but do not consider that it is their remit to comment on the adequacy of the proposed plan as outlined in Section 3.0 of the FRA and recommend consultation with the Council's emergency planning team.
- 6.26 If the plan were to fail this would increase the burden on the emergency services at a time when they will already be extremely busy and the EA question whether adding an additional 10 properties to the existing properties in Eardisland, which already have no access during flood events, is the most sustainable approach.
- 6.27 The EA in their response have indicated that they believe that the FRA has enough flood risk information to allow the Emergency Planners to make an informed decision on flood risk and the consequence for occupants/the Emergency Services should the plan fail during a 1 in 20 year or 1% plus climate change event.
- 6.28 The EA confirm they have no option but to object to the proposals given the potential depth of flooding of 1.3 metres on the main road (danger for most), when climate change impacts are considered and the distance of several hundred metres to land outside of the floodplain. However, they appreciate that this would prevent any additional development within Eardisland itself and therefore would understand why the local planning authority may wish to approve this application against EA advice.
- 6.29 The Council's Emergency Planning Officer acknowledges the comments from the Environment Agency and confirms that in his opinion the risk can be mitigated by a Flood Management and Evacuation Plan.

- 6.30 The NPPF in paragraph 103 states that a *"development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning"*.
- 6.31 The NPPF Section 10: Meeting the challenge of climate change, flooding and coastal change provides advice to local planning authorities when determining planning applications in relationship to flood risk indicating that flood risk should not be increased elsewhere as a result of the development and that development should only be considered in areas at risk of flooding which are informed by site-specific flood risk assessment following a sequential test.
- 6.32 The EA in their response have referred to the NPPF with regards to a sequential test, to which paragraph 101 of the NPPF requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a 'Sequential Test'. It states that 'development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding' and that only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the exception test if required.
- 6.33 Clearly the site for the proposed development is in flood zone 1 and as such this in itself is not an issue of concern. The concerns refer to a safe means of access through the area adjoining the site which is classed as flood risk zones 2 and 3 and that development on site will not exacerbate flooding elsewhere.
- 6.34 The village of Eardisland is classed as a main village in accordance with the UDP and therefore considered suitable for development. The village is mostly all within a high risk flood area, (Zones 2 and 3), and this appears to include most of the land around its existing development boundary in accordance with the UDP Inset map and EA flood risk data maps, however this does not include the land subject to this application. As such in relation to the requirement for a sequential test officers are satisfied with the conclusions reached.
- 6.35 Therefore Officers are of the opinion that the risk to this site can be managed via a flood management and evacuation plan
- 6.36 The response from the Land Drainage Manager indicates that the applicants proposed surface water drainage is in accordance with the draft National Standards for Sustainable Drainage and Policy DR4 of the UDP. They recommend that further infiltration testing is undertaken at the location of the proposed soakaways in accordance with BRE 365 and that the results are submitted to the Council for approval prior to construction on site, along with detail in relationship to ground water levels. This can be covered by condition.
- 6.37 No objections are also raised to the applicants method of foul drainage via a package treatment plant for the treatment of waste water generated by the development to a soakaway .
- 6.38 With consideration to the comments made by the Land Drainage Manager and confirmation received from the applicants, the issues in relation to detailed surface water drainage and foul drainage systems are considered acceptable. With appropriate conditions attached to any approval notice as recommended by both the Emergency Planning Officer and the Land Drainage Manager these matters can be adequately addressed.

## Other Matters

### Public Highway Access

- 6.39 Concerns have been raised by members of the public about public highway access and impacts with regards to additional vehicle movements on surrounding highways. It is noted that the Transportation Manager raises no objections to the development.

### Scale and Design

- 6.40 A letter of objection from a member of the public also raises concerns about the scale and design of the proposed development. Whilst it is accepted that the individual dwelling designs are mostly of slightly larger forms of local properties, they are of a similar massing but on a slightly larger scale. The use of a traditional material palette is proposed, but with contemporary detail. It is considered that the scheme taken in isolation represents a carefully considered mix of traditional and contemporary features and assessed in the context of the conservation area, the development is considered to be acceptable.

### Benefits Arising from the Proposal

- 6.41 S38(6) of the Planning and Compulsory Purchase Act necessitates review of other material considerations alongside the provisions of the Development Plan in exercising the 'planning balance'. The main material consideration in the context is the National Planning Policy Framework, which supersedes the housing supply policies of the UDP. As such the acknowledged shortfall in deliverable housing sites represents a consideration of significant weight in favour of the scheme. The scheme would also boost the supply of housing as well as contribute towards addressing the current need for affordable housing within the parish. In terms of the economic dimension of sustainable development, the development would introduce benefits in terms of the New Homes Bonus, as well as investment in jobs and construction in the area.
- 6.42 S106 contributions of £93,120 have been confirmed. It is agreed that contributions towards education infrastructure, open space, library and waste/recycling facilities and sustainable transport strategies are compliant with the CIL regulations (122(2)). In this respect the scheme complies with 'saved' UDP policy DR5, the Planning Obligations SPD and the Framework.

## 7. Conclusions

- 7.1 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.
- 7.2 In the weighing of material considerations regard must be had to the provisions of the NPPF; especially in the context of a shortage of deliverable housing sites. It is acknowledged that the development places reliance upon the presumption in favour of sustainable development as set out at paragraph 14 of the NPPF in the context of a housing land supply deficit, but equally that the emerging policies of the Core Strategy and Neighbourhood Plan are not sufficiently advanced to attract weight in the decision-making process.
- 7.3 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. The raft of S106 contributions is also noted. The ability of an increased population to underpin local services is also recognised.
- 7.4 Officers consider that in the context of existing development within Eardisland, the design of the proposal in terms of its layout and architecture is acceptable. Therefore on issues in relation to

the surrounding historic built environment, Conservation Area and landscape on balance the development is considered acceptable. It is acknowledged that issues of concern have been raised on flooding and drainage issues, however it is considered that these matters can be mitigated and addressed satisfactorily with appropriate conditions.

- 7.5 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.
- 7.6 Any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits and it is recommended that planning permission be granted subject to the completion of a legal undertaking under Section 106 of the Town and Country Planning Act 1990 and planning conditions as referred to below.

## **RECOMMENDATION**

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

1. **A01 Time limit for commencement (full permission)**
2. **B02 Development in accordance with approved plans and materials**
3. **The recommendations set out in Section 9 and 10 of the ecologist's report from Star Ecology dated August/November July 2013 must be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, a species and habitat enhancement plan integrated with the landscape plan must 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, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006'**

4. **Notwithstanding the approved plans prior to any development on site details of the proposed solar panels and their construction will be submitted to the Local Planning Authority and approved in writing.**

**Reason: In consideration of the impact on the surrounding Conservation Area and to comply with Policy HBA6 of the Herefordshire Unitary Development Plan.**

5. **G02 Retention of trees and hedgerows**
6. **G03 Retention of existing trees/hedgerows**
7. **G09 Details of Boundary treatments**

8. **Finished floor levels will be of 86.25m AOD as indicated in Section 3.2 of the flood risk assessment submitted in support of the application .**

**Reason: With consideration to flood risk and to comply with Policies DR4 and DR7 of the Herefordshire Unitary Development Plan.**

9. **L04 Comprehensive & Integrated draining of site**

10. **I55 Site Waste Management**

11. **I52 Finished floor levels (area at risk from flooding)**

12. **M07 Evacuation management plan**

**INFORMATIVES:**

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

2. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**

3. **N11C General**

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 143390/F

**SITE ADDRESS :** THE ELMS, EARDISLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9BN

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DRAFT HEADS OF TERMS  
Proposed Planning Obligation Agreement  
Section 106 Town and Country Planning Act 1990  
Planning Ref – P143390/F

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

Proposed erection of 10 dwellings comprising 3 x 3 bed open market dwellings, 4 x 4 bed open market dwellings and 3x 2 bed affordable dwellings and associated works to provide a new access on land at The Elms, Eardisland, HR6 9BN.

1. The developer covenants with Herefordshire Council, in lieu of the provision of open space on the land to serve the development to pay Herefordshire Council the sum of **£9,455** which sum shall be paid on or before the commencement of development. The monies shall be used by Herefordshire Council at its option for improvements to the quality / accessibility of existing facilities in Eardisland. Priorities to spend will be identified through local consultation. The monies may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£50,520** to provide education improvements to Conningsby Early Years, Kingsland Primary School, Weobley High School, St. Mary's Roman Catholic School, (8% of education contribution), Herefordshire Youth Service and Special Educational Needs, (1% of total contribution). This sum shall be paid on or before the commencement of development, or to a timetable to be agreed between the Council and the developer prior to the formal completion of a Section 106 Agreement.
3. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of **£30747** to provide sustainable transport measures in Eardisland. The sum shall be paid on or before the commencement of development. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
  - a) Pedestrian access improvements near the development and within Eardisland.
  - b) Improvements to bus provision/passenger waiting facilities.
  - c) Improvements to safe routes to local schools etc.
  - d) Contribution to safe routes to schools.
4. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of **£1,558** towards the provision of library services in Leominster. The sum shall be paid on or before the commencement of development, or to a timetable to be agreed between the Council and the developer prior to the formal completion of a Section 106 Agreement.
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£840.00** (index linked). The contribution will provide for waste reduction and recycling in Leominster. 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.
6. The developer covenants with Herefordshire Council that 35% of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan 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).
7. Of those Affordable Housing units, at least 2 (two) shall be made available for social rent with the remaining 1 (one) being available for intermediate tenure occupation.

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Further information on the subject of this report is available from Mr Philip Mullineux on 01432 261808



8. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
9. 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:-
  - 9.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 9.2 satisfy the requirements of paragraph 10 of this schedule
10. 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:-
  - 10.1 a local connection with the parish of Eardisland:
  - 10.2 in the event there being no person having a local connection to the parish of Eardisland, a person with a connection to the adjacent Parishes
  - 10.3 in the event there being no person with a local connection to any of the above parish or wards any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 10.1 and 10.2 above.
11. For the purposes of sub-paragraph 10.1 and 10.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 11.1 is or in the past was normally resident there; or
  - 11.2 is employed there; or
  - 11.3 has a family association there; or
  - 11.4 a proven need to give support to or receive support from family members; or
  - 11.5 because of special circumstances
12. 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.
13. 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.
14. The developer covenants with Herefordshire Council to pay Herefordshire Council a 2% surcharge fee for the monitoring of the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.

15. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4, 5 and 14 for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
16. The sums referred to in paragraphs 1, 2, 3, 4, 5 and 14 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
17. The developer 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.

Philip Mullineux, Planning Officer – February 9<sup>th</sup> 2015.



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MARCH 2015</b>
<b>TITLE OF REPORT:</b>	<b>143124 - PROPOSED DEVELOPMENT OF 1 X 2-BEDROOM BUNGALOW, TOGETHER WITH 2 OFF ROAD PARKING SPACES AT LAND REAR OF 53 YORK ROAD, BROMYARD, HEREFORDSHIRE, HR7 4BG</b>  <b>For: Mr &amp; Mrs Higgins per The Page Swinford Partnership, The Cottage, 16 High Street, Bromyard, Herefordshire, HR7 4AA</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143124&amp;search=143124">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143124&amp;search=143124</a>
<b>Reason Application submitted to Committee – Member Application</b>	

**Date Received: 14 October 2014**

**Ward: Bromyard**

**Grid Ref: 364970,254790**

**Expiry Date: 9 December 2014**

Local Members: Councillors JG Lester and A Seldon

## 1. Site Description and Proposal

- 1.1 Planning permission is sought for a detached 2 bedroom bungalow in Firs Lane, Bromyard to the rear of 53 York Road. It comprises an outline application with only the means of access to be determined at this stage. The four remaining details or reserved matters will be the subject of subsequent approval in the event that the principle of development together with the means of access is approved.
- 1.2 The application site falls within the settlement boundary for Bromyard as defined under Policy H4 of the Herefordshire Unitary Development Plan. The application site is one that is at its widest where it adjoins Firs Lane and decreases in width as it declines towards the applicant's property on York Road. The site is 8.4 metres wide where it adjoins Firs Lane and narrows to 7.4 metres on the new south- eastern boundary. The site depth is 17.4 metres. The proposal is for a two bedroom bungalow with two off-road parking spaces. The boundaries adjoining the adjacent bungalow and public footpath to north and south respectively are already defined by boundary fencing. A new fence will be created to the rear of the bungalow.

## 2. Policies

### 2.1 The National Planning Policy Framework 2012:

- Paragraph 7 - Sustainable Development
- Chapter 6 - Delivering a Wide Choice of High Quality Homes
- Chapter 7 - Requiring Good Design
- Chapter 8 - Promoting Healthy Design

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

## Paragraph 215

### 2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR5	-	Planning Obligations
H4	-	Main Villages: Settlement Boundaries
H13	-	Sustainable Residential Design
H16	-	Car Parking

### 2.3 Herefordshire Local plan – Core Strategy: The following policies are relevant, however have limited weight due to the status of the Core Strategy and representations received.

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
HD2	-	Hereford Movement
ID1	-	Infrastructure Delivery
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
H3	-	Ensuring an Appropriate Range and Mix of Housing
SD1	-	Sustainable Design and Energy Efficiency
SD2	-	Renewable and Low Carbon Energy

### 2.4 Neighbourhood Planning

Bromyard and Winslow Town Council are not producing a Neighbourhood Plan.

### 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 MH90/2098/O 2 pairs of semi-detached houses and integral garages  
Approved February 1991.

## 4. Consultation Summary

### Statutory Consultees

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

### Internal Council Advice

- 4.2 Transportation Manager: No objection.

## 5. Representations

- 5.1 Bromyard and Winslow Town Council supports the application.
- 5.2 The consultation responses can be viewed on the Council's website by using the following link:-  
<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

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

<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 Development Plan is the Herefordshire Unitary Development Plan 2007 (HUDP). This site is wholly within the town boundary and is within reasonable walking distance of a number of facilities in the locality. Therefore, there is a presumption in favour of development. The issues relating to this proposal are the siting, the form of development, impact on adjoining property and parking facilities.
- 6.2 Paragraph 14 of the NPPF confirms that where the development plan is absent, silent or relevant policies are out of date, there is a presumption in favour of granting planning permission for sustainable development unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in this Framework indicate development should be restricted
- 6.3 It is considered that it is possible to erect a detached single storey dwelling on the plot available. This is given that the existing property and proposed dwelling will still have rear garden area of a depth consistent with the adjoining bungalow and the one under construction. The new dwelling will need to be designed to ensure no overlook or overshadowing of adjoining dwellings; your officers consider this can be achieved. There is a need for good design in the HUDP which is reflected in the NPPF and this can also be achieved. It is not considered that this is a cramped site given the provision of garden area to the side and rear of the proposed bungalow.
- 6.4 The next issue relates to access and car parking. This can be provided subject to specifications for surfacing and drainage. Firs Lane is a no through road and although not wide, nevertheless vehicles turning into and off the site will not have an adverse impact on highway safety given the low frequency of traffic at the western end of Firs Lane. This site is evidently a sustainable one it is not wholly car dependent and is reasonably accessible to facilities both by foot and cycle. It is noted that the Transportation Manager does not object
- 6.5 Whilst no objections have been received, conditions should be attached controlling hours of working and parking for site operatives in the interests of the amenity of local residents. Overall, in the context of the above mentioned planning policies and other material considerations it is considered that the application site location is sustainable with regard to the NPPF in particular paragraphs 14 and 49 and therefore planning permission is recommended.

## RECOMMENDATION

**That Outline Planning Permission be granted subject to the following conditions:**

- 1. A02 Time limit for submission of reserved matters (outline permission)**
- 2. A03 Time limit for commencement (outline permission)**

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

3. **A04 Approval of reserved matters**
4. **A05 Plans and particulars of reserved matters**
5. **H13 Access, turning area and parking**
6. **I43 No burning of material/substances**
7. **L01 Foul/surface water drainage**
8. **L02 No surface water to connect to public system**
9. **L03 No drainage run-off to public system**
10. **H27 Parking for site operatives**
11. **Secure cycle storage shall be provided in accordance with submitted plans before first occupation of the dwelling and shall be retained to the satisfaction of the local planning authority**

**Reason: To ensure that there is adequate cycle storage accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.**

**Informatives:**

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

2. **Welsh Water Advice:**

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

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

**The Welsh Government have introduced new legislation that will make it mandatory for all developers who wish to communicate with the public sewerage system to obtain an adoption agreement for their sewerage with Dwr Cymru Welsh Water (DCWW). The Welsh Ministers Standards for the construction of sewerage apparatus and an agreement under Section 104 of the Water Industry Act (WIA)1991 will need to be completed in advance of any authorisation to communicate with the public sewerage system under Section 106 WIA 1991 being granted by DCWW. Welsh Government introduced the Welsh Ministers Standards on 1 October 2012**

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

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

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

- 3. **HN04 Private apparatus within highway**
- 4. **HN05 Works within the highway**
- 5. **HN28 Highways Design Guide and Specification**

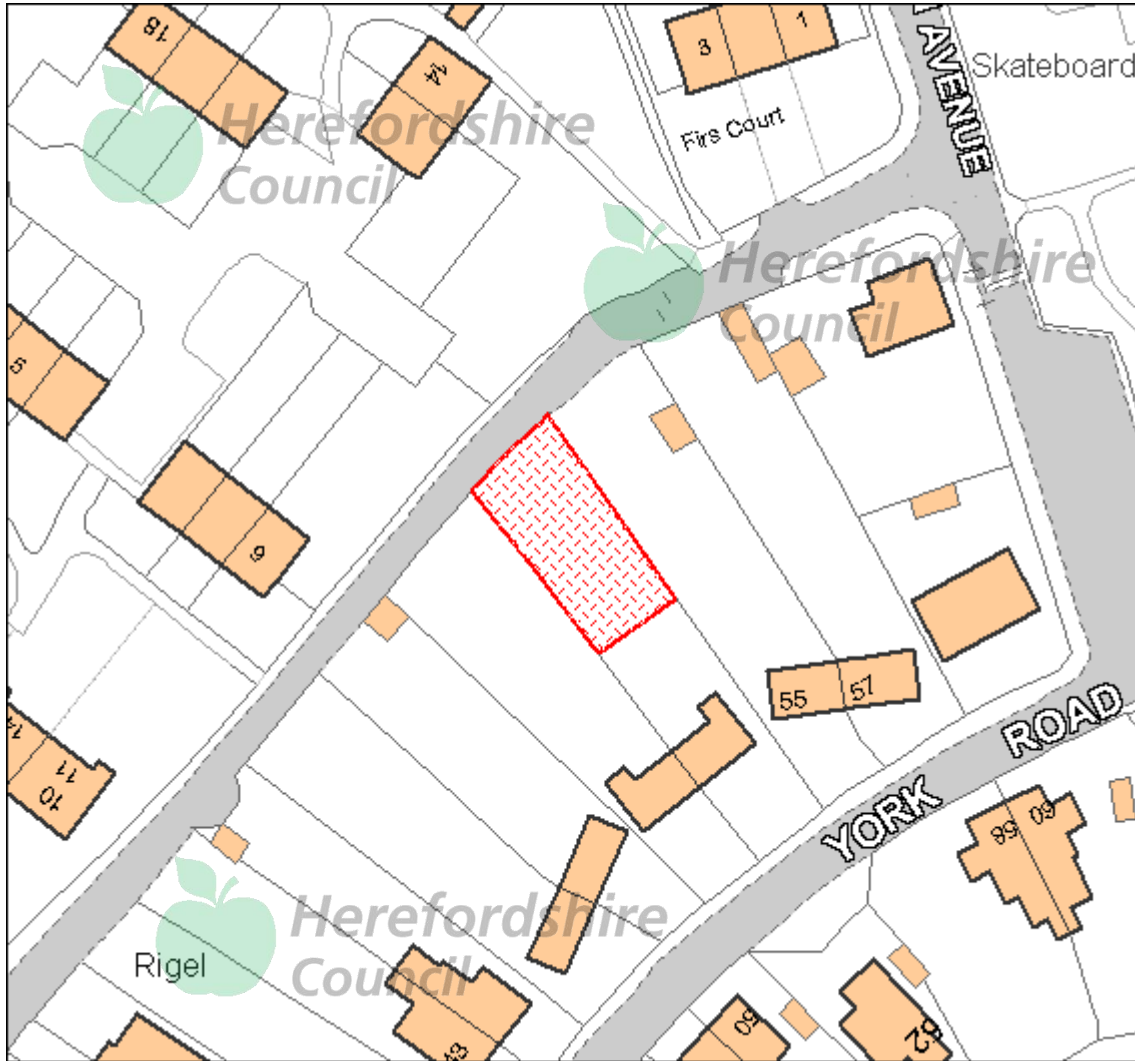
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 143124

**SITE ADDRESS :** LAND REAR OF 53 YORK ROAD, BROMYARD, HEREFORDSHIRE, HR7 4BG

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