

# AGENDA

## Planning Committee

Date: **Wednesday 2 September 2015**

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Time: **10.00 am**

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Place: **Council Chamber, 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:

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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**

**Councillor PGH Cutter**

**Vice-Chairman**

**Councillor J Hardwick**

**Councillor BA Baker**

**Councillor CR Butler**

**Councillor PJ Edwards**

**Councillor DW Greenow**

**Councillor KS Guthrie**

**Councillor EL Holton**

**Councillor JA Hyde**

**Councillor TM James**

**Councillor JLV Kenyon**

**Councillor FM Norman**

**Councillor AJW Powers**

**Councillor A Seldon**

**Councillor WC Skelton**

**Councillor EJ Swinglehurst**

**Councillor LC Tawn**

## AGENDA

		Pages
1.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
2.	<b>NAMED SUBSTITUTES (IF ANY)</b> To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
3.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	<b>MINUTES</b> To approve and sign the Minutes of the meeting held on 5 August 2015.	7 - 20
5.	<b>CHAIRMAN'S ANNOUNCEMENTS</b> To receive any announcements from the Chairman.	
6.	<b>APPEALS</b> To be noted.	21 - 26
7.	<b>150888 - LAND TO THE WEST OF A40, WESTON-UNDER-PENYARD, HEREFORDSHIRE, HR9 7PA</b> Outline application for proposed erection of (up to) 35 dwellings with new access and associated landscaping and parking.	27 - 44
8.	<b>151251 - LAND ADJACENT TO THE B4222, LEA, ROSS ON WYE, HEREFORDSHIRE</b> Proposed erection of up to 38 dwellings (including details of access).	45 - 66
9.	<b>143842 - LAND TO THE NORTH OF THE A40, EAST OF HUNSDON MANOR, WESTON-UNDER-PENYARD, ROSS-ON-WYE, HEREFORDSHIRE</b> Outline application for 37 dwellings (13 of which would be affordable) with all matters except access reserved for future consideration.	67 - 84
10.	<b>150431 - LAND OPPOSITE BROOK FARM, MARDEN, HEREFORDSHIRE, HR4 9EA</b> Proposed residential development of up to 50 Homes.	85 - 104
11.	<b>152012 - CHURCH COTTAGE, HOARWITHY, HEREFORD, HR2 6QQ</b> Proposed oak framed conservatory to the side elevation (south).	105 - 110
12.	<b>DATE OF NEXT MEETING</b> Date of next site inspection – 15 September 2015 Date of next meeting – 16 September 2015	



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- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Planning Committee held at The Shire Hall, St Peter's Square Hereford HR1 2HX on Wednesday 5 August 2015 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor J Hardwick (Vice Chairman)

Councillors: BA Baker, WLS Bowen, CR Butler, KS Guthrie, EPJ Harvey, EL Holton, JA Hyde, TM James, JLV Kenyon, FM Norman, AJW Powers, WC Skelton, EJ Swinglehurst and LC Tawn

**In attendance:** Councillors JM Bartlett and PJ McCaull

**27. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors PJ Edwards, DW Greenow and A Seldon.

**28. NAMED SUBSTITUTES**

Councillor WLS Bowen substituted for Councillor PJ Edwards and Councillor EPJ Harvey substituted for Councillor A Seldon.

**29. DECLARATIONS OF INTEREST**

**Agenda item 7: 143769 - Upper House Farm, Moreton-on-Lugg, Hereford**

Councillor J Hardwick declared a non-pecuniary interest because he knew the applicants.

**30. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 15 July 2015 be approved as a correct record and signed by the Chairman.

**31. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman reported that agenda item 10: 151121 – Land off High Street, Leintwardine, Herefordshire had had to be withdrawn from the agenda.

The Development Manager explained that following a High Court decision the Government had been required to withdraw its guidance exempting development from the requirement to have a Section 106 agreement where the development was fewer than 10 dwellings. This meant that application 151121 now required a Section 106 agreement. Consultation on that agreement would have to be undertaken before the application could be considered by the Committee.

**32. APPEALS**

The Planning Committee noted the report.

**33. 143769 - UPPER HOUSE FARM, MORETON-ON-LUGG, HEREFORD, HR4 8AH**

*(Proposed construction of six poultry houses and feed bins, ancillary works, erection of biomass boiler building and single storey ancillary building, amendments to existing vehicular access and associated landscaping.)*

*(Councillor J Hardwick declared a non-pecuniary interest.)*

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

He added, further to the published update, that two more letters of representation had been received. One of these had been a letter from the applicant's agent in response to points raised by members of the Committee on the site visit. The other had been from the Campaign to Protect Rural England (CPRE).

The applicant's agent had commented in relation to drainage that the scheme included an extensive surface water management system. Regarding odour a permit was already in place for 12 poultry units and the biomass boiler. All matters relating to emissions and waste that would be produced from the site had been considered as acceptable and within the thresholds permitted by the Environment Agency.

The CPRE had expressed concern that the phosphate content of chicken manure was contributing to very serious pollution problems in the County's rivers. They had also referred to a document on the government website describing "pollution control outside of environmental permitting regulations" stating that pollution matters outside the installation boundary were not covered by environmental permit and were therefore a matter the Planning Committee needed to consider.

The Development Manager highlighted a slide in his presentation containing an odour modelling plan, showing the area that would be affected to varying degrees by odour.

He also drew attention to the Environment's log of complaints and its response to those complaints set out at appendix 1 to the report.

In relation to the impact of the development on the setting of listed buildings he referred to the comments of the Conservation Manager (Historic Buildings) as reflected at paragraph 4.9 of the report. He remarked that that the Conservation Manager had had the opportunity to assess these matters, however no objection to the application had been received from him. The Development Manager added that the visual impact of the development was limited given the distance between the development and the two listed buildings to which the Conservation Manager had referred and the fact that a modern housing estate lay between the development and those buildings. He did not consider, having had regard to the provisions of the relevant legislation, that the development had a substantial or significant impact on the listed buildings causing them significant harm,

The applicant had amended the application following officer comment on landscape and drainage and the consultation on these amended proposals was reflected in the report. There were no significant issues to resolve in relation to either drainage or environmental issues, only matters of detail.

In order to ensure that the conditions attached to any planning permission, if granted, were tailored to be specific to the site, rather than simply relying on the standard conditions set out in the recommendation in the report he requested that, in the event of an approval, officers be given delegated authority to finalise the detailed wording of any conditions.



In accordance with the criteria for public speaking, Mr K Cooper, Chairman of Moreton-on-Lugg Parish Council spoke in opposition to the Scheme. Mr P Young, a local resident, spoke in objection. Mr G Clark, the applicant's agent, spoke in support.

In accordance with the Council's Constitution the local ward members were invited to speak on the application.

Councillor PE Crockett, one of the two local ward members, was unable to attend the meeting. Arrangements had been made for Councillor WLS Bowen to speak on her behalf. He made the following principal points:

- Three Parish Councils had expressed their reservations and requested that the application be refused.
- The development would have an adverse visual impact.
- The odour and smell from the development was a concern especially when the sheds were being cleaned out. The proposed doubling of the size of the site and the planned rotation of cleaning of the two sites would mean the cleaning-out would take place more frequently.
- There appeared to be no restriction on the time during which deliveries of feed took place.
- The biomass boiler would require 1500 tonnes of fuel a year to be delivered to the site.
- There was concern about the safety of the access off the A49, upon which he was aware Councillor Guthrie proposed to elaborate.
- The company had been slow to implement tree planting conditions imposed under the previous permission. If planning permission were to be granted it would be important that tree planting conditions were firmly enforced.
- The health of the chickens was a concern.
- The proposal was in the Moreton Brook catchment which currently failed the Water Framework Directive target for phosphate.
- Whilst it was stated that foul water was to be removed from the site, it had to be asked if this simply transferred the problem.
- Local residents should be entitled to the quiet enjoyment of their homes.
- Attendance at public meetings about the issue had been high indicating the level of concern about the issues.
- He requested that the application be refused.

Councillor Guthrie, the second local ward member, made the following principal points:

- Consideration needed to be given to whether the development was agricultural or industrial.
- The scale of the development and its cumulative impact was unacceptable. It would exacerbate the noise and odour problems affecting the local community.
- It would have an adverse effect on the Cuckoo Corner campsite tourist facility.
- She referred to the foreword of the National Planning Policy Framework which stated that sustainable development should mean change for the better. The local view was that the proposal did not represent sustainable development from their perspective.

- She also assessed the proposal in relation to the three dimensions of sustainable development described in the NPPF asserting that it failed to fulfil the criteria.
- The A49 was a busy, fast and dangerous road. There had been two fatal accidents in the vicinity of the farm access. Highways England and the Police were proposing a new speed enforcement regime. The cumulative effect of housing and other development on traffic volumes needed to be considered.
- The modelling of the area that would be affected by odour and the degree of that effect did not reflect the reality of the actual experience of local residents. She read extracts from a number of letters of objection describing the unpleasant effects of the odour.
- Noise was another concern. Log cutting to provide fuel for the biomass boiler was extremely noisy and was taking place at 7am.
- The development was in the open countryside and on grade 2 and grade 3a agricultural land qualifying it as the best land as defined by the NPPF and to which safeguards should therefore be applied.
- She highlighted the concerns expressed by the Wye and Usk Foundation at paragraph 5.5.2 of the report that the development would contribute to a rise in phosphate levels in the River Wye and that levels were already a problem.
- The proposal was contrary to the NPPF and a number of saved UDP policies which she detailed.
- The environment and the quality of life of local residents should be protected and the application refused.

In the Committee's discussion of the application the following principal points were made:

- The Council should request the Highways Agency to make improvements to the A49.
- It was noted that the development would create two additional jobs.
- It was suggested that consideration should be given to using technologies to burn chicken manure to fuel the biomass boiler thereby reducing vehicle movements and noise.
- The proposal would exacerbate a situation that was already problematic.
- The impact on tourism needed to be considered.
- Account needed to be taken of the cumulative impact of the development.
- The effect of increased phosphate levels in the County's rivers was a major concern. The Moreton Brook catchment area already contained an excess of phosphates
- Whilst not a planning consideration the welfare of the chickens was a concern.
- There were concerns about the effect of the development on the health of local residents.
- The access to and from the A49 was satisfactory with good visibility. An extension of the 50mph speed limit would be welcome as would signs warning motorists of the movement of heavy vehicles.
- There should be restrictions on the hours during which log cutting and other noise generating activities could take place.
- The NPPF referred to the need to improve places where people lived. The proposal would have a serious, negative impact on residential amenity.

- Paragraphs 109, 110 and 120 of the NPPF were relevant setting out the need to protect the landscape and minimise pollution.
- A concern was expressed about how waste removed from the site would be regulated. The Development Manager commented that movement of waste from the site was subject to licence and controlled.
- The authority had responsibilities to discharge under the EU habitats directive and could not take the view that certain pollution matters were simply the responsibility of the Environment Agency.
- The visual impact of the site was not acceptable. It was clearly visible from higher ground.
- A number of detailed concerns were expressed about the odour modelling and how the latest model compared with the models produced for earlier developments on the site. The experiences of the local residents and the views of local ward members suggested that the model did not reflect the reality. The Environmental Health Officer Environmental Protection commented that improvements in building design and construction might account for some of the differences from previous odour models. He confirmed that the model took account of both the existing development and the new proposed development.
- It was suggested that UDP policy E16 – Intensive Livestock units was relevant and represented a ground for refusal in addition to the range of policies Councillor Guthrie had identified.
- The proposal appeared contrary to policy E13 in that there surely was an adverse impact on amenity and the environment and the proposal was not well related to existing development in terms of scale.
- Consideration needed to be given to the effect of a development on the County as a whole.
- There was a concern that a number of complaints made to and logged by the Environment Agency were unsubstantiated and disproved by the record.

The local ward members were given the opportunity to close the debate.

Councillor Bowen requested the Committee to consider the negative impact upon the amenity of residents of further development mindful of the impact of the existing development.

Councillor Guthrie noted the adverse impact of the development on the County as a whole as well as the effect upon local residents and rivers.

The following grounds for refusing the application were advanced: NPPF paragraphs 9, 14 and 17 relating to residential amenity, paragraphs 109, 110 and 120 relating to pollution, saved policies E13 and E16 of the UDP and the cumulative effect in the landscape.

The Development Manager commented that in his view the Committee's concerns about odour and pollution supported by policy E16 and relevant paragraphs of the NPPF represented the strongest grounds for refusal.

**RESOLVED: That planning permission be refused and Officers named in the Scheme of Delegation to Officers be authorised to finalise the drafting of the reasons for refusal for publication based on the Committee's concerns about odour and pollution supported by policy E16 and relevant paragraphs of the NPPF.**

*(The meeting adjourned between 11.40 am and 11.50 am.)*

**34. 150812 - LAND OFF WESTCROFT, LEOMINSTER, HEREFORDSHIRE, HR6 8HG**

*(Site for proposed residential development for 35 houses.)*

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

He added that if the Committee was minded to approve the application he proposed that an informative should be added stating that the proposed layout of the scheme was not acceptable and it must be ensured that the amenity of properties adjoining the site was protected.

In accordance with the criteria for public speaking, Mr R Pendleton, of Leominster Town Council spoke in opposition to the Scheme. Mr K Wheeler, a local resident, spoke in objection. Mr C Goldsworthy, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor PJ McCaull, spoke on the application.

He made the following principal comments:

- The access to the site was situated at a dangerous corner. There had been a number of accidents and near misses in that location. There would also be traffic management issues within the site itself.
- He questioned the figures contained in the Transport Statement accompanying the application regarding the number of additional vehicle movements the site would generate. He considered the figure to be too low. The surrounding area already suffered from traffic problems.
- There were many houses for sale in Leominster. He doubted whether there was a demand for more housing to be built.
- The site was surrounded by residential development with no public open space. The local community had expressed a wish for the land to be used to create a green open space, with a wildlife garden and other elements including redevelopment of a former pond.

In the Committee's discussion of the application the following principal points were made:

- There were visibility problems with the access. In part these were caused by parked cars.
- The development should be considered as infill development.
- Road travel in the area was problematic. The roads were narrow. Two Doctors surgeries in the area added to the traffic difficulties.
- Air pollution in the Bargates area was acknowledged as being of concern. Traffic measures agreed almost 3 years ago, including replacement of the traffic lights with "smart" versions, had not been implemented. Any proposal that would increase traffic in that area should be rejected.
- The assessment of the number of additional vehicle movements the site would generate appeared to be too low.
- The proposal would have an adverse impact on existing residents of the area.

- An application in 2003 for a smaller development on the site had been refused.
- The site was outside the settlement boundary. In opposition to this point it was observed that the Authority had already granted planning permission for a number of sites outside settlement boundaries having regard to national government policies as expressed through the NPPF.
- There was support for the land to remain as open space. It was noted in response, however, that the land was privately owned.
- The proposal was contrary to the emerging Neighbourhood Plan.
- Discussion focused on a view that the application for 35 houses represented overdevelopment and that a smaller development with the provision of some green space would be a preferable option. It was proposed that consideration of the application should be deferred to allow further discussions to take place with the applicant and other relevant parties.
- In response to a question the Senior Litigator commented that he was inclined to the view that if the application were refused and an appeal lodged the Inspector would consider the appeal on the basis of the plans in place at the time the Committee made its decision. Account would not be taken of any progress made in the interim in relation to the adoption of the Core Strategy or the Leominster Neighbourhood Plan. He would, however, research the matter. Further questions were asked about the bearing this view had on the ability to advance an argument that developments were premature as emerging plans neared approval.
- The Principal Planning Officer commented in relation to prematurity that the Core Strategy proposed 1,500 new homes in Leominster. In that context it would be difficult to argue that a development of 35 houses would jeopardise strategic development objectives,
- The Principal Planning Officer also commented that the application previously refused had been for 8 houses but on a smaller area. Current UDP policy suggested that a density of 30-50 houses per hectare in that location would be acceptable. The emerging Core Strategy proposed a density level of 35 houses per hectare. The proposal before the Committee represented a density level of 27-28 houses per hectare.
- He clarified that the traffic flow figures at paragraph 6.21 of the report referred to trips during the peak flow periods.

The Development Manager commented that to refuse an application on highway grounds the impact of a development had to be severe. That was not the case in this instance. No weight could be given to the Neighbourhood Plan. The County required housing development and Cabinet had agreed a policy that development outside settlement boundaries would be permitted in some circumstances. The developer was offering an amount of public open space which would help offset the lack of play space in the area. In considering whether the density of a development was appropriate a Planning Inspector would take account of the character of the surrounding area, which in this case was an area of dense development. A proposed density of up to 28 houses per hectare was therefore readily acceptable. He reiterated that the argument of prematurity could not be applied. The Committee was being asked to consider the principle of development and access, not the detail of the application.

The local ward member was given the opportunity to close the debate. He suggested that a compromise might be possible. He noted that he had not received objections to development to the one side of the hedge in the centre of the site. He supported a deferral to permit further discussions.

**RESOLVED:** That consideration of the application be deferred to permit further discussions to take place.

**35. 151344 - BPI FILMS, WORCESTER ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 0QA**

*(Proposed alterations to roof, replacement of existing roof vents with noise suppression louvres. Acoustic panel surround and silencers to chiller units.)*

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

In accordance with the criteria for public speaking, Mr R Pendleton, of Leominster Town Council spoke in opposition to the Scheme. Mr and Mrs Domanski, local residents, spoke in objection. Mr P Cooke, on behalf of the applicant, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor JM Bartlett, spoke on the application.

She made the following principal comments:

- The recognition that there were issues to rectify was welcome.
- The report stated that planning permission was not required for the new unit itself. The principal issue was whether the works were the best solution to the noise problems being caused by the factory, representing best practice and the use of the best techniques.
- UDP policy DR13 required this type of development to include appropriate measures to mitigate noise impact to an acceptable level. There were still a number of issues for the applicant to address in relation to noise. She therefore requested that in line with Leominster Town Council's representation, if permission were granted, following completion of the proposed works the applicant should be required to undertake a noise assessment of the site to ensure that the measures had worked.
- BPI was important to the economy of Leominster and of the County as a whole. BPI had recently met the Town Council. It was to be hoped that if permission were granted, with the proposed condition, links between the two would continue to improve.

In the Committee's discussion of the application the following principal points were made:

- Noise from the factory was clearly affecting local residents. The proposed improvements should be approved and then subjected to regular monitoring to ensure that they were effective.
- Low frequency sound was very intrusive and difficult to track. The company appeared to be trying to address the issue and its efforts should be supported.
- The noise from the factory had caused considerable distress to local residents. Local confidence in the company's actions to address the problem had been shaken. A condition requiring monitoring of the new measures would contribute to rebuilding that confidence.
- It was asked why the report expressed such confidence at paragraph 6.4 that the measures proposed would have a positive impact. The Environmental Protection Service Manager commented on work undertaken by the Service and by the Company with consultants. Noise would continue to be an issue for some residents



because it was difficult to completely silence a factory. However, the firm had co-operated with the Service and he considered that the proposals were good.

The Development Manager commented that a condition of the type being proposed would be unenforceable. An informative note could be added requesting the applicant to undertake monitoring, but a requirement to do so could not be imposed.

The local ward member was given the opportunity to close the debate. She expressed concern that a condition could not be imposed and that it appeared that some residents would continue to suffer from the noise. It was to be hoped that the Company would seek to rebuild confidence with the community.

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

1. **A01 Time-limit-for-commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **C02 Matching external materials**

**Informative:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **The Planning Committee encourages the adoption of further monitoring following the installation of sound proofing, louvres and sound dampening to the chiller units, and discussions with the Council's Environmental Health Department.**

**36. 151121 - LAND OFF HIGH STREET, LEINTWARDINE, HEREFORDSHIRE**

This application was withdrawn from the agenda, pending a consultation upon an S106 agreement, for the reason set out in Minute no 31 - Chairman's announcements.

**37. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**Appendix 1 - Schedule of Updates**

The meeting ended at 1.40 pm

**CHAIRMAN**





# **PLANNING COMMITTEE**

**Date: 5 August 2015**

## **Schedule of Committee Updates/Additional Representations**

**Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.**

## **SCHEDULE OF COMMITTEE UPDATES**

**143769 - PROPOSED CONSTRUCTION OF SIX POULTRY HOUSES AND FEED BINS, ANCILLARY WORKS, ERECTION OF BIOMASS BOILER BUILDING AND SINGLE STOREY ANCILLARY BUILDING, AMENDMENTS TO EXISTING VEHICULAR ACCESS AND ASSOCIATED LANDSCAPING. AT UPPER HOUSE FARM, MORETON-ON-LUGG, HEREFORD, HR4 8AH**

**For: Mr and Mrs S Perkins per Mr Graham Clark, Newchurch Farm, Kinnersley, Hereford, Herefordshire HR3 6QQ**

### **ADDITIONAL REPRESENTATIONS**

A further letter has been received from a local resident raising issues relating to odour, noise from log grinder and highway safety on A49(T).

### **OFFICER COMMENTS**

The issues raised are all addressed within the report to Planning Committee

### **NO CHANGE TO RECOMMENDATION**

**150812 - SITE FOR PROPOSED RESIDENTIAL DEVELOPMENT FOR 35 HOUSES AT LAND OFF WESTCROFT, LEOMINSTER, HEREFORDSHIRE, HR6 8HG**

**For: Mr Bates per Miss Lorraine Whistance, 85 St Owen Street, Hereford, Herefordshire, HR1 2JW**

Informative HN05 (Works within the highway) has been duplicated in the Recommendation therefore informative note number 10 is deleted

### **CHANGE TO RECOMMENDATION**

Removal of informative note 10

**151344 - PROPOSED ALTERATIONS TO ROOF, REPLACEMENT OF EXISTING ROOF VENTS WITH NOISE SUPPRESSION LOUVRES. ACOUSTIC PANEL SURROUND AND SILENCERS TO CHILLER UNITS AT BPI FILMS, WORCESTER ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 0QA**

**For: Mr Cooke per Mr Stephen Potter, Pomona Office, Kings Acre Road, Hereford, Herefordshire, HR4 0SN**

**ADDITIONAL REPRESENTATIONS**

Three further letters of objection have been received from local residents.

**OFFICER COMMENTS**

The representations do not materially raise issues different from those identified in the report.

**NO CHANGE TO RECOMMENDATION**

**151121 - PROPOSED RESIDENTIAL DEVELOPMENT OF 10 NO DWELLINGS AT LAND OFF HIGH STREET, LEINTWARDINE, HEREFORDSHIRE**

**For: Mr Stewart per Mr Alastair Stewart, 7 Sweetlake Business Park, Shrewsbury, Shropshire, SY3 9EW**

This application has been removed from the Committee agenda following a change in Central Government Policy that will necessitate further consultation.



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>5 AUGUST 2015</b>
<b>TITLE OF REPORT:</b>	<b>APPEALS</b>

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**CLASSIFICATION:** Open

## Wards Affected

Countywide

## Purpose

To note the progress in respect of the following appeals.

## Key Decision

This is not an executive decision

## Recommendation

That the report be noted.

## APPEALS RECEIVED

### Application 150772

- The appeal was received on 8 July 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission (Householder)
- The appeal is brought by Mrs Sharon Gray
- The site is located at The Cottage, Bosbury, Ledbury, Herefordshire, HR8 1QW
- The development proposed is Proposed upgrade and link extension to dwelling
- The appeal is to be heard by Householder Procedure

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

### Application 140890

- The appeal was received on 15 July 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr & Mrs Pugh
- The site is located at Land adj Ashgrove HR1 3EY, Eastfields Farm, Bodenham, Hereford, HR1 3HS
- The development proposed is Proposed construction of earth slurry lagoon
- The appeal is to be heard by Written Representations

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

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

**Application 142175**

- The appeal was received on 6 July 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Gladman Developments Ltd
- The site is located at Land off Pencombe Lane, Bromyard, Herefordshire
- The development proposed is Site for up to 120 dwellings with associated open space and landscaping
- The appeal is to be heard by Hearing

**Case Officer: Mr K Bishop on 01432 260756**

**Application 150238**

- The appeal was received on 16 July 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission (Householder)
- The appeal is brought by Mrs Turner
- The site is located at The Hopkilns, Green Lane, Bromyard, Herefordshire, HR7 4RZ
- The development proposed is Proposed single storey extension
- The appeal is to be heard by Written Representations

**Case Officer: Fernando Barber-Martinez on 01432 383674**

**Application 150239**

- The appeal was received on 16 July 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Listed Building Consent
- The appeal is brought by Mrs Turner
- The site is located at The Hopkilns, Green Lane, Bromyard, Herefordshire, HR7 4RZ
- The development proposed is Proposed single storey extension
- The appeal is to be heard by Written Representations

**Case Officer: Fernando Barber-Martinez on 01432 383674**

**Application 143370**

- The appeal was received on 17 July 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr S Watkins & Mr P Bennett
- The site is located at Land to the East of Brook Lane, North of B4220, Bosbury, Hereford
- The development proposed is Proposed residential development for up to 37 dwellings of which 13 (35%) will be affordable
- The appeal is to be heard by Written Representations

**Case Officer: Mr C Brace on 01432 261947**

## **APPEALS DETERMINED**

### **Application 142143**

- The appeal was received on 10 February 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr J Glinos
- The site is located at 24 Hospital Houses, Burghill, Hereford, Herefordshire, HR4 7RE
- The development proposed was Site for a detached 3/4 bedroom house.

#### **The Main issue was:**

- Whether the development proposed would be consistent with the principles of sustainable development having regard to the National Planning Policy Framework and the development.

#### **Decision:**

- The application was Refused under Delegated Powers on 10 September 2014
- The appeal was Allowed on 2 July 2015

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

### **Application 140963**

- The appeal was received on 3 November 2014
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Bovis Homes Limited
- The site is located at Land at 144 Aylestone Hill, and land to the east of Aylestone Hill, Hereford, HR1 1JJ
- The development proposed was Site for the development of up to 135 homes (including 35% affordable homes), public open space, new access (including demolition of 144 Aylestone Hill). Structural landscaping, sustainable drainage including balancing ponds and infrastructure and associated works.

#### **The main issue(s) were:**

- (a) the effect of the proposal on the character and appearance of the landscape;
- (b) its relationship with the Lugg and Hampton Meadows Site of Scientific Interest and the River Lugg Site of Special Scientific Interest and Special Area of Conservation;
- (c) the effect on the character and appearance of the Aylestone Hill Conservation Area having particular regard to the stated purpose for its designation;
- (d) whether there would be any adverse ecological impacts; and
- (e) in the event that there is harm, whether any of the above, individually or in combination, or any other material consideration, including the overall accessibility of the site to local services and facilities, would significantly and demonstrably outweigh the benefits of the scheme with particular reference to the supply of housing land within the district

#### **Decision:**

- The application was Refused at Planning Committee against Officer Recommendation on 27 August 2014
- The appeal was Dismissed on 6 July 2015

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

### **Application 141514**

- The appeal was received on 16 February 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr Tony Fenn
- The site is located at Land at Bye Cross Farm, Moccas, Hereford, Herefordshire
- The development proposed was Proposed detached dwelling

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

**The main issue was:**

- The effect that the proposal would have on the objectives of national and local planning policies relating to the location of new housing and the protection of the countryside

**Decision:**

- The application was Refused under Delegated Powers on 18 August 2014
- The appeal was Dismissed on 6 July 2015

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

**Application 142108**

- The appeal was received on 24 February 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr J Hickton
- The site is located at Land adjacent to Lea Hall Cottage, Lea, Herefordshire, HR9 7LQ
- The development proposed was Site for up to 44 new dwellings of which 35% will be affordable (16 units)

**The main issues were:**

- The effect that the proposal would have on the character and appearance of the area, and whether safe and suitable access would be provided.

**Decision:**

- The application was Refused under Delegated Powers on 16 December 2014
- The appeal was Dismissed on 7 July 2015
- An Application for the award of Costs, made by the Appellant against the Council, was Dismissed

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

**Application 140757**

- The appeal was received on 13 February 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr S Watkins and W Reynolds, Braemar Property Developments Ltd
- The site is located at Land East of Church House and West of A438, Bartestree, Herefordshire
- The development proposed was Residential development of up to 51 new dwellings of which up to 18 will be affordable

**The main issue was:**

- Whether, with due regard to the development plan and the National Planning Policy Framework (the Framework), the proposal would be a suitable sustainable form of development.

**Decision:**

- The application was Refused at Planning Committee against Officer Recommendation on 29 October 2014
- The appeal was Allowed on 7 July 2015
- An Application for the award of Costs, made by the Appellant against the Council, was Dismissed

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

**Application 141994**

- The appeal was received on 4 February 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr J Greene



- The site is located at Land adjacent to Chapel Orchard, Hereford Road, Weobley, Hereford, HR4 8SW
- The development proposed was Proposed erection of 4 nos. dwellings with associated access and parking

**The main issues were**

- Whether the proposed development adequately contributes to the supply of housing; and whether the proposed development preserves or enhances the character or appearance of the Weobley Conservation Area and the setting of the Weobley Castle Scheduled Ancient Monument.

**Decision:**

- The application was Refused under Delegated Powers on 4 September 2014
- The appeal was Dismissed on 7 July 2015
- An Application for the award of Costs, made by the Appellant against the Council, was Dismissed

**Case Officer: Mr Mark Tansley 01432 261815**

**Application 142672**

- The appeal was received on 17 February 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr Steve Birch
- The site is located at Field adjacent to the Barn, Lower Snodhill, Herefordshire, HR3 6BH
- The development proposed was Site for proposed dwelling.

**The main issue was:**

- Whether a new dwelling in this location would be acceptable having regard to the principles of sustainable development

**Decision:**

- The application was Refused under Delegated Powers on 31 October 2014
- The appeal was Dismissed on 8 July 2015

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

**Application 141889**

- The appeal was received on 2 March 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Planning Conditions
- The appeal was brought by Mr Kevin Rowsell
- The site is located at The Bache, Kimbolton, Leominster, Herefordshire, HR6 0ER
- The development proposed was Proposed variation of condition 2 of planning permission DCNC0009/1980/F (Conversion of redundant farm buildings into two dwellings and associated siteworks) Amendments to approved plan to include additional and relocation of roof lights, solar panels and new window.

• **The main issues were:**

The original planning permission<sup>1</sup> for the barn conversion granted in 2010 did not include a similar condition. The application subject to this appeal relates to a planning permission granted<sup>2</sup> for amendments to an approved plan to include additional and relocation of roof lights, solar panels and new window. Due to concerns raised by neighbouring occupiers a condition was attached to this permission which sought details for the boarding up of an external door, known as D7.

The appellant contends that the door never formed part of the 'amendments' application, as the details of the door were approved by the original permission. The appellant seeks to remove this condition so that access and egress can be gained from the rear of the property for reasons including maintenance and emergency purposes.

From the evidence before me, the extent of the land ownership and right of access is clearly a moot point which has been the subject of sustained investigation by various parties. However, a planning appeal is not the arena to re-run the ownership or access issue.

It is a key tenet of the planning system that planning permission is tied to the land, not the owner. As such the appellant was entitled to make a planning application on the appeal site. I note that the appellant undertook notice of the application and I am satisfied that the principal parties in the ownership dispute have participated in both the planning application and appeal processes. I am therefore satisfied that such parties would not be prejudiced by my consideration of the appeal proposal.

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Matters of land dispute are non-material planning considerations.

Consequently, the main issue in this case is whether the disputed condition is necessary and reasonable to safeguard the living conditions of neighbouring occupiers at Lower Bache House.

<sup>1</sup> Planning Application ref: DCNC0009/1980/F (also referred to as revised ref number DMNC/092087/F)

<sup>2</sup> Planning Application ref: P141889/F

**Decision:**

- The application was Approved with Conditions under Delegated Powers on 16 October 2014
- The appeal was Allowed on 20 July 2015

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

**Application 142008**

- The appeal was received on 6 March 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mrs Jaqueline Thomas
- The site is located at Land between, 39 and 41 Westfaling Street, Hereford, Herefordshire, HR4 0HB
- The development proposed was Proposed development to demolish garage and carport and construct a two storey, two bedroom house

**The main issue was:**

- The effect of the proposed development on the character and appearance of the area.

**Decision:**

- The application was Refused under Delegated Powers on 1 October 2014
- The appeal was Allowed on 22 July 2015

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

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



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>150888 - OUTLINE APPLICATION FOR PROPOSED ERECTION OF (UP TO) 35 DWELLINGS WITH NEW ACCESS AND ASSOCIATED LANDSCAPING AND PARKING AT LAND TO THE WEST OF A40, WESTON-UNDER-PENYARD, HEREFORDSHIRE, HR9 7PA</b></p> <p><b>For: MG Property Consultants per Hunter Page Planning Ltd, Thornbury House, 18 High Street, Cheltenham, Gloucestershire, GL50 1DZ</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150888&amp;search=150888">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150888&amp;search=150888</a>
<b>Reason Application submitted to Committee – Contrary to Policy</b>	

**Date Received: 27 March 2015**

**Ward: Penyard**

**Grid Ref: 363505,223088**

**Expiry Date: 30 June 2015**

Local Member: Councillor H Bramer

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

- 1.1 The application site is located on the eastern side of Weston under Penyard, approximately two miles from Ross on Wye. The village is dissected by the A40 Ross-on-Wye to Gloucester Road and the application site lies on the southern side of the road.
- 1.2 The site is generally flat, although there is a gentle rise towards the south west. It is roughly rectangular in shape and approximately 1.3 hectares in size. Its current use is not immediately evident but it appears as an area of rough pasture on the edge of the village.
- 1.3 Its north western boundary is formed by a modern residential estate which is a mix of bungalows and two storey houses. A mature hedge and the A40 form the boundary to the north east, while the south western boundary is formed by a hedgerow and a track which gives access to an agricultural building. Finally, the south eastern boundary is made up of a broken hedgerow with open countryside beyond.
- 1.4 Weston under Penyard contains a range of services including the village hall, public house and the local primary school. The site is situated approximately 150m from the nearest bus stops which are located either side of the A40. The buses provide an hourly service to both Gloucester and Ross-on-Wye.
- 1.5 The application site has no national or local designations in terms of either ecology or landscape and does not fall within a floodplain. There are no listed buildings on or adjoining the site, the closest being the Church of St Lawrence which is approximately 340 metres to the

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

north west. The only physical constraint to the development of the site are two sewer easements that cross in roughly a north west / south east direction.

1.6 The application is made in outline with all matters apart from access reserved for future consideration. It has been amended since its original submission. Originally for up to 42 dwellings, the proposal now seeks permission for up to 35 dwellings with 35% to be affordable.

1.7 The application is accompanied by the following documents:

- Planning Statement
- Design & Access Statement
- Transport Statement
- Landscape and Visual Appraisal
- Ecological Assessment
- Flood Risk Assessment
- Drainage Strategy
- Archaeological Evaluation
- Noise Impact Assessment
- Statement of Community Involvement
- Draft Heads of Terms Agreement

## 2. Policies

2.1 National Planning Policy Framework:

The following sections are of particular relevance:

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

2.2 Herefordshire Unitary Development Plan:

- S1 - Sustainable Development  
S2 - Development Requirements  
DR1 - Design  
DR2 - Land Use and Activity  
DR3 - Movement  
DR4 - Environment  
DR5 - Planning Obligations  
DR7 - Flood Risk  
H7 - Housing in the Countryside Outside Settlements  
H9 - Affordable Housing  
H15 - Density  
T8 - Road Hierarchy  
LA2 - Landscape Character and Areas Least Resilient to Change  
LA3 - Setting of Settlements  
LA5 - Protection of Trees, Woodlands and Hedgerows  
NC1 - Biodiversity and Development  
NC8 - Habitat Creation, Restoration and Enhancement  
ARCH1 - Archaeological Assessments and Field Evaluations  
ARCH5 - Sites of Lesser Regional or Local Importance

## 2.3 Herefordshire Core Strategy Deposit Draft:

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land For Residential Development
SS4	-	Movement and Transportation
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
LD4	-	Historic Environment and Heritage Assets
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

## 2.4 Neighbourhood Planning

Weston under Penyard are preparing a Neighbourhood Plan. At the time of preparing this report they had reached the Regulation 15 stage. The Local Planning Authority were to publicise the consultation from 4 August 2015 until 16 September 2015. This is the Regulation 16 stage. At the end of that 6 week period the Plan can be considered as a material consideration in the determination of a planning application.

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

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

## 3. Planning History

3.1 There is no planning history relating specifically to the site. The application has been made in outline with all matters apart from access reserved for future consideration. The scheme originally proposed the erection of up to 75 dwellings, but this number has since been amended to 37 dwellings following negotiations.

## 4. Consultation Summary

### Statutory Consultations

4.1 Welsh Water – No objections subject to the imposition of conditions to require that surface water is drained separately from the site and should not discharge to the main sewer. They have also drawn the Council's attention to two separate sewer pipes that cross the site and the need for a three metre service strip to remain available should development be permitted.

### Internal Council Consultations

4.2 Transportation Manager – No objection subject to the imposition of conditions but makes the following comments:

- The access location is acceptable; the visibility splays should be 120 metres in each direction with an x distance of 3.4m. Concerns are raised about the site boundary hedge, to ensure visibility is maintained, details will be required on who maintains the open space and boundary hedgerows as this could become an issue in the future. If the hedge row is

kept the traffic calming effect of having properties fronting the A40 will be lost. The existing footpath fronting the site must maintain a 2.4 width.

- An un-adopted highway is located to the rear of the site; therefore a pedestrian link to the village/school cannot be accommodated. Additional footway/cycle way access should be reviewed adjacent to no. 20 or 16 Seabrook Place, this will allow for the reduction in pedestrian access to village due to un-adopted track at the rear of the site.
- S278 agreement is required to undertake the offsite works which will include changing the existing TRO (Traffic Regulation Order) to move the speed limit east to incorporate the access to within the 30mph, the removal of red anti-skid and roundel markings will also be required. Works be included and agreed on either this application (15088) or 143842 if application is approved.
- The site should only be accessed from the A40 due to the narrowness of U70208 School Lane and the location of Weston under Penyard Primary School.
- Adoption of the shared surfaces is not preferred due to only serving 6 properties. Parking to be designed to Herefordshire Council design guide.
- If garages to be included in the parking numbers, 3m x 6m must be the internal dimensions.

#### 4.3 Conservation Manager

##### Landscapes

Following on from a site visit conducted on the 1 June 2015 as well as extensive walking of footpaths within the locality. I am of the opinion that the proposal is unlikely to cause undue landscape or visual impact and with considered design has the potential to enhance the eastern edge of the settlement.

A number of recommendations have been made within the landscape appraisal in terms of layout, these are welcomed and should be used to inform the detailed design layout:

- Built form should be set back from the eastern boundary and this buffer strengthened in terms of height of hedgerow and the introduction of hedgerow trees.
- Planting within the POS will assist in breaking up massing and enhancing the eastern approach to the village.
- Breaks in planting and built form should be retained in order to retain long views across the settlement to the church tower.
- Layout of proposed dwellings should take into account the existing layout of built form in particular the single storey dwellings at Penyard Gardens.
- Connectivity to Seabrook Place, Penyard Gardens as well as the recreational space should be developed through pedestrian links.
- It is recommended that detailed landscaping proposals indicating trees and hedgerow for retention, in conjunction with a management plan be submitted as part of a condition.

## Ecology

No objection subject to the imposition of a condition to ensure that the recommendations as set out within the ecology report as submitted by the applicant are followed, and to require the submission of a habitat protection and enhancement scheme prior to the commencement of development.

## Archaeology

The site has a degree of archaeological interest, particularly relating to the north / eastern part of the site closest to the A40. This interest principally relates to Roman 'industrial' remains in the locality (ancient furnace and metalworking debris etc). Such remains are relatively common and extensively found in the broader hinterland of the settlement of Ariconivm further to the northeast, and although clearly of some importance and group value, would not be regarded as being exceptionally significant in themselves.

In my view, the remains indicated on the application site are not of sufficient value to merit preservation in situ, although they would certainly merit archaeological recording as mitigation for any loss. Accordingly, subject to the attachment of a suitable archaeological condition to any permission granted, I would have no objections.

### 4.4 Land Drainage Engineer

We have no objections in principal to the development on the grounds of flood risk and drainage. The site is located wholly within Flood Zone 1 and the submitted FRA and proposed drainage strategy has demonstrated that flood risk both to the site and downstream of the site is likely to be manageable. However, we recommend the following is provided as part of any subsequent reserved matters application:

- Finalised drainage arrangements and details with supporting calculations for surface water and foul drainage systems – including further details of pollution prevention control measures and exceedance flow routes;
- Results of infiltration testing undertaken in accordance with BRE 365 and results of recorded groundwater levels;
- Evidence that the Applicant has considered ground contamination risks; and
- Finalised proposals for the adoption and maintenance of surface water and foul drainage systems.

### 4.5 Education – No objection to the proposal subject to a Section 106 Agreement in accordance with the Council's Planning Obligations Supplementary Document.

### 4.6 Parks & Countryside Officer

Given the location of the nearby recreation ground and play area the applicant has acknowledged in the draft Heads of Terms that an off-site contribution should be provided, which is in accordance with pre-application comments and that any contribution should have regard to CIL regulations. This is supported.

The contribution would be used at the existing play area at Weston-under-Penyard Village Hall and playing fields which are situated immediately to the south of the application site. In accordance with the Play Facilities Study and Investment Plan the existing play area is old, small, caters for younger children only, is out of date and requires replacing and improving to provide play value for all ages. Contributions are calculated in accordance with the SPD on Planning Obligations and on market housing only as follows:

- 2 bed: £965

- 3 bed: £1,640
- 4+bed: £2,219

It is also noted that the indicative site layout shows an amount of public open space on site which it is understood would act as a "gateway" amenity space. Future management will need to be considered. Suitable management and maintenance arrangements will be required to support any provision of open space and associated infrastructure within the open space in line with the Council's policies. This could be by adoption by the Parish Council or by a management company for example.

4.7 Public Rights of Way Manager – no objection.

4.8 Environmental Health (Noise)

The nearest 4 or 5 proposed houses closest to the A40 will receive the greatest impact and the report specifies that it is anticipated that noise levels without attenuation will exceed 55dB. It is anticipated but not demonstrated in the report that screening by way of perimeter fencing and the houses themselves will provide sufficient attenuation.

Further information is requested by way of calculation of the actual noise levels in the gardens of the proposed houses closest to the A40.

## 5. Representations

5.1 Weston under Penyard Parish Council - object to this application due to the size of the development. It is not consistent with the emerging Neighbourhood Plan.

In a further response the parish council state:

Further to our last representation on 16th May 2015, concerning Planning Application P150888/O, please be advised that the Weston under Penyard Parish Council has approved a Neighbourhood Plan for the parish and has submitted the Plan and associated supporting documents to Herefordshire Council under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. For all matters concerning application P150888/O we would now request that all of the Plan's policies be taken into consideration, thereby ensuring that any future development in the parish is carried out in accordance with the wishes of the parish residents, as expressed through the Plan. We would highlight that Policy HS1 states that the approved maximum number of houses on this site is now 18.

5.2 Ross & District Civic Society - Although the NPPF makes a 'presumption in favour of sustainable development' it also states [para 17] that planning should be 'genuinely plan-led, empowering local people to shape their surroundings'. While the county's Core Strategy has yet to receive formal approval, it clearly does not, and will not, envisage large-scale development of villages.

To increase Weston by up to 44 houses would be disproportionate & would adversely affect the character of this rural area [NPPF para 17]. This impact would be all the more pronounced if application 143842/0 for up to 75 houses on the eastern side of the A40 were also to be approved.

With the local community still involved in producing a Neighbourhood Plan any major development approved in the near future would clearly render their efforts futile and irrelevant.

A de facto situation is now arising of likely major development along an A40 corridor stretching from Ross to Lea. Apart from its massive impact on the rural landscape such development,



taken as a whole, will inevitably have major consequences for traffic along several miles of the A40.

No reading of the draft Core Strategy over its prolonged years of gestation would have led most observers to conclude that the A40 corridor was to become such a key focus of housing development.

5.3 Nineteen letters of objection have been received from local residents. In summary the points raised are as follows:

- Development is outside of the UDP settlement boundary
- It conflicts with the emerging neighbourhood plan in terms of the number of dwellings proposed
- The combination of the two applications on opposite sides of the A40 would result in the disproportionate growth of the village
- The proposal is out of place, disproportionate and will detract from the village
- Doesn't meet the housing needs of the village
- Vehicles tend to overtake on this straight stretch of the A40 and the introduction of additional traffic movements will be detrimental to highway safety
- The number of vehicles on an already busy road will be further increased
- Footpaths along the A40 are narrow and unsafe
- The village lacks local amenities and services
- There are no employment opportunities in the area
- Local bus services are inadequate
- The village school is too small to accommodate the increased number of children likely to be generated by the development
- No detail given of the size, type, style or design of buildings

5.4 One letter giving mixed comments has also been received. Whilst the author is generally in favour of the development, it is considered that more storage space/garaging should be afforded to dwellings and they would also like to see a shop in the village.

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

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

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

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

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

6.1 Weston under Penyard is identified within the adopted Unitary Development Plan as a main village and is also allocated as a main village within the Ross on Wye Housing Market Area within the emerging Local Plan – Core Strategy with a 14% indicative growth target over the plan period.

6.2 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, the scale of the development proposed and its cumulative effects with other proposals in the locality, highway safety and the availability of services and employment opportunities locally that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

## **The Principle of Development in the Context of ‘saved’ UDP Policies, the National Planning Policy Framework (NPPF) and Other Material Guidance**

6.3 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.”*

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

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

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

6.6 The practical 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*.

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

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 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 up to 35 dwellings, including 35% affordable, on a deliverable and available site is a significant material consideration telling in favour of the development to which substantial weight should be attached.

6.10 Taking all of the above into account, officers conclude that in the absence of a five-year housing land supply and advice set down in paragraphs 47 & 49 of the NPPF, the presumption in favour of sustainable development expressed at Paragraph 14 of the NPPF is applicable if it should be concluded that the development proposal is sustainable. As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary.

## **Assessment of the Scheme's Sustainability Having Regard to the NPPF and Housing Land Supply**

- 6.11 The NPPF refers to the pursuit of sustainable development as the golden thread running through decision-taking. It also identifies the three mutually dependent dimensions to sustainable development; the economic, social and environmental dimensions or *roles*.
- 6.12 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use resources prudently and movement towards a low-carbon economy.
- 6.13 Weston under Penyard is a main village within the UDP and also identified as a main village in the Herefordshire Local Plan – Core Strategy. Officers consider that in terms of access to local services that include a primary school and public transport and its relative proximity and connectivity to Ross on Wye, which acts as a service centre and where there are employment opportunities, the site is sustainably located. The delivery of up to 35 dwellings, including 35% affordable, together with contributions towards public open space, sustainable transport and education infrastructure, would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development.
- 6.14 The site is not subject to any environmental designations and the Council's Conservation Manager observes that the scheme has the potential to deliver ecological enhancement in accordance with saved UDP policy and NPPF objectives subject to an appropriately worded condition to achieve this objective.

### **Impact on Landscape Character and the Setting of the Village**

- 6.15 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geo-diversity sites or landscape areas will be judged. It also confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), and LA3 (setting of settlements) are broadly consistent with chapter 11 of the NPPF.
- 6.16 The application site has no formal landscape designation. It lies in open countryside outside, but adjacent to, the settlement boundary. The site forms part of the eastern approach to the village when travelling along the A40 in a westerly direction but is not immediately discernible as a separate parcel of land from the road due to the mature hedge forming the eastern boundary and the proximity of the built edge of the village to it.
- 6.17 Penyard Gardens is currently seen as the defined edge of the village. It is not of any particular architectural quality and inhibits any view of the older parts of the village that lie around the church.
- 6.18 As described above, the application site is not visually legible due to the topography of the land and the prominence of the hedgerow forming its eastern boundary. The proposal will simply introduce a new edge to the built form of the village, and the visual effect will not be dissimilar to the situation as it presently exists.

- 6.19 The Council's Landscape Officer considers that the proposal is unlikely to cause undue landscape or visual impact and, with considered design, has the potential to enhance the eastern edge of the settlement. The key to this would be to retain the hedge along the eastern boundary and the applicant's agent has submitted an indicative layout as part of their submission which shows that the development could be arranged in such a manner to ensure that it is retained and does not form a curtilage boundary for any of the properties.
- 6.20 It is acknowledged that the proposal represents a significant addition to the housing stock in the village but the site represents an obvious opportunity to provide housing land. This is acknowledged in the emerging Neighbourhood Plan which has identified it as one of two sites for growth. At 27 dwellings per hectare, the proposal is not of a high density and is in fact comparable in this regard to its immediate surroundings. The proposal makes good use of the land at a level that is considered to be appropriate in terms of its context.
- 6.21 It is therefore concluded that the proposal will not adversely affect the landscape character of the area, nor will it detrimentally affect the setting of Weston under Penyard and the proposal is consequently considered to accord with policies LA2 and LA3 of the UDP.

### **Highway Matters**

- 6.22 The proposed means of access to the site is onto the A40 at a point where the national speed limit applies, but approximately 50 metres to the east of the edge of the village where the limit is reduced to 30 mph. The road is straight in both directions and visibility is good at the proposed point of access. The application is accompanied by a Transport Statement and detailed layouts of the proposed means of access which demonstrate that appropriate visibility splays can be provided in accordance with the council's design guide specifications. The Transportation Manager's comments anticipate the completion of a Section 278 Agreement which will include the extension of the 30 mph zone to the south east of the proposed new access, combined with other highway works designed to reduce traffic speeds. The Heads of Terms appended to this report also sets out contributions to be made for highway improvements.

### **Archaeology**

- 6.23 The results of the evaluation indicate that the majority of the site is of limited archaeological potential. The survey made a number of finds in the northern corner of the site but more limited elsewhere. The Council's Archaeologist has considered the findings of the survey and raises no objection to the application subject to the imposition of a condition to secure a programme of archaeological works. This is reflected in the recommendation that concludes this report.

### **Noise**

- 6.24 The Council's Environmental Health Officer has commented that the noise levels without attenuation within the gardens of the dwellings closest to the A40 will exceed the 55dB and requests the submission of further information.
- 6.25 The applicant's acoustic consultant has responded by suggesting that the relationship between the proposed dwellings and the A40 is not inherently unusual, but that the introduction of panel fencing will provide the required mitigation, reducing noise within the gardens of properties by 7dB.
- 6.26 Although the proposal does include a plan showing the layout of dwellings it should be recognised that the application is made in outline and that the precise layout is reserved for future consideration and may change from that shown on the indicative plan. Notwithstanding this, the presence of a sewage pipe running across the front of the site, and the need to

ensure that this area is kept free from development means that dwellings will be set back from the road. Your officers are sufficiently content that the matter of acoustic attenuation is not in itself a reason to refuse the application and can be dealt with by condition.

### **Compliance with the emerging Core Strategy and Neighbourhood Plan**

6.27 At the time of writing this report the Core Strategy has been the subject of a further four week period of public consultation following further modifications to reflect the Government's recent Ministerial Statement on wind turbines. The consultation period expired on 10 August and it is anticipated that the Inspector's Report will be received in the near future. However, until the report is received by the Council the policies in the emerging Core Strategy are considered to have limited weight.

6.28 As reported at paragraph 2.4 of this report, the emerging Neighbourhood Plan is currently at Regulation 16 stage and is the subject of a public consultation period. It is noted that the draft plan identifies two preferred sites for development in Weston under Penyard and these are the site to which this application relates and that on the opposite side of the A40 where the Council is also considering a separate planning application.

6.29 With regard to this particular site, the Neighbourhood Plan proposes that the number of dwellings to be accommodated on the site should be limited to 18. On a site of 1.3 hectares this would equate to a housing density of approximately 14 dwellings per hectare. Paragraph 58 of the NPPF sets out a framework for the establishment of design related policies in local and neighbourhood plans, and its third bullet point is quite clear that:

*"Planning policies and decisions should ensure that developments optimise the potential of the site to accommodate development..."*

6.30 The adoption of the Neighbourhood Plan will depend upon its compliance with the NPPF and the Core Strategy. Policy SS2 refers to housing density and it says that:

*"Residential density will be determined by local character and good quality design. The target net density across the county is between 30 and 50 dwellings per hectare, although this may be less in sensitive areas."*

6.31 In your officers view the proposal for up to 35 dwellings at an approximate density of 27 per hectare complies with the NPPF. There is nothing to suggest from the consultation responses received that the site is particularly sensitive to justify the significant reduction in density that is proposed by the Neighbourhood Plan. Such a low density does not reflect the character of the immediate locality, nor does it represent the most effective or best use of land and it is not considered that a reason for refusal based on the density of the development could be substantiated on appeal.

### **Summary and Conclusions**

6.32 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out-of-date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development: the economic, social and environmental roles.

6.33 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 in the absence of significant and demonstrable adverse impacts, the application should be approved.

- 6.34 The site lies outside but adjacent to the settlement boundary for Weston under Penyard and is, having regard to the NPPF and saved and emerging local policies, a sustainable location. The site is immediately adjacent to bus stops and services to Ross on Wye and Gloucester. Although only an outline application, it is also evident that there are opportunities to ensure pedestrian permeability and connectivity to other parts of the village, particularly the school and playing fields to the south of the site. These opportunities will ensure that prospective residents have a genuine choice of transport modes. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).
- 6.35 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. In providing a greater supply of housing and breadth of choice, including 35% affordable and in offering enhancements to footways in the locality, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.
- 6.36 It has been demonstrated that the proposal will not harm the landscape character of the area or the setting of the village. The Landscape Officer has in fact suggested that the proposal offers an opportunity to enhance the setting of the village.
- 6.37 Officers conclude that there are no landscape, highways, drainage, ecological or archaeological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits.
- 6.38 It is therefore concluded that planning permission should be granted subject to the completion of a Section 106 Planning Obligation in accordance with the Heads of Terms appended to this report and appropriate planning conditions. The conditions will include a requirement to limit the number of dwellings to no more than 35 and to formulate an integrated foul and surface water run-off scheme. Officers would also recommend the developer conducts further consultation with the Parish Council and local community as regards the detail of any forthcoming Reserved Matters submission.

## RECOMMENDATION

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

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **B01 Development in accordance with approved plans**
5. **C01 Samples of external materials**
6. **The development shall include no more than 35 dwellings and no dwelling shall be more than two storeys high.**

**Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, H13 and the National Planning Policy Framework.**

- 7. H02 Single access – footway**
- 8. H03 Visibility splays**
- 9. H06 Vehicular access construction**
- 10. H11 Parking – estate development (more than one house)**
- 11. H18 On site roads – submission of details**
- 12. H20 Road completion**
- 13. H21 Wheel washing**
- 14. H27 Parking for site operatives**
- 15. H29 Covered and secure cycle parking provision**
- 16. The recommendations set out in the ecologist’s report from All Ecology dated October 2014 should be followed. Prior to commencement of the development, a habitat protection and enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, The scheme should include a timetable for completion of habitat protection and enhancement measures and they shall be implemented as approved.**

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

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

**To comply with Herefordshire Council’s Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.**

- 17. G04 Protection of trees/hedgerows that are to be retained**
- 18. G09 Details of boundary treatments**
- 19. G10 Landscaping scheme**
- 20. G11 Landscaping scheme - implementation**
- 21. L01 Foul/surface water drainage**
- 22. L02 No surface water to connect to public system**

- 23. L03 No drainage run-off to public system
- 24. L04 Comprehensive and integrated draining of site
- 25. E01 Site investigation - archaeology
- 26. I13 Scheme to protect new dwellings from road noise

**Informatives:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2. HN10 No drainage to discharge to highway
- 3. HN08 Section 38 Agreement & Drainage details
- 4. HN07 Section 278 Agreement
- 5. HN04 Private apparatus within highway
- 6. HN01 Mud on highway
- 7. HN24 Drainage other than via highway system
- 8. HN05 Works within the highway
- 9. HN28 Highway Design Guide and Specification

Decision: .....

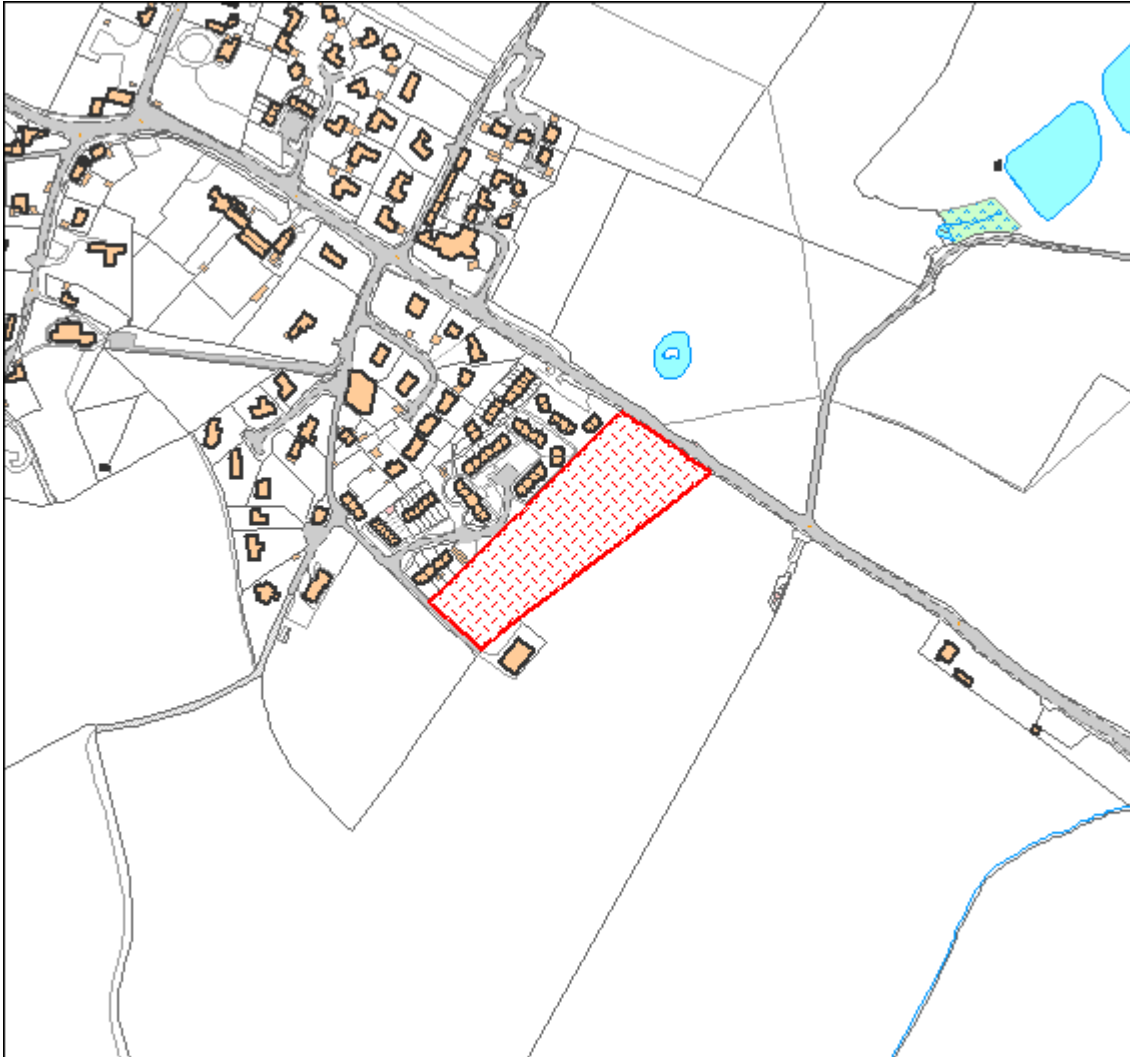
Notes: .....

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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** 150888

**SITE ADDRESS :** LAND TO THE WEST OF A40, WESTON-UNDER-PENYARD, HEREFORDSHIRE, HR9 7PA

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

# DRAFT HEADS OF TERMS

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

### Planning Application – 150888

Site address:

**Land to the west of the A40, Weston under Penyard**

Planning application for:

**proposed residential development of up to 35 dwellings with all matters reserved, except for access.**

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008, and Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended). All contributions in respect of the residential development are assessed against open market units only except for item 3 which applies to all new dwellings.

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

£ 1,966 (index linked) for a 2 bedroom open market unit

£ 2,949 (index linked) for a 3 bedroom open market unit

£ 3,932 (index linked) for a 4+ bedroom open market unit

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

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

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

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

£1,212 (£1,123 secondary & £89 SEN) (index linked) for a 2 bedroom open market flat

£ 2,174 (£2,036 secondary & £138 SEN) (index linked) for a 2/3 bedroom open market dwelling

£4,336 (£4,089 secondary & £247 SEN) (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for enhanced educational infrastructure at John Kyrle High School and the Special Education Needs Schools. The sum shall be paid on or before first occupation of the 12th open market dwellinghouse, and may be pooled with other contributions if appropriate.

In this instance “Educational Infrastructure” means education improvements at John Kyrle High School by the internal extension of two first floor rooms to create additional teaching spaces and improved provision for special education needs through an external extension to create a physiotherapy room.

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £80 (index linked) per dwelling. The contribution will be used to provide 1x waste and 1x recycling bin for each dwelling. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling

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

- 4.1. A contribution for off-site children’s play facilities to be provided on land adjacent to the development site:

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

£ 965 (index linked) for a 2 bedroom open market unit

£ 1,640 (index linked) for a 3 bedroom open market unit

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

The relevant sum shall be paid on or before the commencement of development, and may be pooled with other contributions if appropriate.

5. The maintenance of any on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council and/or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

*NOTE: Any attenuation basin and/or SUDS which may be transferred to the Council will require a commuted sum calculated in accordance with the Council's tariffs over a 60 year period*

6. The developer covenants with Herefordshire Council that 35% (12 on basis of a gross development of 35) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.

7. All the affordable housing units shall be completed and made available for occupation in accordance with a phasing programme to be agreed in writing with Herefordshire Council.

8. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-

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

8.2. satisfy the requirements of paragraphs 7 & 8 of this schedule

9. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-

9.1. a local connection with the parish of Weston under Penyard

9.2. in the event of there being no person with a local connection to Weston under Penyard any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 9.1 above.

10. For the purposes of sub-paragraph 8.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:

10.1. is or in the past was normally resident there; or

10.2. is employed there; or

10.3. has a family association there; or

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

10.5. because of special circumstances;

11. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2 and 3 above 4, for the purposes specified in the agreement within 10 years of the date of payment, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire

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

Council.

12. The sums referred to in paragraphs 1, 2 and 3 above 4 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
13. If the developer wishes to negotiate staged and/or phased trigger points upon which one or more of the covenants referred to above shall be payable/delivered, then the developer shall pay a contribution towards Herefordshire Council's cost of monitoring and enforcing the Section 106 Agreement. Depending on the complexity of the deferred payment/delivery schedule the contribution will be no more than 2% of the total sum detailed in this Heads of Terms. The contribution shall be paid on or before the commencement of the development.
14. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>151251 - PROPOSED ERECTION OF UP TO 38 DWELLINGS (INCLUDING DETAILS OF ACCESS) AT LAND ADJACENT TO THE B4222, LEA, ROSS ON WYE, HEREFORDSHIRE</b></p> <p><b>For: MLN (Land and Properties) Ltd per Mr Ben Wheatley, Knights, The Brampton, Newcastle under Lyme, Staffordshire, ST5 0QW</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151251&amp;search=151251">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151251&amp;search=151251</a>
<b>Reason Application submitted to Committee – Contrary to policy</b>	

**Date Received: 28 April 2015**

**Ward: Penyard**

**Grid Ref: 366681,221870**

**Expiry Date: 10 August 2015**

Local Member: Councillor H Bramer

## 1. Site Description and Proposal

- 1.1 The site is located on the south eastern side of the B4222 Aston Crews to Lea road immediately adjacent to the eastern side of Knightshill housing estate. The land rises up from the road and the site is bisected by a watercourse. It is presently an uncultivated meadow. A field access emerges onto the B4222 but the roadside boundary is otherwise comprised of a mature hedgerow. The remaining boundaries are also formed by field hedges with a small coppice at the south western corner
- 1.2 The proposal is to construct 38 dwellings centred around a new access road. The application is made in outline with all matters apart from access reserved for future consideration. Off site improvements are proposed along the B4222 towards the village centre and at the junction with the main A40 Ross to Gloucester Road to aid pedestrian movement. The scheme is a re-submission of an application previously refused by Planning Committee, contrary to officer recommendation, on 11 February 2015. The reasons for refusal are set out in the Planning History section of this report.
- 1.3 The application is accompanied with an indicative layout confirming that 38 dwellings can be developed together with a balancing pond for sustainable urban drainage and a landscape Strategy Plan. It also supported by the following documents:
- Planning Statement
  - Design & Access Statement (with addendum)
  - Landscape & Visual Impact Assessment (with addendum)
  - Flood Risk Assessment
  - Community Consultation Programme

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

- Transport Statement
- Ecology Survey
- Arboricultural Statement
- Draft Heads of Terms Agreement

1.4 The addendums to the Design & Access Statement and Landscape & Visual Impact Assessment attempt to address the reasons given for the refusal of the earlier application but the application is otherwise the same as previously considered.

## 2. Policies

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

The following sections are of particular relevance:

Introduction	-	Achieving sustainable development
Section 4	-	Promoting sustainable transport
Section 6	-	Delivering a wide choice of high quality homes
Section 7	-	Requiring good design
Section 8	-	Promoting healthy communities
Section 11	-	Conserving and enhancing the natural environment

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

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
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
H16	-	Parking
H19	-	Open Space Requirements
T6	-	Walking
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
CF2	-	Foul Drainage

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

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation

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

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	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	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

#### 2.4 Neighbourhood Planning:

Lea neighbourhood area has been designated, but there have been no consultations on issues or options to date and the draft plan is some way off being finalised. Therefore no weight can be attached to the Neighbourhood Development Plan at this stage.

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

National Planning Practice Guidance (2014)  
 Annual Monitoring Report  
 Five Year Housing Land Supply (2013-2018) Interim Position Statement  
 Planning for Growth – 2011  
 Laying the Foundations – 2011  
 Housing and Growth – 2012  
 Green Infrastructure Strategy – 2010

#### 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 142410/O – Proposed outline consent for the erection of up to 38 dwellings – Refused 11 February 2015 for the following reasons:

1. The proposal represents the addition of a significant residential development in Lea where; in the context of this village location, other large-scale development has recently been approved. It is therefore considered that this proposal represents an over-development that would detrimentally change the rural character of the eastern fringe of the village, contrary to Policies DR1, H13 and LA3 of the Herefordshire Unitary Development Plan. The Council does not consider that the visual impacts of the development can be mitigated through the imposition of conditions. The scheme fails to contribute to the protection or enhancement of the natural or built environment and therefore the proposal also fails to meet the aims of the National Planning Policy Framework.
2. The application is not accompanied by a completed Section 106 agreement which is considered necessary to make the development acceptable. It is therefore contrary to Policy DR5 of the Herefordshire Unitary Development Plan and the Council's Supplementary Planning Document on Planning Obligations.

3.2 The applicant has appealed the decision to refuse the application and have requested that it be dealt with as an Inquiry. At the time of writing the Planning Inspectorate have yet to confirm the method by which the appeal will be heard.

#### 4. Consultation Summary

##### Statutory Consultations

##### 4.1 Welsh Water:

Dwr Cymru Welsh Water have outlined strong concerns regarding overland flooding downstream of this proposal, which in turn is having significant detrimental effect of the public sewerage network. The responsibility of land drainage rests with the local authority and/or the Environment Agency. Therefore Dwr Cymru Welsh Water recommends that the Local Authority and other agencies investigate this matter further so that appropriate solutions can be identified to address the issues surrounding flooding from local watercourses.

Notwithstanding the above, we request that if planning permission is granted conditions are attached to any planning consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

##### Internal Council Consultations

4.2 Transportation Manager - As previously agreed the visibility shown in appendix 5 of the Transport Statement are agreed. Draft terms have also been agreed. A safety audit would be required as part of the S278 agreements.

We would be reluctant to adopt the bridges shown on the indicative layout plans as it would require maintenance and commuted sums. Possible alternatives to the bridge should be sort due to the reluctance to adopt a bridge on to the network. The turning heads needs to confirm to HC design guide. The visibility splays around the proposed bridge should also meet HC design criteria. To prevent pedestrian movements from traversing the highway on a number of occasion footways could be kept to one side.

##### 4.3 Conservation Manager:

###### Ecology

This resubmission is accompanied by the original ecological report which I have again reviewed. Notwithstanding, the previous application which was refused, my comments remain the same as before:

The grassland is species poor so much so that the Millennium Phase 1 Habitat Map has recorded it as improved. However, there is much opportunity for site ecological enhancement. I would also note that the watercourse should be protected from the activities involved in construction which should be detailed in a Construction Environmental Plan.

The stream has undergone substantial clearance works. At some stage the landscaping will need to be done to the stream which should have a riparian zone of vegetation to ensure otters are able to access it undisturbed with some water vole habitat creation preferably. We need a plan for this and for the site's other ecological enhancements which should be accomplished under a habitat enhancement scheme.

On this basis no objection is raised to the application subject to the imposition of conditions.

Archaeology - No objection.



#### 4.4 Housing Officer:

In principle the housing team support the application for 38 dwellings of which 13 will be made available as affordable housing. As the application is outline all detailed information is absent therefore a discussion with the developer is required to confirm tenure and bed size. It would be requested that the affordable units be allocated to those with a local connection to Lea in the first instance.

#### 4.5 Parks & Countryside Officer:

There are 3 areas on site of POS:

- Site A: SuDs area with informal recreation POS: 0.34ha (3465sq m)
  - Site B: small entrance amenity space with limited play value: 0.05ha (500sq m)
  - Site C: linear landscape buffer required by landscape to lesson the visual impact with limited recreational value: 0.24ha (2,400sq m)
- Total 0.63ha (6,300sq m)**

This is in excess of policy requirements for informal open space and amenity space but given the nature of the areas as described above the recreation value of them will potentially be limited. For example, the SuDs area will require careful design to take account of health and safety issues of standing water but can provide good opportunities for wildlife, informal recreation and natural play if done accordingly.

The applicant has not provided any formal play provision on site. As the site is adjacent to the only play area in the village at Rudhall View this is supported and as part of the development the applicant will provide pedestrian and cycle connections between existing and proposed open spaces/play area to benefit both new and existing residents. An off-site contribution may therefore be sought towards improving the quality of the play offer at Rudhall View as in accordance with the Play Facilities Study and Investment Plan it has room to expand. It would be calculated in accordance with the SPD on Planning Obligations but would be dependent on what is provided on site in respect of informal play opportunities which would be taken into account. It is noted that the applicant has indicated that further negotiations will be needed with the Council during the course of the planning application to ascertain whether any developer contributions will be required towards public open space. Gloucester Housing Association who own the play area should also be consulted as part of this process.

POS Adoption: Suitable management and maintenance arrangements will be required to support any provision of open space and associated infrastructure within the open space in line with the Council's policies. This could be through an adoption by a Parish Council, or by use of a management company, but must be demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement or through local arrangements such as a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

In this instance it is unlikely that the Herefordshire Council will consider adopting areas of POS given the location.

SuDs Adoption: With regard to the SUDS areas: With the changing legal issues/revising national guidance around SuDS following recent Govt consultations, at this time we are unable to advise a definitive answer on adoption and maintenance of any SuDS areas. Any adoption or maintenance agreements and associated commuted sums/management charges with any eligible body are subject to the powers, acts and national guidance that is live and relevant at the time of adoption.

#### 4.6 Environmental Health (Contaminated Land):

Records indicate the proposed development is within 250 metres of a closed landfill site and as such I would recommend that any permission is subject to conditions.

### 5. Representations

#### 5.1 Lea Parish Council

The newly elected Lea Parish Council met on 20th May 2015 and it was agreed unanimously by 7 Parish Councillors that they were not in favour of this application. It was highlighted that this application was no different whatsoever to Planning Application P142410/O and therefore the objections raised by the Parish Council to the previous application, P142410/O, are still true and valid.

#### 5.2 Aston Ingham Parish Council

Object to this application mainly on the grounds of sustainability. Permission should not be granted on the basis of a presumption in favour of sustainable development, which the developers claim should override the policies in the UDP.

Specifically, the core principle of sustainability is that dwellings should be built close to sites of employment and other mainstream services, such as retail areas, medical centres and other public services. The fact that the minor facilities quoted in the proposal (village shop, pub and church) are within walking distance of the development is inconsequential, as residents will need to commute to work and otherwise travel to local towns for all other services.

The Parish Council considers that the existence of a bus route through the village to other towns contributes little to the sustainability equation. The service is under-utilised and subsidised, despite being close to existing housing developments in Lea, and it's future isn't guaranteed. It is very unlikely that the proposed development will change the dynamics in any meaningful way, and the Councillors feel that the proposal substantially under-estimates the number of private car journeys by a considerable margin, and therefore highway capacity and congestion problems. There are already serious concerns regarding the speed and volume of traffic on the B4222.

These major issues are of a scale which places them outside the scope of S.106 or reserved matters.

The Parish Council submits that this proposal must be considered in the context of other proposed developments in the village, as the total number of dwellings in the pipeline is far in excess of what is reasonable for a village of this size, amenities and infrastructure, and inherently contrary to the principles of sustainability. It is changing in an adverse way the character of Lea village.

In addition, the Councillors raised a number of concerns regarding over-development in the AGLV, visual impact, potential contamination by discharge of sewerage into the Ell Brook and local infrastructure capacity, and were sceptical of projections of local employment opportunities which would be created by the development.

The quality of the scheme in terms of design and layout is acknowledged.

#### 5.3 West Mercia Police

I do not wish to formally object to the proposals at this time. However there are opportunities to design out crime and/or the fear of crime and to promote community safety in accordance with the Secured by Design scheme.

The principles and standards of the scheme give excellent guidance on crime prevention through the environmental design and also on the physical measures. The scheme has a proven track record in crime reduction and addressing quality of life issues around the fear of crime for residents.

#### 5.4 Ross & District Civic Society

The earlier application, 142410, for this site was refused partially on the grounds that it would constitute 'over-development that would detrimentally change the rural character' of the parish. Nothing in the current Addendum to the Design & Access Statement effectively counters this argument. If 38 houses constituted over-development a few months ago, then they continue to do so now.

This current application must be placed in the context of other potential development at Lea: 141278 for 39 houses is still 'valid', 142108 for up to 44 houses is under appeal, 141368 for 14 houses has been refused but presumably could yet be the subject of appeal. We face a situation in which well over 100 houses could be built on various sites in the next few years. Although the latest draft Core Strategy now refers to minima rather to approximate target figures when discussing rural housing development, the proposals for Lea are grossly disproportionate & would inevitably compromise seriously the character of the area. As commented by us previously, the potentially intensive development of the A40 corridor from Overross to Lea, of which this application forms part, could not be envisaged by any reading of the Core Strategy in all its manifestations.

#### 5.5 Nine letters of objection have been received from local residents. In summary the points raised are as follows:

##### Policy and cumulative effects of development

- The current proposal is identical to that which was refused in February. The reasons for refusal are still valid.
- Lea is identified for 14% housing growth in the emerging Core Strategy. There are recently approved schemes in the village that have already met this criteria.
- In combination with other approved schemes the proposal will constitute severe over development in this rural context and is contrary to policies DR1 and LA3 of the UDP.
- The provision of 13 affordable homes is excessive given that much of the housing in the immediate locality already falls into this category.

##### Flooding and drainage

- The site is subject to flash flooding and drains poorly.
- Existing problems at the centre of the village with regard to surface and foul water flooding.
- Properties on Rudhall View were amongst those flooded in the most recent event in November 2012.

##### Highway safety

- Extra vehicles generated by the development are likely to cause highway safety problems on the B4222.
- Visibility splays are inadequate in view of the nature of the road.

- Footpaths along this part of the B4222 and at the junction with the A40 are not good and potentially dangerous.
- The development would lead to congestion on the B4222.

#### Sustainability

- There is insufficient infrastructure in the village to cope with additional development.
- The proposal is not in close proximity to local services. The school is 1.5 kilometres away and parents are more likely to drive to school.
- Concerns over flooding place a major question mark over the development's sustainability.

#### Landscape impact

- The proposal is detrimental to the landscape value of the locality.
- The visual impact of the development cannot be mitigated through the imposition of conditions.
- Development would make the village into a sprawling dormitory town.

5.6 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 As outlined in the planning history section of this report, planning permission has recently been refused for a housing scheme of 38 dwellings – an identical scheme to this proposal. The decision to refuse planning permission was made by Planning Committee contrary to the advice of its officers, who considered the proposal to be acceptable. The applicants have exercised their right to re-submit the application and have commented on the reasons for refusal in the addendums to their Design & Access Statement and Landscape & Visual Impact Assessment. They have concluded that the proposal is compliant with the policies outlined in the reasons for refusal and that the application should be approved.

6.2 Lea is identified within the adopted Unitary Development Plan as a main village and is also allocated as a main village within the Ross-on-Wye Housing Market Area within the emerging Local Plan – Core Strategy with a 14% minimum growth target over the plan period. This equates to approximately 43 dwellings over the plan period. The application is made in the context of the housing land supply deficit.

6.3 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, nature conservation interests, flooding and highway safety, that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

### **The Principle of Development in the Context of 'Saved' UDP Policies the NPPF and Other Material Guidance**

6.4 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.”*

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

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

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

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 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 preferably years 11-15 too. Paragraph 47 underlines that UDP housing supply policies should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

6.9 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.

6.10 In this context, therefore, the proposed erection of approximately 38 dwellings, including 6 affordable, on a deliverable and available site is a significant material consideration telling in favour of the development to which substantial weight should be attached.

6.11 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.

### **Assessment of the Scheme’s Sustainability Having Regard to the NPPF and Housing Land Supply**

- 6.12 The NPPF refers to the pursuit of sustainable development as the golden thread running through decision-taking. It also identifies the three mutually dependent dimensions to sustainable development; the economic, social and environmental dimensions or *roles*.
- 6.13 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use resources prudently and moving towards a low-carbon economy.
- 6.14 In this instance officers consider that in terms of access to goods and services the site is sustainably located whereas the delivery of up to 38 dwellings, together with contributions towards public open space, sustainable transport, flood defences and education infrastructure would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development. The sustainable credentials of the village have previously been accepted through the recent grant of planning permission for up to 37 dwellings on land to the rear of the petrol filling station (141278/O).

### **Impact on Landscape Character**

- 6.15 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. It goes further, however, and confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with chapter 11 of the NPPF.
- 6.16 The addendum to the Landscape and Visual Impact Assessment (LVIA) that has been submitted with the current application considers that the site, consisting of scrub and grassland bound by intermittent hedgerows, is not typical of the key characteristics of the wider landscape found further east, north and south. The comments from the Council's Landscape Officer accord with this view as she notes that the site is less sensitive due to its current condition.
- 6.17 The site has no formal landscape designation. It lies in open countryside outside but adjacent to the settlement boundary and the late 20<sup>th</sup> century residential development of Rudhall View. SHLAA has identified that the site has low/minor constraints and the Landscape Officer comments that the site is visually contained. This visual containment limits the prominence of the site.
- 6.18 The Landscape Officer has also suggested that the re-development of the site can offer enhancements, although this is contingent on the Reserved Matters submission reflecting the need to enhance landscaping as identified. The landscape plan partly reflects this requirement with enhanced green infrastructure, and the addendum to the LVIA acknowledges that there is an opportunity to provide improvement and enhancement to the settlement edge by introducing landscape planting along the northern and eastern boundaries of the site.
- 6.19 In light of the eroded quality of the application site and the limited contribution that it currently makes to the wider landscape and the setting of the village, it remains the opinion of your officers that the scheme is not detrimental to the character or appearance of the landscape or

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

to the setting of Lea. The proposals offer an opportunity for landscape enhancement, subject to the submission of appropriate details through a reserved matters application, and therefore the proposal accords with policies DR1, LA2 and LA3 of the UDP and the NPPF.

### **Highway Safety**

- 6.20 The issue of highway safety was raised by objectors when the first application was submitted and was fully considered by officers at that stage. The first application was not refused on highways safety grounds and it was considered that the highway impacts that the development would have could be mitigated through the imposition of conditions and through a series of off-site improvements to be secured through a combination of Section 278 works and through Section 106 contributions for highway improvements.
- 6.21 Paragraph 32 of the NPPF states that:  
*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*
- 6.22 Some amendments were made to the scheme which included a revision to the visibility splays at the junction of the site with the B4222 and improvements to enhance pedestrian movement along the B4222 and at its junction with the A40. The amendments were accepted by the Council's Transportation Manager and the current proposal is based on those amendments.
- 6.23 The visibility splays and highway improvements can be secured through the imposition of appropriately worded conditions and; in the case of the improvements at the B4222 / A40 junction, through a Section 278 Agreement.
- 6.24 The introduction of 38 new dwellings will clearly result in an increase in traffic movements along the B4222 and at its junction with the A40. This may result in an increase in number and frequency of vehicles queuing at the junction, but officers are satisfied that there is capacity within the road network to accommodate this. The Transport Statement includes a seven day speed survey which does show that vehicle speeds are in excess of the 30mph. The visibility splays shown on the plans take account of this and consequently exceed the usual requirements for visibility within a 30 mph zone.
- 6.25 Your officers conclude that the highway impacts of the development proposed are not severe and therefore it accords with paragraph 32 of the NPPF. Moreover, it offers an opportunity to improve pedestrian safety around the junction of the B4222 / A40, a move that is considered to be necessary to promote increased pedestrian activity by existing residents and those resultant residents should planning permission be granted for this scheme. Accordingly the proposal is also considered to accord with policies DR2 and T6 of the Herefordshire UDP.

### **Land Drainage and Flood Risk**

- 6.26 The centre of Lea suffers from flooding and is an identified flood risk area. The Council has commissioned a report to identify the issues and means to alleviate the situation. The findings of this report are due shortly. Due to the topography of the area and with the centre of Lea located within the 'dip' all waters gravitate towards the centre of the village. This has resulted in flooded properties and the closure of the main A40 road.
- 6.27 The previous report to Planning Committee included draft heads of terms which included a contribution towards a flood attenuation scheme. The monies were calculated on the basis of a reduced affordable housing provision of only six dwellings with a commuted sum of £420,000 for the remaining seven to be used for flood attenuation. The approach is the same to that taken for the site adjacent to the petrol filling station in Lea.
- 6.28 The exact figure for the flood attenuation works is not yet known. However by establishing funding towards a scheme, its implementation will inevitably be brought forward and enable additional inward investment from other agencies to fund the scheme. Any monies remaining will be used to provide additional off site-affordable housing. This is considered to be a key

economic and social aspect to the scheme which should be given significant weight in the decision making process.

- 6.29 Welsh Water have outlined their concerns regarding overland flooding downstream of this proposal which in turn has had significant detrimental effect on the public sewerage network. However, they do not object to the development in terms of the capacity of the treatment works to cater for the additional foul waste flow or provision of a water supply, subject to the imposition of appropriately worded conditions.

#### **Impact on Ecological Interests**

- 6.30 The Council's Ecologist concurs with the findings of the submitted ecological appraisals. It is concluded that the proposal will not have a significant impact on ecological interests and subject to the imposition of conditions and informatives as set out below, the development is considered to accord with policies NC1 and NC7 of the UDP and the NPPF.

#### **Impact on Adjoining Residential Amenity**

- 6.31 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. In this case, officers are satisfied that development of the site is possible without undue impact on adjoining property, particularly those dwellings adjoining the site to the west and south. Clearly this will be contingent on detailed consideration at the Reserved Matters stage. However your officers consider this can be achieved.
- 6.32 Care would need to be taken to ensure that dwellings on the site's periphery are constructed at a level that does not result in an undue overbearing impact. At this stage, however, officers are satisfied that an appropriate layout at the Reserved Matters stage would be capable of according with the requirements of saved UDP policy H13 and NPPF paragraph 12, which demands good standards of amenity.

#### **S106 Contributions**

- 6.33 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been negotiated. The agent has confirmed agreement to the Draft Heads of Term which provide for a raft of contributions.

#### **Summary and Conclusions**

- 6.34 Your officers remain of the view that the proposal is acceptable and that the reasons given for the refusal of the earlier application are not capable of being defended on appeal.
- 6.35 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out-of-date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles.
- 6.36 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. The site lies outside but directly adjacent the settlement boundary on a SHLAA site that was designated as having low/minor constraints. Lea is, having regard to the NPPF, a sustainable location and this site is well placed to benefit from good pedestrian connectivity to village



facilities. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).

- 6.37 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. Likewise S106 contributions should be regarded as a material consideration. In providing a greater supply of housing and breadth of choice, including 6 affordable homes and in offering enhancements to footway and pedestrian crossing facilities locally, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development. In addition the contribution towards the flood attenuation scheme is considered to carry significant weight in the planning balance.
- 6.38 The Conservation Manager (Landscapes) confirms the application site has the ability to accommodate residential development subject to the enhanced landscaping of the eastern boundary and retention of other boundary features and the Development Strategy Plan responds positively to these requirements. The site does not exert any influence on the setting of any heritage asset.
- 6.39 Officers conclude that there are no highways, ecological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits. It is therefore concluded that the presumption in favour of sustainable development should be engaged and that planning permission should be granted subject to the completion of a legal undertaking and planning conditions. The conditions will include a requirement to limit the number of dwellings to no more than 38 and to formulate an integrated foul and surface water run-off scheme. The commencement of the development will also be controlled to run in parallel with the flood alleviation scheme. Finally officers would also recommend the developer conducts further consultation with the Parish Council and local community as regards the detail of any forthcoming Reserved Matters submission.

## **RECOMMENDATION**

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

- 1. A02 Time limit for submission of reserved matters (outline permission)**
- 2. A03 Time limit for commencement (outline permission)**
- 3. A04 Approval of reserved matters**
- 4. B01 Development in accordance with approved plans**
- 5. C01 Samples of external materials**
- 6. The development shall include no more than 38 dwellings and no dwelling shall be more than two storeys high.**

**Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, H13 and the National Planning Policy Framework.**

- 7. H03 Visibility splays**

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

8. **H06 Vehicular access construction**
9. **H09 Driveway gradient**
10. **H11 Parking - estate development (more than one house)**
11. **H17 Junction improvement/off site works**
12. **H18 On site roads - submission of details**
13. **H19 On site roads - phasing**
14. **H20 Road completion in 2 years**
15. **H21 Wheel washing**
16. **H27 Parking for site operatives**
17. **H29 Secure covered cycle parking provision**
18. **H30 Travel plans**
19. **L01 Foul/surface water drainage**
20. **L02 No surface water to connect to public system**
21. **L04 Comprehensive & Integrated draining of site**
22. **G04 Protection of trees/hedgerows that are to be retained**
23. **G10 Landscaping scheme**
24. **G11 Landscaping scheme - implementation**
25. **K4 Nature Conservation - Implementation**
26. **No development shall take place until the following has been submitted to and approved in writing by the local planning authority:**
  - a) **a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice**
  - b) **if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors**
  - c) **if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not**

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

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

27. The Remediation Scheme, as approved pursuant to condition no. (26) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

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

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

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

**Informatives:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. HN10 No drainage to discharge to highway
3. HN08 Section 38 Agreement & Drainage details
4. HN07 Section 278 Agreement
5. HN04 Private apparatus within highway
6. HN28 Highways Design Guide and Specification
7. HN27 Annual travel Plan Reviews
8. HN25 Travel Plans
9. N11A Wildlife and Countryside Act 1981 (as amended) - Birds
10. The assessment required by condition 26 of this permission is required to be undertaken in accordance with good practice guidance should be carried out by a suitably competent person as defined within the National Planning Policy

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

**Framework 2012. 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.**

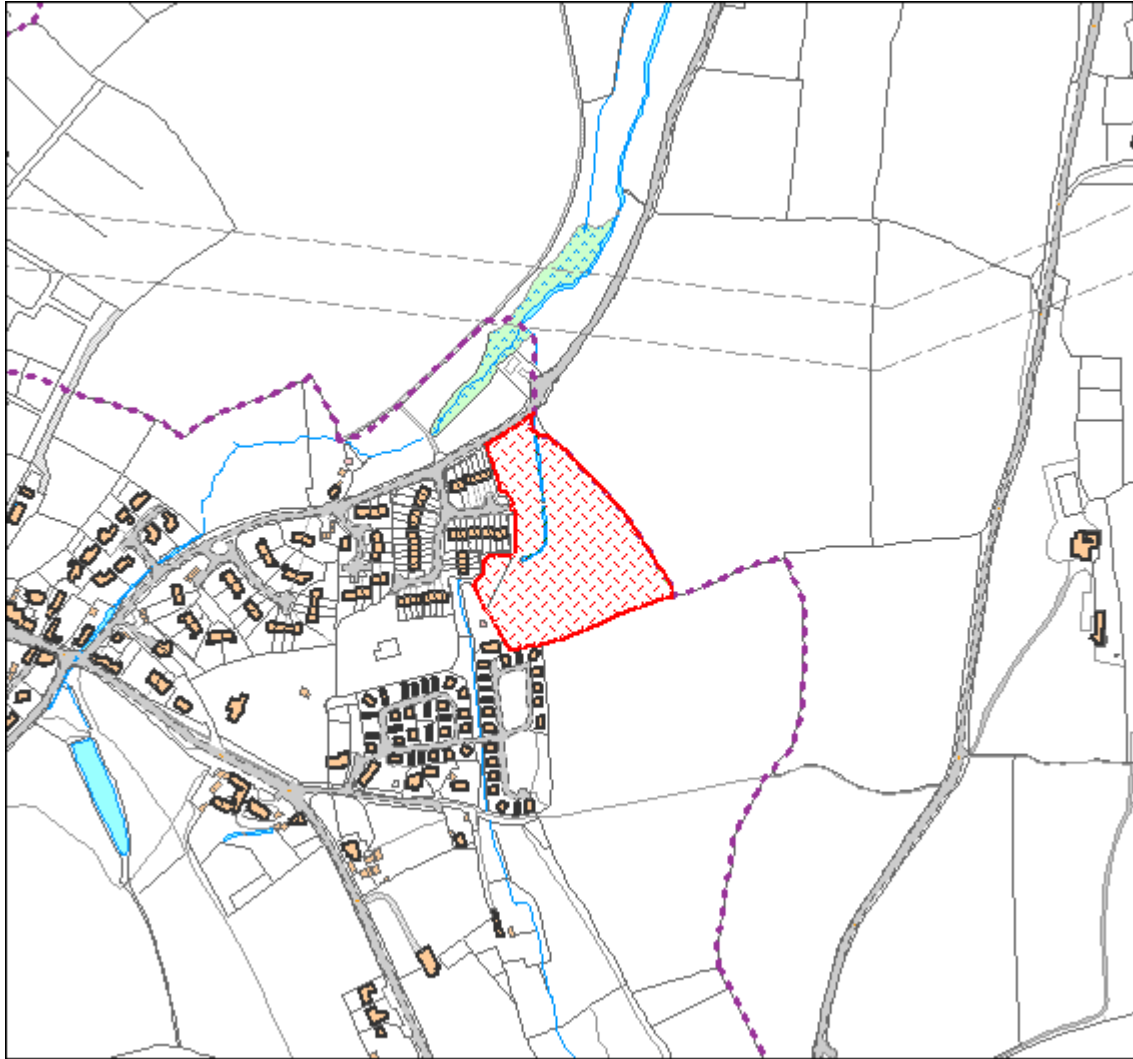
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 151251

**SITE ADDRESS :** LAND ADJACENT TO THE B4222, LEA, ROSS ON WYE, HEREFORDSHIRE

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



# DRAFT HEADS OF TERMS

## PROPOSED PLANNING OBLIGATION AGREEMENT

### Section 106 Town and Country Planning Act 1990

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

Planning application reference: P151251/O

Proposed outline consent for the erection of up to 38 dwellings on land adjacent to B4222, Lea, Ross-on-Wye, Herefordshire

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

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

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

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

The contributions will provide for sustainable transport infrastructure to serve the development including pedestrian and bus infrastructure improvements at the crossroads in the village centre. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwellinghouse and may be pooled with other contributions if appropriate.

*Note: the following improvements are necessary to make the development acceptable and will be delivered through a Section 278 highway agreement*

- *2m wide footpath that extends from the entrance of the development site, adjacent to the B4222, identified on drawing number SCP/13267/SK01 REV A*
- *Improvements to the junction of the B4222 and A40 to include a build out of the pavement and provision of dropped crossings identified on drawing number SCP/13267/FOI*

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £80 (index linked) per dwelling. The contribution will be used to provide 1x waste and 1x recycling bin for each dwelling. The sum shall be paid on or before occupation of the 1st open market dwelling

3. The developer covenants with Herefordshire Council to pay Herefordshire Council **£420,000.00** (index linked) for the delivery of a flood attenuation system in Lea. In the event that the monies are not required for the flood attenuation system the monies will revert to the delivery of off-site affordable housing. 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.
  
4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:
  - £426.00** (index linked) for a 2 bedroom open market dwelling
  - £724.00** (index linked) for a 3 bedroom open market dwelling
  - £980.00** (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for enhanced off-site play contribution towards the Rudhall View Play Area adjacent to the site. The sum shall be paid on or before first occupation of the 1<sup>st</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.

5. Based on the proposed scheme, the developer covenants with Herefordshire Council to provide a minimum of 850 square metres of informal usable on-site Public Open Space (POS).
  
6. Given the location of the development Herefordshire Council would not wish to adopt any on site Public Open Space. The maintenance of the on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

*Note: The attenuation basin will be transferred to the Council with a 60 year commuted maintenance sum.*

7. The developer covenants with Herefordshire Council that 6 of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations (2008).



8. 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 12 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 Lea;
  - 11.2 in the event there being no person with a local connection to the above parish any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 10 above
  
12. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 12.1 is or in the past was normally resident there; or
  - 12.2 is employed there; or
  - 12.3 has a family association there; or
  - 12.4 a proven need to give support to or receive support from family members; or
  - 12.5 because of special circumstances

13. 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.
14. 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.
15. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4, 5 and 6 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
16. The sums referred to in paragraphs 1, 2, 3, 4, 5 and 6 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 covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
18. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>143842 - OUTLINE APPLICATION FOR 37 DWELLINGS (13 OF WHICH WOULD BE AFFORDABLE) WITH ALL MATTERS EXCEPT ACCESS RESERVED FOR FUTURE CONSIDERATION AT LAND TO THE NORTH OF THE A40, EAST OF HUNSDON MANOR, WESTON-UNDER-PENYARD, ROSS-ON-WYE, HEREFORDSHIRE</b></p> <p><b>For: Mr &amp; Mrs Mills per c/o RCA Regeneration Limited, Unit 6 De Salis Court, Hampton Lovett, Droitwich Spa, Worcestershire, WR9 0QE</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143842&amp;search=143842">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143842&amp;search=143842</a>
<b>Reason Application submitted to Committee - Contrary to Policy</b>	

**Date Received: 29 December 2014    Ward: Penyard    Grid Ref: 363605,223238**  
**Expiry Date: 14 April 2015**  
 Local Member: Councillor H Bramer

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

- 1.1 The application site lies on the eastern side of Weston under Penyard, a village approximately 2 km east of the eastern extreme of Ross-On-Wye. The village is dissected by the A40 and the application site lies on northern side of the road.
- 1.2 The site has an area of approximately 4.09 hectares. It is rectangular in shape. It clearly was agricultural land but it appears that it has not been actively used as such for some time. The road frontage has an intermittent native hedgerow. The eastern boundary has a strong high native hedgerow that includes holly. The western boundary is characterised by a series of trees that are actually not upon the applicant's land but are protected by way of a Tree Preservation Order. The northern boundary has relatively little vegetation. Beyond that northern boundary is the route of a former railway line (now dismantled). The land slopes gradually from the road to the north, although there is an area of pronounced higher, more exposed ground in the central section of the site to the north of the site. There is a pond on the site and a single mature tree which is protected by way of a Tree Preservation Order. To the west of the site is the rather attractive Hunsdon Manor Gardens development.
- 1.3 There is an existing agricultural access in an approximate central position along the road frontage. The 30mph speed limit for vehicles travelling in an east to west direction commences approximately in a central position along the site frontage. Opposite the site on the southern side of the A40 is a continuous footway.

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

- 1.4 Weston under Penyard contains a range of services including the village hall, public house and local primary school. Weston under Penyard is served by a regular bus service to Gloucester and Ross-On-Wye.
- 1.5 The application is made in outline form with all matters except access reserved for future consideration. The originally deposited application was for up to 75 dwellinghouses. This then changed to up to 49 dwellinghouses and then finally for 37 dwellinghouses.
- 1.6 The submitted plan indicates a central single vehicular means of access with visibility splays of 2.4 m x 120 metres. The speed limit would be relocated further to the east and new speed reduction markings provided. This would be resolved by way of a Traffic Regulation Order. The existing bus stop would be widened and designed such that when buses are parked they would be behind the visibility splay. A continuous footway would be provided from the south-west corner of the site beside Hunsdon Manor Gardens to the new vehicular access. A controlled crossing would be provided at the south-western end of the site across the A40.
- 1.7 The indicative layout is of significance as it shows a large area to remain undeveloped which would be utilised as open space. This large area which is larger than normally required for open spaces alone is required to be kept free of built development for landscape reasons and the fact that during the processing of this application a field evaluation found archaeological finds of such significance that they need to be retained in-situ without disturbance.
- 1.8 The requisite 35% affordable dwellinghouses, amounting to 13 dwellings, would be provided. Five of these dwellings would be intermediate housing and 8 would be social rented.
- 1.9 Attached are the proposed Heads of Terms in relation to the requisite Section 106 Agreement.

## 2. Policies

### 2.1 National Planning Policy Framework

The following sections are of particular relevance:-

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

### 2.2 Herefordshire Unitary Development Plan:-

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H7	-	Housing in the Countryside Outside Settlements
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements

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LA5	-	Protection of Trees, Woodlands and Hedgerows
NC1	-	Biodiversity and Development
NC6		Biodeiversity Action Plan priority habitats and species
NC7		Compensation for loss of diversity
NC9		Management of features of the lanscape important for fauna and flora
NC8	-	Habitat Creation, Restoration and Enhancement
ARCH1	-	Archaeological Assesments and Field evaluations
ARCH4		Other sites of National or Regional Importance
ARCH5	-	Sites of Lesser Regional or Local Importance
ARCH6		Recording of archaeological remains

### 2.3 Herefordshire Core Strategy Deposit Draft:-

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Development for Residential Land
SS4	-	Movement and Transportation
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Threshlods and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Bio-diversity and Geodiversity
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.4 Weston under Penyard is preparing a Neighbourhood Plan. At the time of preparing this report they had reached the Regulation 15 stage. The Local Planning Authority was to publicise the consultation from 4 August 2015 until 16 September 2015. This is the Regulation 16 stage. At the end of that 6 week period the Plan can be considered as a material consideration in the determination of a planning application.

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

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

## 3. Planning History

3.1 None relevant

## 4. Consultation Summary

Statutory Consultees:

4.1 Welsh Water has no objections but recommend conditions.

Internal Council Advice:

4.1 Transportation Manager – No objection subject to conditions.

4.2 The Environmental Health Manager has no objections but recommend attaching conditions re: contaminated land.

4.3 Conservation Manager

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

Archaeology – No objection subject to conditions.

Ecology - no objections to the proposed development subject to appropriate conditions.

Landscape – No Objections.

4.5 Land Drainage Officer - No Objections, in principle, to development of the site.

## **5. Representations**

5.1 Weston under Penyard Parish Council no longer objects to the amended proposal for 37 dwellings proposal. They state:-

“We refer to the revision to the above application, reducing the number of dwellings/houses to 37.

As you will be aware the Neighbourhood Plan for Weston under Penyard is now progressing through the Regulation 16 stage and we would request that all of the Plan's policies be taken into consideration, thereby ensuring that any future development in the parish is carried out in accordance with the wishes of the parish residents, as expressed through the Plan. In particular, we would highlight that Policy HS2 provides for a maximum number of dwellings/houses on this site of 37.

Regarding the boundary of the area protected for archaeological reasons, we have no objection in principle to the indicated position of this boundary on the understanding that no archaeological features of significance are believed to exist in the area where development would be permitted.”

5.2 Thirty representations of objections were received in relation to the originally deposited scheme on the following summarised grounds:-

- The proposal conflicts with the emerging Neighbourhood Plan;
- The proposal would be an inappropriate form of ribbon development;
- The proposal would exacerbate existing traffic problems;
- Concerns re: flood risk;
- The Parish probably do not require 17 affordable homes;
- The area of public open space is too small;
- There are no financial contributions towards the Primary School;
- The proposal is premature in advance of the Neighbourhood Plan being produced;
- The number of houses proposed would appear suburban rather than rural;
- The site was once a well maintained pasture meadow;
- Concern re: impact upon wildlife;
- The site is not in a sustainable location;
- Concerns with respect to highway safety;
- There is insufficient capacity in the primary school;
- The traffic would create bottlenecks and pinch points on the network;
- The site lies outside of the defined settlement boundary; and
- There is water trough along the site frontage that should be restored and retained.

5.3 Four representations were received that essentially express mixed views in relation to the originally deposited scheme. They accept the principle of development but essentially consider the number of houses to be too high.

- 5.4 Seventeen representations of support were received in relation to the originally deposited scheme on the following summarised grounds:-
- There is a need for new housing, especially for young people;
  - There is a need for affordable housing, especially for young people;
  - The layout of the proposal is considered to be attractive;
  - It would be beneficial to have more houses in Weston so that children attending the school can live closer to it; and
  - The site is in a sustainable village with amenities.

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

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

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

## 6. Officer's Appraisal

- 6.1 The application site lies outside the defined settlement boundary of Weston under Penyard, the defined boundary being along the western boundary of the application site. The village is a defined main village in the Herefordshire Unitary Development Plan (HUDP). As a consequence in planning policy terms the site lies within open countryside where policy H7 of the HUDP essentially establishes a presumption against new residential development. Whilst policy H7 provides for specific exceptions, none apply in this case.

- 6.2 The law is clear that planning decisions should be made in accordance with the Development Plan unless material planning considerations indicate otherwise. In this case there is another material planning consideration in that Herefordshire has a shortfall in its five year housing land supply and paragraph 49 of the NPPF states:-

"Relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five year housing land supply of deliverable housing sites."

- 6.3 In June 2012 Cabinet effectively resolved to address this matter by looking more favourably on those sites adjacent to Hereford, the market towns and main settlements (i.e. those listed in policy H4 of the HUDP). No significant weight can be attached to this as it was not the subject of consultation. However, it has some limited weight. Essentially one needs to consider each such housing proposal on its individual merits with regard to the overall planning balance (i.e. economic, environmental and social roles of sustainable development a set out in the NPPF).

### Economic and Social

- 6.4 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. Clearly, building new houses contributes towards employment during the construction phase and contributes to the economic well-being of employees and the economy. Households within new houses would also assist in supporting local businesses and services. Provision of new housing also has social benefits in terms of providing accommodation for people to live in.

### Sustainability

- 6.5 Weston under Penyard is a defined settlement which is, to a degree a reflection of its sustainability credentials. It should be noted that the emerging Core Strategy in Policy RA2 identifies Weston under Penyard as a village that could accommodate housing growth of at

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

least 14% (approximately 65 new dwellinghouses) for the period 2011- 2031. It is understood that 2 have already been built and were committed as of 1 April 2014, leaving a residual of at least 55 new dwellinghouses. This said, at the time of writing this report, only very limited weight can be attributed to the Core Strategy policies and given the current level of objection to policy RA2, I attribute little weight to this policy.

6.6 The maximum walking distance to amenities one would expect in rural areas is approximately 1200 metres. In this case Weston under Penyard has the following amenities within that distance:-

- Public House
- Primary School
- Church
- Village Hall ; and
- Playing fields

Other than the public house, the amenities are located on the south side of the A40. Given that this proposal involves the provision of a controlled crossing across the A40 the walk is considered to be safe. The provision of this crossing will also be a significant benefit to existing residents in the village.

6.7 It is concluded that the site is in a sustainable location.

### **Landscape Impact**

6.8 The application site has no formal landscape designation. As stated above, it lies in open countryside outside, but adjacent to, the settlement boundary. The site forms part of the eastern approach to the village when travelling along the A40 in a westerly direction. It is considered that the landscape adjoining the eastern side of the village is less sensitive than that to the west which has a parkland feel to the south of the A40 and where one feels that the entrance to the village is more defined with a gateway feel in the vicinity of the public house.

6.9 The site is well contained with existing boundaries. Although it is visible from public footpaths to the south, the important prominent higher land upon the application site is to be kept free of built development. The significant tree upon the site and other trees adjoining the site along its western boundary would be retained and protected from invasive development. This is reflected in the recommended conditions.

6.10 It is also worth noting the extremely low density nature of the development that would amount to a density of nine dwellings to the hectare.

6.11 It is therefore concluded that the proposal would not adversely affect the landscape character of the area and the proposal would comply with Policy LA2 of the Herefordshire Unitary Development Plan 2007.

### **Highways**

6.12 The A40 and the wider highway network are considered to have sufficient capacity to cater with the additional traffic that the proposed development would generate.

6.13 The proposed visibility splays accord with required standards.

6.14 The provision of a controlled crossing across the A40 is welcomed. It is not only required in relation to the proposed development but would represent a benefit to the entire village (not just the occupiers of the proposed houses).



- 6.15 The Transportation Manager and applicant anticipate the completion of a Section 278 Agreement which would include the extension of the 30mph zone further east, combined with other highway works designed to reduce traffic speeds.

### **Archaeology**

- 6.16 The application site has been the subject of an archaeological field evaluation. The evaluation has revealed extensive archaeological remains of high significance in one part of the site, and other remains of interest elsewhere on the site. That part of the site containing extensive archaeological remains of high significance would stay undeveloped and safeguarded, achieving preservation in situ. Planning conditions are recommended to protect the archaeological remains of high significance.

### **Noise**

- 6.17 The initial 30 metres of the site from the southern boundary is affected by road traffic noise to a degree that requires careful mitigation. Mitigation creating a satisfactory level of amenity for the future occupiers of the dwellinghouses is achievable and is reflected in the recommended conditions.

### **Ecology / bio-diversity**

- 6.18 The site has features worthy of retention and enhancement (i.e. trees, hedgerows and pond). The scheme involves retention of these features together with measures for enhancement.

### **Flood risk / drainage**

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

Foul sewage would be disposed of to the mains. There are no objections on capacity grounds.

Whilst further detail is required with respect to surface water drainage essentially it is proposed that surface water drainage would be drained to an underground pipe network before discharging into an infiltration basin in the south-east corner of the site. A hydro-brake would be located upstream of the basin to limit the discharge to 100 l/s with the run-off discharging to two off-line cellular storage areas / soakaways when this flow is exceeded.

The proposed drainage system outlined in the submitted water management strategy is therefore in accordance with policy DR4 of the Herefordshire Unitary Development Plan 2007 as it has incorporated the use of Sustainable Drainage (SUDS) and surface water would be discharged to ground through infiltration.

### **Affordable Housing**

The requisite 35% affordable dwellinghouses, amounting to 13 dwellings, would be provided. Five of these dwellings would be intermediate housing and 8 would be social rented. The requirements of policy H9 of the Herefordshire Unitary Development Plan 2007 would be met.

### **Open Space / Recreation**

To meet the requisite policy requirements as a minimum the development of 37 dwellinghouses would require:-

- Public open Space amounting to 0.034 hectares (340 sq metres) (@0.4 hectare per 1,000 population);
- Children's play:- 0.068 hectare (680 sq m) (@ 0.8 ha per 1,00 population. This should include approximately 0.02 (200 sq m) of formal play (@0.25 ha per 1,000 population, Fields in Trust Standards).

It is now proposed to provide:-

- Public Open Space amounting to 1.45 hectares (14,500 sq m) of publicly available amenity space including land safeguarded for archaeological reasons;
- Children's Play area:- an area of 0.018 hectare (815 sq m) of which 0.02h (200 sq m) would be equipped for younger children.
- This more than adequately meets the minimum policy requirements of policy RST3 of the Herefordshire Unitary Development Plan 2007.

### **Summary and conclusions**

The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out-of-date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles.

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 in the absence of significant and demonstrable adverse impacts, the application should be approved.

The site lies outside but adjacent to the settlement boundary for Weston under Penyard and is, having regard to the NPPF and saved and emerging local policies, a sustainable location. The site is immediately adjacent to bus stops and services to Ross on Wye and Gloucester. Although only an outline application, it is also evident that there are opportunities to ensure pedestrian permeability and connectivity to other parts of the village, particularly the school and playing fields to the south of the site. These opportunities will ensure that prospective residents have a genuine choice of transport modes. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).

The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. In providing a greater supply of housing and breadth of choice, including 35% affordable and in offering enhancements to footways in the locality, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.

It has been demonstrated that the proposal will not harm the landscape character of the area or the setting of the village.

Officers conclude that there is no landscape, highways, drainage, ecological or archaeological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits.

It is therefore concluded that planning permission should be granted subject to the completion of a Section 106 Planning Obligation in accordance with the Heads of Terms appended to this report and appropriate planning conditions.

## **RECOMMENDATION**

**Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions set out below:-**

**1 The development shall not commence until approval of the following reserved matters have been obtained from the Local Planning Authority:-**

- Appearance**
- Landscaping**
- Layout**
- Scale**

**An application for reserved matters shall be made to the Local Planning authority before the expiration of five years from the date of this permission.**

**The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of five years from the date of approval of the last reserved matters to be approved, which is the later.**

**Reason: No such details have been submitted and in accordance with Section 92 of the Town and Country Planning Act 1990.**

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

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

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

**c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.**

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

**3 The Remediation Scheme, as approved pursuant to condition number 2 above, shall be fully implemented before the development is first occupied. On completion of**

the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

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

- 4 The recommendations sections 1.2.1 and 1.2.9 of the updated ecologist's report from James Johnston dated January 2015 shall be followed in relation to species mitigation and habitat enhancement.

Reasons:

a) 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.

b) To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

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

Reasons:

a) 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.

b) To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

- 6 Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-

- Full foul and surface water drainage details (including a) a revised drainage drawing with supporting calculations showing the final size of the infiltration basin and proposals in relation to the existing pond;
- b) results of infiltration testing undertaken in accordance with BRE365 and results of recorded groundwater levels;
- c) evidence that the applicant has considered ground contamination risks;
- and d) proposals for the adoption and maintenance of the surface and foul water drainage systems).

- Full details as to the proposed importation of protective topsoil and the anti-metal detecting "seeding" to the safeguarded archaeological area detailed upon Drawing number DRG REF : MF/14/GRWUP/003A/COL.ID/PLAN received 27 July 2015.

- Full details (siting/ design appearance and wording) of the archaeological remains interpretation board / sign.

- Full details of all means of enclosure (i.e. fences, walls, gates or other means of

enclosure).

- Full written details of the surfacing materials to be used upon the access, driveways, turning / manoeuvring areas and parking areas.
- Unless otherwise agreed in writing with the Local Planning Authority, full details of the restoration and retention of the roadside water trough.

Development shall not commence until the written approval of the Local Planning Authority has been obtained. The development shall be carried out in strict accordance with the approved detail and thereafter maintained.

Reasons:

- a) To ensure satisfactory drainage details.
- b) To ensure suitable protection to the extensive archaeological remains of high significance, in accordance with the Central Government advice contained within paragraph 135 of the National Planning Policy Framework and Policy ARCH4 of the Herefordshire Unitary Development Plan 2007.
- c) To ensure a satisfactory appearance to the development in accordance with Policies DR1, LA2 and H13 of the Herefordshire Unitary Development Plan 2007.
- d) To ensure that a structure of local historical interest is retained.

- 7 Prior to the first occupation of the dwellinghouses within 30 metres of the A40, the noise mitigation measures specified in Section 4 on pages 5 and 6 of the Hepworth Acoustics Noise and Vibration Consultants 'Noise Assessment' dated March 2015 shall be fully implemented.

Reason: To ensure that the occupiers of the proposed dwellinghouses enjoy a satisfactory level of amenity not adversely affected by road traffic noise, in accordance with Policy DR13 of the Herefordshire Unitary Development Plan 2007.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification, the area outlined in green on DRG REF : MF/14/GRWUP/003A/COL.ID/PLAN received 27 July 2015 shall be kept free of any development, other than any play equipment agreed in the cross-hatched area and any other form of development permitted by virtue of the conditions upon this planning permission.

Reason: To ensure suitable protection to the extensive archaeological remains of high significance, in accordance with the Central Government advice contained within paragraph 135 of the National Planning Policy Framework and Policy ARCH4 of the Herefordshire Unitary Development Plan 2007.

- 9 Prior to commencement of the development hereby permitted all of the trees shown to be retained, the tree the subject of the Tree Preservation Order upon the site and the trees the subject of a Tree Preservation Order the other side of the western boundary of the site whose roots and canopies encroach upon the site, shall be protected by fencing in accordance with the advice contained within BS5837:2012. Once these protective measures have been erected but prior to commencement of the development a suitably qualified arboricultural consultant appointed by the developer shall inspect the site and write to the Local Planning authority to confirm that the protective measures are in-situ. Upon confirmation of receipt of that letter by the Local Planning authority the development may commence but the tree protection measures must remain in-situ until completion of

the development.

- 10 Reason: To ensure that there is no damage during the construction phase to the trees on the site to be retained and that are recognised to be of amenity value, in accordance with Policy LA5 of the Herefordshire Unitary Development Plan 2007. Prior to commencement of the development hereby permitted the area outlined in green on DRG REF: MF/14/GRWUP/003A/COL.ID/PLAN received 27 July 2015 shall be protected by appropriate robust fencing. Once these protective measures have been erected but prior to commencement of the development a suitably qualified archaeological consultant appointed by the developer shall inspect the site and write to the Local Planning authority to confirm that the protective measures are in-situ. Upon confirmation of receipt of that letter by the Local Planning authority the development may commence but the tree protective measures must remain in-situ until completion of the development.

Reason: To ensure suitable protection to the extensive archaeological remains of high significance, in accordance with the Central Government advice contained within paragraph 135 of the National Planning Policy Framework and Policy ARCH4 of the Herefordshire Unitary Development Plan 2007.

- 11 No materials shall be stored, no vehicles or machinery stored or parked and no fires lit within the fenced areas referred to in conditions 9) and 10) above.

Reasons:

a) To ensure that there is no damage during the construction phase to the trees on the site to be retained and that are recognised to be of amenity value, in accordance with Policy LA5 of the Herefordshire Unitary Development Plan 2007.

b) To ensure suitable protection to the extensive archaeological remains of high significance, in accordance with the Central Government advice contained within paragraph 135 of the National Planning Policy Framework and Policy ARCH4 of the Herefordshire Unitary Development Plan 2007.

- 12 With regard all that part of the application site outside the area outlined in green on DRG REF : MF/14/GRWUP/003A/COL.ID/PLAN received 27 July 2015, no development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.

Reason: The application site outside of the safeguarded area in green, contains some additional archaeological remains that whilst not meriting preservation in-situ, do merit appropriate archaeological recording as mitigation of their loss. This recording would be in line with paragraph 141 of the National Planning Policy Framework, and would comply with the requirements of Policy ARCH6 of the Herefordshire Unitary Development Plan 2007.

- 13 No work on site shall take place until a detailed design and method statement for the foundation design and all new groundworks has been submitted to, and approved in writing by, the Local Planning Authority. The development hereby permitted shall only take place in accordance with the detailed scheme pursuant to this condition.

Reason: The development affects a site on which archaeologically significant

remains survive and a design solution is sought to minimise disturbance through a sympathetic foundation design.

- 14 Prior to the first occupation of any of the dwellinghouses hereby permitted, visibility splays of 2.4m x 120 metres in both directions shall be provided and be kept free of obstruction above 0.9 metre measured from ground level. Thereafter these visibility splays shall be maintained free of obstruction.

Reason: In the interests of highway safety, in accordance with Policy DR3 of the Herefordshire Unitary Development Plan 2007.

**Informatives:**

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 The contaminated land assessment is required to be undertaken in accordance with good practice and needs to be carried out by a suitably competent person as defined within the National Policy Framework 2012.
- 3 The Local Planning Authority require all investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included in any submission.
- 4 Whilst plans MF.14.GRWP.003A and DRG REF: MF/14/GRWUP/003A/COL.ID/PLAN received 27 July 2015 has been approved in terms of access, the layout has NOT been approved. Furthermore the applicant or any future applicant with regard any subsequent reserved matters application is informed that the Local Planning Authority would be seeking an appropriate open market housing mix such as:-
- 7 x 2 bed
  - 14 x 3 bed
  - 3 x 4 bed
- An appropriate housing mix is required to ensure compliance with para. 5.2.2 and Policy S3 of Herefordshire Unitary Development Plan together with the emerging Core Strategy.

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.

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





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

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

Planning application: P143842/O

Outline application for 37 dwellinghouses with all matters reserved except for access on land to the north of the A40, East of Hunsdon Manor, Weston under Penyard, Ross-on-Wye, Herefordshire

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

**£1,212 (£1,123 secondary & £89 SEN)** (index linked) for a 2 bedroom open market flat

**£ 2,174 (£2,036 secondary & £138 SEN)** (index linked) for a 2/3 bedroom open market dwelling

**£4,336 (£4,089 secondary & £247 SEN)** (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for enhanced educational facilities at John Kyrle High School and the Special Education Needs Schools. The sum shall be paid on or before first occupation of the 12th open market dwellinghouse, and may be pooled with other contributions if appropriate.

“Education Facilities” mean education improvements at John Kyrle High School by the internal extension of two first floor rooms to create additional teaching spaces and improved provision for special education needs through an external extension to create a physiotherapy room.

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

**£1,966.00** (index linked) for a 2 bedroom open market dwelling

**£2,949.00** (index linked) for a 3 bedroom open market dwelling

**£3,932.00** (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for sustainable transport infrastructure to serve the development. The sum shall be paid on or before first occupation of the 12th open market dwellinghouse, and may be pooled with other contributions if appropriate.

The sustainable transport infrastructure will include:

- Improvements to the highway network in Weston under Penyard to facilitate pedestrian/cycle access to the village amenities.

- The provision of gateway features at either end of the village to enhance the entrance to the village this would be in connection with the red surfacing and roundels that are required as part of the S278 highway process.

*Note: The following highway works are necessary to make the development acceptable and will be a condition of the planning permission to be delivered through Section 278 agreement:*

- *Traffic Regulation Order to move the speed limit east to incorporate the access to within a 30mph speed limit.*
  - *Red surfacing and roundels removed and replaced.*
  - *Extension of the footpath.*
  - *Changes to existing bus stop to move existing bus stop offline and away from proposed access to assist with visibility splays and to include improvements to bus passenger waiting.*
  - *Provision of a pedestrian (controlled) crossing to access school.*
3. The developer covenants with Herefordshire Council to provide a minimum of **0.102** hectares of on-site green infrastructure comprising:
- **0.034** hectares of Public Open Space
  - **0.068** hectares of Children's Play of which **0.02** hectares should be formal play

The on-site green infrastructure shall be made available on or before occupation of the 12th open market dwellinghouse.

4. The developer covenants with Herefordshire Council that the maintenance of the on-site Public Open Space will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable ongoing arrangement; or through local arrangements such as the parish council or a Trust set up for the new community for example. There is a need to ensure that good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

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

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£80** (index linked) per dwelling. The contribution will be used to provide 1x waste and 1x recycling bin for each dwelling. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling.
6. The developer covenants with Herefordshire Council that 35% (up to 13 units) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations 2008.

7. Of those 13 Affordable Housing units, at least 8 shall be made available for social rent with the remaining 5 being available for intermediate tenure occupation.
8. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 80% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
9. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
  - 10.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 10.2. satisfy the requirements of paragraphs 11 & 12 of this schedule
11. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
  - 11.1. a local connection with the parish of Weston under Penyard;
  - 11.2. in the event there being no person with a local connection to the parish of Weston under Penyard a local connection to the adjoining parishes;
  - 11.3. in the event of there being no person with a local connection to any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 11.1 above.
12. For the purposes of sub-paragraph 11.1 & 11.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:-
  - 12.1. is or in the past was normally resident there; or
  - 12.2. is employed there; or
  - 12.3. has a family association there; or
  - 12.4. a proven need to give support to or receive support from family members; or
  - 12.5. because of special circumstances.
13. In the event that the Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 5 and 6 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.

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

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<b>150431 - PROPOSED RESIDENTIAL DEVELOPMENT OF UP TO 50 HOMES AT LAND OPPOSITE BROOK FARM, MARDEN, HEREFORDSHIRE, HR1 3ET</b>  <b>For: Mr Paske per Hook Mason Limited, 41 Widemarsh Street, Hereford, Herefordshire, HR4 9EA</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150431&amp;search=150431">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150431&amp;search=150431</a>
<b>Reason Application submitted to Committee – Contrary to Policy</b>	

**Date Received: 12 February 2015**      **Ward: Sutton Walls**      **Grid Ref: 352008,247929**

**Expiry Date: 14 May 2015**

Local Member: Councillor KS Guthrie

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

- 1.1 Outline planning permission with all matters bar access reserved is sought for the erection of up to 50 dwellings, including 35% affordable, with associated access, parking and landscaping on land within part of a field of improved pasture on the northern edge of Marden, opposite Brook Farm. Marden is a main village as identified within the Unitary Development Plan and is also defined as a village within which proportionate growth will be sought during the lifetime of the emerging Core Strategy.
- 1.2 Levels descend to the north from a high point on the southern boundary at 64m AOD. Public Right of Way MR45 traverses the field but passes outside the application site from the C1120 road, heading south-west where it joins the C1122 road.
- 1.3 There are wide-ranging views from the high-point of the site to the north and westwards. The River Lugg SSSI/SAC meanders a short distance beyond the site in the valley floor to the west.
- 1.4 The site's southern boundary is defined principally by relatively modern brick built dwellings in Brook Orchard. Further west the Cornish style properties in Laystone Green are prominent. These have open gardens that exploit views across the site towards open countryside.
- 1.5 The site was considered during the 2009 SHLAA to have significant constraints. This related to the apparent inability to provide continuous off-road pedestrian access to the existing footway network and consequently village amenities. The application seeks to address this via the introduction of a footway across the site frontage, extending southwards to join the existing. The school/village hall and shop lie within 800m from the proposed access point, which lies at the mid-point of the eastern boundary with the C1120. The illustrative material

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

identifies the provision of the footway is contingent on the removal of hedgerow, with new hedgerow planting proposed at the rear of the footway.

- 1.6 The application is accompanied by the following technical reports and supporting information:-
- Planning Statement
  - Design and Access Statement
  - Landscape and Visual Impact Assessment
  - Flood Risk Assessment
  - Ecology Survey &
  - Transport Statement.
- 1.7 The illustrative plan reflects site conditions by locating single-storey properties against the southern boundary and locating an attenuation basin on lower-lying land to the north-west.
- 1.8 The application is also accompanied by a Draft Heads of Terms, which specifies financial contributions in line with the adopted Planning Obligations SPD. The Planning Statement also mentions non-CIL compliant contributions by the landowner, including financial contributions to fund a new community tennis court, repair of the church bells and dedication of land for a new cricket pitch. These contributions are not 'CIL Regulation' compliant and cannot be afforded any weight in the determination of this application. To attribute weight to these contributions would render any resolution to approve potentially unlawful.
- 1.9 The development has been assessed against the Environmental Impact Regulations. The Council has adopted a Screening Opinion which concludes that the scheme is not EIA development.
- 1.10 The Core Strategy housing requirement for Marden parish requires a minimum of 18% growth, which taking account of existing commitments and completions stands at 69 dwellings. In accordance with modifications to the CS policy RA2, the Neighbourhood Development Plan may choose to allocate sites across the qualifying settlements of Marden, Burmarsh, Litmarsh and Vault. The draft NDP focusses exclusively on allocating sites in Marden. This site is not one of them.

## **2. Policies**

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

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

- 2.2 National Planning Practice Guidance 2014

- 2.3 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design

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

DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H7	-	Housing in the Open Countryside Outside Settlements
H9	-	Affordable Housing
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
E15	-	Protection of Greenfield Land
HBA4	-	Setting of Listed Buildings
HBA9	-	Protection of Open Areas and Green Spaces
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerow
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
ARCH6	-	Recording of Archaeological Remains
CF2	-	Foul Drainage

#### 2.4 Herefordshire Local Plan - Draft Core Strategy

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

#### 2.5 Neighbourhood Planning

Marden Parish Council has designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council is in the process of preparing a Neighbourhood Development Plan for the area. Although having progressed to Regulation 14, the draft plan is not presently sufficiently far advanced to be attributed weight for the purposes 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:-

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

### 3. Planning History

3.1 None on site.

3.2 Off-site: Current application - 150989/O – Site for the erection of up to 90 dwellings on land adjacent New House Farm, Marden.

### 4. Consultation Summary

#### Statutory Consultees

4.1 Welsh Water:

- Removal of holding objection relating to foul drainage.
- Retention of holding objection relating to potable water supply.

“Further to recent conversations I write to you confirming the outcomes of the recent investigations at Mardon Waste Water Treatment Works (WwTW). We have undertaken the feasibility study on the WwTW, which has indicated no investment is required at the WwTW, and no detriment will be caused by the proposal connecting to the public sewerage system. We can therefore remove our objection on the basis of treating foul flows based on this information.

However we are currently working to establish a solution to supply potable water to the site. While we are finalising these matters we would still provide a **holding objection** on the application until such time a suitable solution is identified. We hope to have a detailed response in respect to the potable water supply shortly.”

#### Internal Consultees

4.2 Transportation Manager: No objection.

The access proposed is acceptable. The increase in traffic generated by the development is well within the capacity of the local highway network. The footway along the frontage and connecting to the existing footway network is welcomed.

4.3 Conservation Manager (Ecology): No objection subject to conditions.

Welsh Water’s removal of their holding objection deals with the concerns in relation to the prospect of a non-mains drainage solution.

The response from the consultants specifying how a detention basin will accommodate rain water run-off with maintenance to act as a cleansing facility prior to attenuation pond capture for hard-surface contaminants is acceptable.

Likewise, affirmation relating to the capacity of the pond is acceptable at this stage. In line with the Land Drainage comments I am happy to accept the proposals in principle and the arrangement whereby full details will be forthcoming as reserved matters.

In discussion with the ecologists regarding a buffer zone and disturbance/construction impact upon otters, it was agreed that a 50 metre buffer zone between the development and the R. Lugg should remain. This should be free from any construction traffic, materials storage and any development activity. I would suggest that this can be secured by a Construction



Environmental Management Plan which should be required for the whole site's development anyway.

With these points in mind, I suggest that the following conditions should apply:

*The recommendations set out in the ecologist's report from Worsfold Bowen dated September 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a species protection and habitat enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.*

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

Reasons:

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

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

And

*Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise and vibration arising from the demolition and construction process. The Plan shall be implemented as approved.*

Reasons:

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

To comply with policies NC8 and NC9 within 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

With these arrangements in place I believe there will be No Likely Significant Impact to the R. Lugg part of the SAC.

4.4 Conservation Manager (Landscape): Qualified comment.

Proposals for a pedestrian link to the village should be designed to prevent the removal of the existing southern section of the eastern boundary hedgerow. The proposed pedestrian link should therefore be on the western side of the southern section of the existing eastern hedgerow. This footpath link should have an amenity value safe from road traffic.

A detailed SUDs proposals plan for the site should be forwarded showing cross sections of proposed swales, retention ponds and details of the outflow from the final retention pond into the adjacent third party land water flow system.

A landscape management plan with long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens should be forwarded with these detailed soft and hard landscape plans. The landscape maintenance should be for a period of 5 years. As part of this, four specific measures are recommended:-

1. The north western area of the proposed site should not be built on and should be a biodiversity habitat buffer zone between the new proposed housing and the River Lugg.
2. If hedgerow removal is required for sight lines associated with traffic leaving the site, then the replanting of a new native hedgerow parallel to the existing hedgerow should be proposed. This is for habitat mitigation and screening of the new development and the retention of the visual character of this intimate village lane, which is presently a green hedgerow lane.
3. The northern and western existing hedgerows should be restored, enhanced and conserved to reduce visual impact when seen from the nearby public right of way.
4. Associated with the new entrance to the proposed site there should be a new footpath proposal to run parallel with the existing road for public access to the village.

4.5 Conservation Manager (Historic Buildings): No objection.

The site is currently agricultural land located on the northern edge of the village. The village does not have a conservation area but there are a few listed buildings not too distant from the site. Brook Farmhouse, a grade II listed timber-frame building dating from the 17<sup>th</sup> – 18<sup>th</sup> century is found close to the north east corner of the site on the opposite side of the lane. Ivy Cottage, a 17<sup>th</sup> century, grade II listed building is on the east side of the lane, opposite the south east corner of the site. Policy HBA4 Setting of the listed buildings should therefore be applied when assessing a proposal for this site.

At the moment there is a distinct edge to the built up part of the village on this northern side and beyond Ivy cottage the landscape becomes rural, albeit the access and the agricultural buildings at Brook Farm have more in common with an industrial estate than a rural farmstead. Retaining the rural character of the lane with appropriate landscaping along the frontage of the site will be helpful in mitigating any potential harm to the setting of the listed buildings. The landscape masterplan indicates that there would be a hedgerow retained to the south east boundary with the planting becoming more robust beyond the access road to the north. If this principle is applied as the scheme develops, the site has the potential to be developed in a way that would not harm the setting of the listed buildings.

4.6 Conservation Manager (Archaeology): No objection.

4.7 Housing Development Officer: No objection.

In principle I support the application for (9) Social rented and (8) Intermediate (shared ownership, intermediate rent or low cost market) as it meets the requirements to provide 35% affordable housing.

The Draft Heads of Terms confirms that the units will be built to Homes and Communities Design and Quality Standards, Lifetime Homes and Level 4 of the Code for Sustainable Homes with local connection to Marden in the first instance.

I note that the developer wishes to provide low cost market. I would advise that the initial sale price will need to be in line with our affordability levels as outlined in Herefordshire Councils Provision of Affordable Housing Technical Data. In addition to this 2 open market

valuations will also need to be provided for the affordable units in order for the % discount to be set for subsequent sales.

The exact location and mix will need to be agreed prior to reserved matters.

4.8 River Lugg Internal Drainage Board: Qualified comment.

No objection subject to standard requirements being met.

4.9 Land Drainage Officer: Qualified comment.

Overall, for outline planning permission, we have no objections to the proposed development on flood risk and drainage grounds. However, all new drainage systems for new developments must meet the new National Standards for Sustainable Drainage (currently in draft) and will require approval from the Lead Local Flood Authority (Herefordshire Council). Therefore, should the Council be minded to grant outline planning permission, we recommend that the submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development is included within any reserved matters application. The detailed drainage proposals should include:

- Confirmation that the finished flood levels of all dwellings are located a minimum of 600mm above the 1 in 100 year fluvial flood level.
- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including on-ground conveyance and storage features;
- Evidence that the Applicant has sought and agreed permissions to discharge foul water from the site with the relevant authorities;
- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure that site-generated surface water runoff is controlled and limited to greenfield rates for all storm events up to and including the 1 in 100 year rainfall event, with a 30% increase in rainfall intensity to allow for the effects of future climate change;
- Evidence that the Applicant is not posing a risk of flooding to people or property within the site in the 1 in 100 year rainfall event, with a 30% increase in rainfall intensity to allow for the effects of future climate change;
- Demonstration that appropriate pollution control measures are in place prior to discharge;
- Confirmation of adoption and maintenance arrangements.

4.10 Parks and Countryside Manager:

In accordance with UDP policy H19 developments of 50 houses are required to provide a children's play area. In this instance in accordance with pre-application comments it has been agreed to provide this as an off-site contribution given Marden already has a neighbourhood play area which although some distance away is considered to be within a reasonable access threshold from the development site and is in need of investment. In accordance with the Play Facilities Study and Investment Plan, Marden play area, which caters for infants and juniors only, is in need of improvements and refurbishment in order to adequately provide play in a village of this size. It has room to expand and improve both the offer for older children and the play value as a whole. The Parish Council in consultation with the local community has developed a scheme to accommodate some of these changes. A

contribution from this development will help to support the creation of a good sized local play area meeting the needs of both this development and the village as a whole.

It is noted in the draft heads of terms the applicant has provided an off-site contribution based on market housing only in accordance with the SPD on Planning Obligations as follows which is supported:

2 bed: £965                      3 bed: £1,640                      4+ bed: £2,219.

## 5. Representations

### 5.1 Marden Parish Council: Objection. Summary of key points set out below:-

Planning application P150431/O should be refused for the following reasons:

- The site is isolated from the main village services, and it would be difficult to integrate with the adjacent built form and results in an unnatural and incongruous extension to the settlement to the detriment of the character of the village.
- The site is not considered to be a sustainable location and would be contrary to the NPPF and to Policy S1 and H4 of the Herefordshire UDP.
- The application is contrary to the emerging Marden Neighbourhood Development Plan in that there are two sequentially more appropriate and sustainable sites identified through the Neighbourhood Plan and the SHLAA process which are available for development for future housing for the village, and have the backing of the community within Marden village. These sites contribute to Herefordshire Council's five-year housing supply. The addition of this further site would result in a disproportionate growth of Marden village.
- The development will lead to an isolated, housing development that will be a significant visual intrusion in to the local landscape affecting the setting of Marden when viewed in close proximity and at a significant distance from the north and the west. This would be contrary to Herefordshire UDP policy LA3 - Setting of Settlements. These impacts cannot be mitigated and the application is therefore contrary to Policy LA2 "Landscape Character" of the UDP.
- A development of 50 dwellings, in a rural area, where car ownership is significantly high due to the lack of public transport, will create an increased number of am and pm peak trips. This, coupled with the existing problems associated with the lane and the nature of the traffic using it, will undoubtedly
- create traffic issues and highway safety problems in the immediate vicinity, leading to pedestrian and vehicular conflict to the detriment of highway safety in the area. This proposal is therefore contrary to Policy S6 of the Herefordshire UDP and Paragraph 32 of the NPPF.
- It is considered that the data and assumptions provided in the Transport Statement are flawed and under represents the use of private cars in the rural village of Marden.
- In addition, the current footpath to the south of the site is not wide enough to accommodate two people to walk side by side. This in conjunction with the narrowness of the lane, and the constant passage of HGV's is not conducive to pedestrian safety. This proposal is contrary to Policy S6 of the Herefordshire UDP and Paragraph 32 of the NPPF.
- The proposed footpath will not connect with the existing footpath as there is an area between the two that is in private ownership. This will result in pedestrians walking in to the road to the detriment of highway and pedestrian safety. This proposal is contrary to Policy S6 of the Herefordshire UDP and Paragraph 32 of the NPPF.
- There are existing noise issues associated with the packing shed. The proposed site provides a buffer area between these operations and the existing housing of the village. The proposed development will expose new development at a closer range, to the noise generated from the site, creating a poor residential amenity for future occupiers. In addition this would create restrictions for the operators at the site. This is contrary to Policies HBA9 and DR13 of the Herefordshire UDP and Paragraph 123 of the NPPF.

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

- The application site lies very close to the River Lugg SSSI and Special Wildlife Site. The development proposes attenuation ponds and a detention basin. Given the SSSI and the flow through to the River Wye SAC, the Parish Council consider the proposed development would be detrimental to the SSSI, the SWS and the River Wye SAC. Surface water if not managed correctly will have a detrimental effect
- On the flora, fauna and the wildlife in the River Lugg and the River Wye. This is contrary to the NPPF paragraph 118 and to Herefordshire UDP policy S7 - Natural and historic heritage.

5.2 Ten letters of objection have been received. The content is summarised below:-

- This site is the least favoured of all potential housing sites considered by the Neighbourhood Development Plan.
- In conjunction with the preferred site at New House Farm, development here would be disproportionate to Marden's housing requirement over the lifetime of the Core Strategy.
- The site would not integrate with the village, but would be a self-contained cul-de-sac.
- The submitted Transport Statement is not credible. It understates the volume of HGV and other traffic associated with S&A Davies, Britain's largest independent soft fruit producer.
- The proposed access is at a narrow point of the road, between two junctions associated with S&A. Large vehicles often meet and overrun the verge in order to pass. Further narrowing the road to provide a pavement is not a good idea and would not be safe.
- The site is too far removed from village facilities and will not reduce traffic movements. People will rely on the car. This is why the site adjacent the school, village hall, shop and hairdresser is favoured.
- The site is above the R. Lugg flood plain, but will nonetheless threaten pollution through run-off.
- Loss of hedgerow for the access cannot be described a minor and would impact ecological interests.
- The development would overlook properties to the south, resulting in loss of privacy.
- The site is clearly visible in a range of viewpoints from the north.
- Noise from activities at Brook Farm has not been accounted for. There are complaints from existing residents in relation to generators and the packing shed activities and residents of the proposed site would be closer still.

5.3 Four letters of support have been received. Three relate directly to the applicant's proposed gift of land for a cricket pitch within the village. The fourth refers to the applicant's proposed financial contribution towards upgrading the village tennis courts. Neither the gift of land for a cricket pitch or contribution towards the tennis courts, made voluntarily by the applicant, is material to the determination of this application as these contributions are not compliant with the CIL Regulations that govern legal undertakings relating to development proposals. These letters of support cannot, therefore, be given any weight in making a determination on this application. The applicant is, however, preparing a Unilateral Undertaking to commit to these contributions, which would then be enforceable by the Council. What is clear, however, is that Members must not attribute these contributions any weight when taking a decision, which must be based solely on material planning considerations.

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 In the context of the Council's lack of housing land supply with buffer, housing applications must be considered in the light of paragraph 49 of the National Planning Policy Framework and the presumption in favour of sustainable development. Thus, if a housing proposal is considered to represent sustainable development, it should be approved without delay unless the adverse impacts associated with approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF when read as a whole. This is the presumption in favour of sustainable development as enshrined at paragraph 14 of the NPPF.
- 6.2 The effect of an under-supply of housing land is that policies within the UDP that are 'relevant to the supply of housing' cannot be considered up to date and attract no weight for the purposes of decision taking. In practical terms this means that no reliance can be placed on Policy H4 and the fact that a site falls outside a UDP defined settlement boundary. Instead, individual sites must be considered on their individual merits in the light of the NPPF and the 'saved' policies of the UDP that continue to attract weight – the UDP remains the statutory Development Plan. Whether UDP policies can continue to be attributed weight depends on the degree of consistency with the NPPF and has been subject to an increasing number of appeal decisions. In the main, Inspectors have held that the landscape and heritage policies in the UDP, although lacking the cost-benefit analysis inherent in the NPPF, share the same principles and thus continue to attract weight.
- 6.3 NPPF Paragraph 14 states that for decision making, the presumption in favour of sustainable development means:
- *“Approving development proposals that accord with the development plan without delay; &*
  - *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-*
    - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
    - specific policies in this Framework indicate development should be restricted.”
- 6.4 In the context of the UDP and the Council's acknowledged shortfall of housing land supply it is the second bullet point and the weighing of positive and negative impacts that is relevant in this case. The decision-taker must decide whether the development before them is representative of sustainable development having regard to the NPPF as a whole if the positive presumption is to be engaged.
- 6.5 Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions.
- 6.6 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land, which is further reinforced 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 49 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 social dimension *also* refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a

mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity.

- 6.8 In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located and capable, with the addition of a new footway, of being made more sustainable relative to access to local goods and services. Moreover the delivery of 50 dwellings, including 35% affordable, and open space would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development.

### **Impact on landscape character, visual amenity and heritage assets**

- 6.9 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. It goes further, however, and confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with chapters 11 and 12 of the NPPF.
- 6.10 The Conservation Officer (Historic Buildings) is satisfied that if the principles of the soft landscaping proposals shown on the submitted drawings are followed, the development should not unduly affect the setting of the listed buildings opposite (Brook Farm and Ivy Cottage). Further consideration can be given to this at the Reserved Matters stage, but for the present, the officer is satisfied that the proposals should not offend HBA4, the building conservation policies of the NPPF or the duties imposed by the Listed Buildings and Conservation Areas Act.

### **Transport**

- 6.11 The site is adjacent the UDP defined settlement boundary on a SHLAA significant constraints site; the constraint relating to the apparent inability to provide continuous off-road pedestrian connectivity to the village. The scheme attempts to address this with the provision of a pavement along the C1120, linking to the existing pavement.
- 6.12 Concerns expressed locally relate to the deliverability of the proposed footway link to the south. The Traffic Manager has considered this point and concludes the connection can be made and that the scheme, including the proposed junction, is acceptable.
- 6.13 It is considered that the proposal would not result in residual cumulative impacts that are severe and that the impacts described in the NPPF as warranting refusal do not exist in this case.

### **Impact on adjoining residential amenity**

- 6.14 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. In this case, officers are satisfied that development of the site in the manner envisaged by the illustrative layout i.e. with units backing onto the dwellings to the south being single-storey the relationships in terms of window-to-window distance are not considered to warrant refusal based on loss of amenity. Clearly this will be contingent on detailed consideration at the Reserved Matters stage. At this stage, however, officers are satisfied that an appropriate

layout at the Reserved Matters stage would be capable of accords with the requirements of saved UDP policy H13 and NPPF paragraph 12, which demands good standards of amenity.

## **Ecology**

- 6.15 The Council's Ecologist has no objection to the proposal subject to a connection to mains drainage being feasible (which has now been confirmed) and other conditions set out in the response at 4.3 above. The revised illustrative masterplan denotes a larger buffer against the R.Lugg SAC/SSSI such that the impacts of the development are capable of mitigation if this strategy is pursued at the Reserved Matter stage.

## **Foul drainage and water supply**

- 6.16 The Water Authority has no objection to the development in relation to foul drainage, confirming that the treatment of domestic discharges from this site can be accommodated by the existing Waste Water Treatment Works. At the time of writing a holding objection remains in relation to the supply of potable water and the recommendation reflects this.

## **Capacity at the local Primary School**

- 6.17 The NPPF identifies the importance of ensuring a sufficient choice of school places for existing and new communities and recognises that local planning authorities will need to work proactively in order to meet this requirement (paragraph 72).
- 6.18 Marden Primary School is presently at capacity in one year group. The Schools Capital and Investment Officer has confirmed that subject to a S106 contribution, the pupils generated by this development could be accommodated.

## **S106 contributions**

- 6.19 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been negotiated and are summarised as follows:
- 'Education Contribution'
    - £1,084 for each 2 bedroom Open Market apartment; and
    - £1,899 for each 2/3 bedroom Open Market dwelling; and
    - £3,111 for each 4 or more bedroom Open Market dwelling
  - 'Sustainable Transport Contribution'
    - £1,920.00 for each 2 bedroom Open Market Unit; and
    - £2,580.00 for each 3 bedroom Open Market Unit; and
    - £3,440.00 for each 4 or more bedroom Open Market Unit

The Sustainable Transport Contribution would be used to fund sustainable transport infrastructure serving the Development for any or all of the following:

Improvements to pedestrian and cycle facilities in the locality of the Development;  
Improvements to sustainable and public transport facilities serving the Development;  
Provision of or improvements to community transport serving the development; and / or  
Provision of or improvements to safer routes to school.

- 'Off site play'
  - £965 for each 2 bedroom Open Market Unit; and
  - £1,640 for each 3 bedroom Open Market Unit; and
  - £2,219 for each 4 or more bedroom Open Market Unit



- 'Waste & Recycling' - £80 per Open Market Unit.

6.20 The S106 will also include provisions to ensure 35% of the development meets the definition of affordable housing, together with requisite standards and eligibility criteria.

A maintenance contribution towards the management of on-site public open space and the SUDs basins, if to be adopted by the Council, will also be required.

### **The proposal relative to development of the Neighbourhood Plan**

6.21 Marden Parish Council has designated a neighbourhood plan area. Work has been progressing towards the formulation of the plan and many representations refer to the prejudicial nature of large-scale proposals relative to the localism agenda as enshrined at paragraph 17 of the NPPF, which states that planning should be *'genuinely plan led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of an area'*.

6.22 The tension between the NPPF requirement to significantly boost the supply of housing where supply issues persist and the devolution of planning powers to parish councils is obvious and widely felt. As an objective assessment, drawing on parallels elsewhere, officers conclude that in this instance the Neighbourhood Plan, although having progressed to Regulation 14, is not presently sufficiently far advanced to be attributed weight for the purposes of decision-taking. Whilst acknowledging that large-scale schemes such as this appear contrary to the intended aims of localism, the Council cannot reject schemes because they are potentially prejudicial to the neighbourhood plan; particularly where the plan is in the early stages of preparation.

### **Noise**

6.23 The Parish and neighbours have expressed concern at the potential for noise nuisance arising from S&A Davies. The Noise Policy Statement for England is reflected in the NPPF. It is clear that noise must not be considered in isolation of economic, social and environmental dimensions of the development proposed, although in severe cases where noise is noticeable and disruptive, development should be avoided. This issue has not been taken into account in the application submission but is considered unlikely to be so severe as to warrant refusal of the application; particularly at the outline stage. NPPG guidance sets out potential options for mitigating noise impacts and these can be considered at the Reserved Matters stage should outline planning permission be granted.

### **Summary and Conclusions**

6.24 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out-of-date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded.

6.25 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. The site lies outside but directly adjacent the settlement boundary in what is, having regard to the NPPF, a sustainable location with reasonable access to local services. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).

6.26 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of

the economic role. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 35% affordable, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.

- 6.27 The tension, in this case, relates to the environmental role. In ecological terms, officers conclude that there is no overriding evidence of significant or demonstrable harm to nature conservation interests in the form, principally of the R. Lugg SAC/SSSI. As such, although the harm arising from the loss of the existing roadside hedgerow is acknowledged, the decision taker must weigh the significance of this harm against the benefits of the scheme and consider the potential for planting in mitigation. This is particularly so in the context of an application site that is not subject to any national or local landscape designation.
- 6.28 Officers conclude that there are no highways, drainage, ecological or archaeological issues that significantly and demonstrably outweigh the benefits associated with approval. It is therefore recommended that planning permission be granted subject to the completion of a legal undertaking and planning conditions.

## **RECOMMENDATION**

**Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report and removal of Welsh Water's Holding Objection relating to the supply of drinking water, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary**

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of Reserved Matters**
4. **The development shall include no more than 50 houses and no dwellings shall be more than 2 storeys high**

**Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1 and H13 and the policies of the National Planning Policy Framework.**

5. **H06 Vehicular access construction**
6. **H13 Access, turning area and parking**
7. **H17 Junction improvement/off site works**
8. **H18 On site roads - submission of details**
9. **H19 On site roads – phasing**
10. **H29 Secure covered cycle parking provision**
11. **L01 Foul/surface water drainage**
12. **L02 No surface water to connect to public system**

13. **L03 No drainage run-off to public system**
14. **L04 Comprehensive & integrated drainage of site**
15. **G04 Protection of trees/hedgerows that are to be retained**
16. **G10 Landscaping scheme**
17. **G11 Landscaping scheme – implementation**
18. **G14 Landscape management plan**
19. **H20 Road completion in 2 years**
20. **The recommendations set out in the ecologist’s report from Worsfold Bowen dated September 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a species protection and habitat enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

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

21. **Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise and vibration arising from the demolition and construction process. The Plan shall be implemented as approved.**

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

To comply with policies NC8 and NC9 within Herefordshire’s Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy and the NERC Act 2006.

**Informative:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **HN04 - Private apparatus within highway**
3. **HN05 - Works within the highway**

- 4. **HN07 - Section 278 Agreement**
- 5. **HN08 - Section 38 Agreement & Drainage details**
- 6. **HN10 - No drainage to discharge to highway**
- 7. **N11C - General**

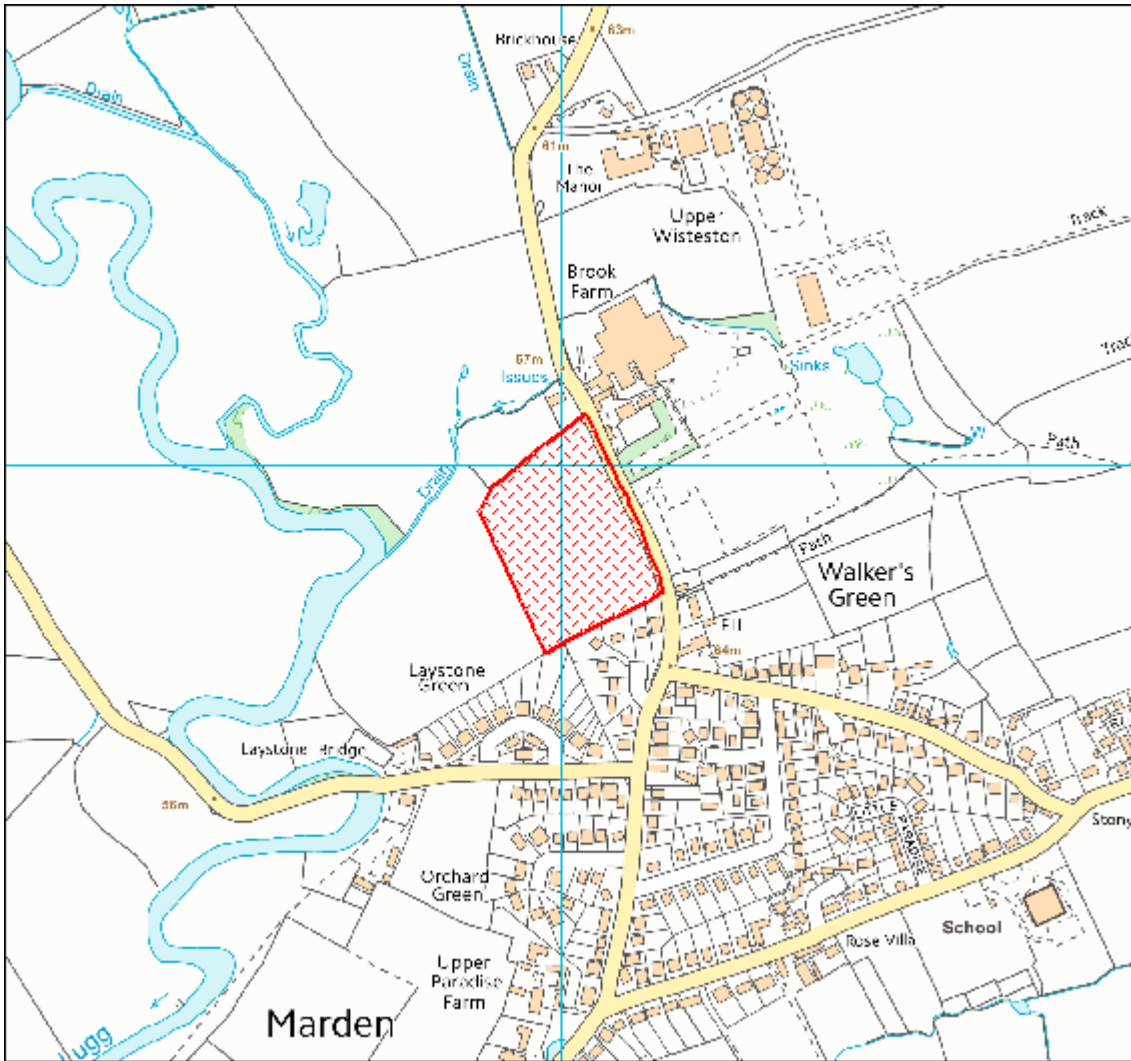
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 150431

**SITE ADDRESS :** LAND OPPOSITE BROOK FARM, MARDEN, HEREFORDSHIRE, HR1 3ET

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

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

Proposed erection of up to 50 dwellings on land opposite Brook Farm, Marden – 150431/O

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

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

£1,084 for each 2 bedroom Open Market apartment; and  
£1,899 for each 2/3 bedroom Open Market dwelling; and  
£3,111 for each 4 or more bedroom Open Market dwelling  
to provide enhanced educational infrastructure at Marden Primary School. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

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

£ 1,920 (index linked) for a 2 bedroom open market unit  
£ 2,580 (index linked) for a 3 bedroom open market unit  
£ 3,440 (index linked) for a 4+ bedroom open market unit  
to provide a sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

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

- a) Improvements to pedestrian / cycle facilities
- b) Improvements to sustainable and public transport facilities
- c) Community transport
- d) Safer routes to school

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £80 (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.

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

£ 965 (index linked) for a 2 bedroom open market unit  
£ 1,640 (index linked) for a 3 bedroom open market unit  
£ 2,219 (index linked) for a 4+ bedroom open market unit

To be used to further develop the neighbourhood play area. 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.

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

*Any on site surface water attenuation basin will be transferred to the Council with a 60 year commuted sum. This will be done as part of the land transfer.*

5. The developer covenants with Herefordshire Council that 35% (17 units – on the basis of development of 49 dwellings) of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations. 9 units shall be social rented tenure and 8 shall be of intermediate tenure (shared ownership, intermediate rent or low cost market).
6. 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.
7. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-:
  - 7.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 7.2. satisfy the requirements of paragraphs 9 & 10 of this schedule
8. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
  - 8.1. a local connection with the parish of Marden
  - 8.2. in the event of there being no person with a local connection to Marden to the adjoining parishes of Bodenham, Wellington, Sutton St. Nicholas, Moreton-on-Lugg and Preston Wynne;
  - 8.3. any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all

reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 9.1 above.

9. For the purposes of sub-paragraph 9.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 9.1. is or in the past was normally resident there; or
  - 9.2. is employed there; or
  - 9.3. has a family association there; or
  - 9.4. a proven need to give support to or receive support from family members; or
  - 9.5. because of special circumstances;
10. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to such subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
11. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3 and 4 above, for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
12. The sums referred to in paragraphs 1, 2, 3 and 4 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
13. The developer covenants with Herefordshire Council to pay a surcharge (to be confirmed) of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
14. 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.

August 2015





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<b>152012 - PROPOSED OAK FRAMED CONSERVATORY TO THE SIDE ELEVATION (SOUTH) AT CHURCH COTTAGE, HOARWITHY, HEREFORD, HR2 6QQ</b>  <b>For: Mr Durkin, Church Cottage, Hoarwithy, Hereford, Herefordshire HR2 6QQ</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=152012&amp;search=152012">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=152012&amp;search=152012</a>
<b>Reason Application submitted to Committee – Member Application</b>	

**Date Received: 6 July 2015**

**Ward: Dinedor Hill**

**Grid Ref: 354636,229609**

**Expiry Date: 9 September 2015**

Local Member: Councillor D Summers

## 1. Site Description and Proposal

- 1.1 The application features Church Cottage, an attractive, extended dwellinghouse located in Hoarwithy, an undesignated village in the Herefordshire Unitary Development Plan and thus an open countryside location. The site is within the Wye Valley Area of Outstanding Natural Beauty, a statutory designated and protected landscape. In addition the site is in a Conservation Area and is located north of and within certain vistas of the Grade I listed Church of St. Catherine.
- 1.2 The proposal is an oak framed conservatory extension to the side south elevation.

## 2. Policies

### 2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction - Achieving Sustainable Development

Section 7 - Requiring Good Design

Section 12 - Conserving and Enhancing the Historic Environment

### 2.2 Herefordshire Unitary Development Plan (UDP)

S1	–	Sustainable Development
S2	–	Development Requirements
DR1	–	Design
DR2	–	Land-use and Activity
H18	–	Alterations and Extensions

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

- HBA4 – Setting of Listed Buildings
- HBA6 – New development within conservation areas
- LA1 – Areas of Outstanding Natural Beauty

### 2.3 Herefordshire Core Strategy:

- SS1 – Presumption in favour of Sustainable Development
- LD5 – Historic Environment and Heritage Assets
- SD1 – Sustainable design and energy efficiency

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

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

## 3. Planning History

None

## 4. Consultation Summary

4.1 Historic England do not wish to comment in detail, but offer the following general observations – *We advise that the external joinery of the conservatory should be finished in a colour no paler than oak.*

4.2 The Public Rights of Way Manager has no objection.

## 5. Representations

5.1 Ballingham Bolstone and Hentland Group Parish Council support the application.

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

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

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

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

## 6. Officer's Appraisal

6.1 Government planning guidance aims and objectives are contained in National Planning Policy Framework. In requiring good design, NPPF paragraph 58 requires proposals to respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation and in paragraph 61 states although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

6.2 Paragraphs 131 – 135 of the NPPF set out what should be considered in determining planning applications affecting built heritage assets. It states local planning authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness.

- 6.3 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. 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 should require clear and convincing justification.
- 6.4 The relevant local plan policies, DR1 – Design, H18 – Alterations and extensions, HBA4 – Setting of listed buildings, and HBA6 – New development in conservation areas are all considered to be in general conformity with the NPPF.
- 6.5 The conservatory measures 4.6 x 3.75 metres in plan and extends from a single storey protrusion on the South elevation. In addition to being constructed of complementary appropriate materials (oak frame, stone dwarf walls and roof matching the dwelling) the conservatory is integrated into the dwelling with a new gable pitched roof where the proposal joins the dwelling.
- 6.6 The proposal is considered of a size, scale and appearance in keeping with and subservient to the original dwelling and furthermore can be considered to enhance the South elevation through reducing the massing of the roof plane. The conservatory provides a feature element to the South elevation that provides interest and balance.
- 6.7 Having regard to the context, it is considered there is no adverse impact on adjoining land uses (the conservatory does not immediately overlook or adjoin other residential properties or curtilage). Furthermore having regard to the design and articulation of the proposal, there is considered no adverse impact on heritage or landscape assets.
- 6.8 As such the proposal is considered to satisfy relevant local and national planning policies. Approval is recommended with the condition requested from Historic England.

## RECOMMENDATION

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

- 1. C01 – Time limit for development**
- 2. C07 – Development in accordance with approved plans and details**
- 3. The external joinery of the conservatory should be finished in a colour no paler than oak.**

**Reason: To ensure a satisfactory appearance to the development and in the interests of maintain and enhancing the character and appearance of the conservation area and to satisfy Herefordshire Local Plan policies DR1 and HBA6 and the relevant heritage aims and objectives of the National Planning Policy Framework.**

## INFORMATIVES:

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

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

**material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

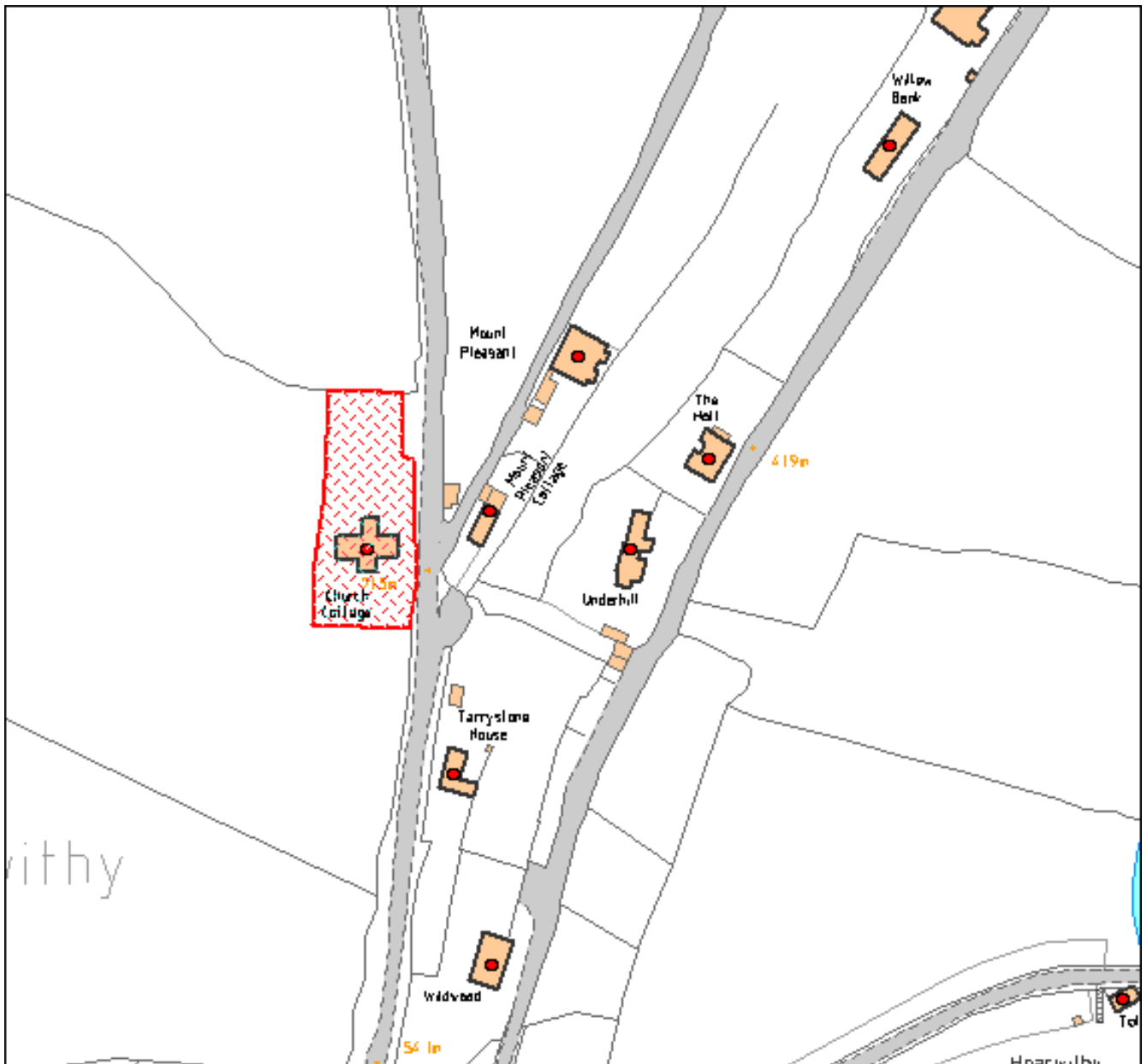
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 152012

**SITE ADDRESS :** CHURCH COTTAGE, HOARWITHY, HEREFORD, HEREFORDSHIRE, HR2 6QQ

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

