

# AGENDA

## Planning Committee

Date: **Wednesday 16 September 2015**

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

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Place: **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:

**Tim Brown, Democratic Services Officer**

Tel: 01432 260239

Email: [tbrown@herefordshire.gov.uk](mailto:tbrown@herefordshire.gov.uk)

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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.	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
2.	<p><b>NAMED SUBSTITUTES (IF ANY)</b></p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p><b>DECLARATIONS OF INTEREST</b></p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
4.	<p><b>143489 - LAND ADJACENT TO BROOKLANDS, WYSON LANE, BRIMFIELD, LUDLOW, SY8 4NQ</b></p> <p>Site for erection of up to 10 houses with highway access onto Wyson Lane, associated infrastructure and landscaping.</p>	7 - 20
5.	<p><b>141599 - LAND AT ETNA, ORCOP HILL, MUCH DEWCHURCH, HEREFORD</b></p> <p>Outline application for 8 affordable dwellings, use of and amendments to access and provision of treatment plant.</p>	21 - 36
6.	<p><b>151752 - LAND ADJACENT TO SEVEN ACRES, KINGS CAPLE, HEREFORDSHIRE, HR1 4TZ</b></p> <p>Proposed erection of 2 no. new detached dwellings.</p>	37 - 46
7.	<p><b>DATE OF NEXT MEETING</b></p> <p>Date of next site inspection – 6 October 2015</p> <p>Date of next meeting – 7 October 2015</p>	



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- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<b>143489 - SITE FOR ERECTION OF UP TO 10 HOUSES WITH HIGHWAY ACCESS ONTO WYSON LANE, ASSOCIATED INFRASTRUCTURE AND LANDSCAPING AT LAND ADJACENT TO BROOKLANDS, WYSON LANE, BRIMFIELD, LUDLOW, SY8 4NQ</b>  <b>For: Mr Gorringe per Savills LLP, The Quadrangle, Imperial Square, Cheltenham, Gloucester, GL50 1PZ</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143489&amp;search=143489">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143489&amp;search=143489</a>
<b>Reason Application submitted to Committee – contrary to policy</b>	

**Date Received: 21 November 2014**      **Ward: Leominster**      **Grid Ref: 352347,268079**  
**North & Rural**

**Expiry Date: 23 February 2015**  
 Local Member: Councillor J Stone

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

- 1.1 This is an outline application for up to 10 houses on a site of 0.86 hec, situated on the north side of Wyson Lane, immediately to the west of the underpass beneath the A49(T). All matters other than access are reserved for subsequent approval.
- 1.2 A small part of the site lies within the Brimfield Settlement boundary. This is utilised for the access drive, all of the houses would be outside this boundary.
- 1.3 The application has been revised from the original 12 dwellings to 10 following concern from the Environmental Health Officer in respect of noise from the A49(T). As a consequence the indicative layout has been amended to move properties from the boundary closest to that road.
- 1.4 The proposal includes a draft heads of terms, which as a consequence of the reduction in the number of houses will require amendment. This includes the provision of affordable housing.
- 1.5 Traffic calming measures are also included.
- 1.6 In addition to the plans, Design and Access Statement and Planning Statement the following documents have also been submitted; Arboricultural Survey, Ecological Survey, Noise Report, Transport Statement, Flood Risk Assessment, Topographical Survey, Statement of Community Involvement and S106 Draft Heads of Terms

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Further information on the subject of this report is available from Mr M Tansley on 01432 261815

## 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

### 2.2 National Planning Practice Guidance 2014 -Noise

### 2.3 Herefordshire Unitary Development Plan Saved Policies

S1	-	Sustainable development
S2	-	Development requirements
S3	-	Housing
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning obligations
DR7	-	Flood risk
H4	-	Main village: Settlement boundaries
H7	-	Housing in the open countryside outside settlements
H9	-	Affordable housing
H19	-	Open space requirements
T8	-	Road hierarchy
LA3	-	Setting of settlements
NC1	-	Biodiversity and development
NC6	-	Biodiversity action plan priority habitats and species
NC7	-	Compensation for loss of biodiversity
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

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Further information on the subject of this report is available from Mr M Tansley on 01432 261815



- SD4 - Wastewater treatment and river water quality
- ID1 - Infrastructure delivery

2.5 Brimfield and Little Hereford Neighbourhood Plan. The plan has reached regulation 16 stage and the consultation period ends on 23 September. At the end of that period it can be considered to be a material consideration.

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 Ref 111700 erection of one dwelling, approved 12/8/11. This permission appears to have expired.

### 4. Consultation Summary

4.1 Environment Agency

**Flood Risk Assessment (FRA):** the proposed development is within Flood Zone 1 whilst the access to the site is affected by fluvial flooding. We have previously commented on the FRA provided by Robert West requesting assessment to quantify the potential fluvial flooding across the access area to the site. The revised submission has been carried out to assess this risk.

The modelling undertaken is broad brush, but provides conservative depths and velocities. They have taken what is considered a reasonable flow representing the 1 in 100 year plus climate change event and assessed it against the culvert capacity to derive a flood level. At the most extreme the modelling derives a flood depth of 150mm with an average of 75mm on the road and velocities below 1m/s. Based on table 13.1 of the report FD 2321 this scale of flooding is not considered dangerous providing care is taken to ensure persons stay away from the watercourse where the depths will be deeper.

We would wish to remove our objection with the understanding that, during a 100 year plus climate change event, access would be still available. The flood depths across the access, as detailed above, should be used to help inform the flood management plan in discussion with your Emergency Planners.

**Foul Drainage:** We would have no objection to the connection of foul water to the mains foul sewer, as proposed. The LPA must ensure that the existing public mains sewerage system has adequate capacity to accommodate this proposal, in consultation with the relevant Sewerage Utility Company.

4.2 Highways England

Although the proposed development does not share a direct access to the A49 trunk road, the Highways Agency welcomes the opportunity to provide comments on the proposals.

This current application is for twelve dwellings on land adjacent to Brooklands, Wyson Lane. Whilst this proposal on its own is unlikely to present a material impact on the SRN, the Highways Agency is concerned about the cumulative nature of development within the Wyson Lane area and the potential impact on the A49 Salwey Arms junction.

Further development is likely to increase vehicle movements and present potential safety issues at an already sub-standard junction and it therefore undesirable with the junction in its present form.

#### 4.3 Welsh Water

##### **SEWERAGE**

Welsh Water do not supply sewerage services to this area and therefore have not further comment to make.

##### **WATER SUPPLY**

Welsh Water has no objection to the proposed development.

#### 4.4 Severn Trent Water

I confirm that Severn Trent Water Limited has NO OBJECTION to the proposal subject to the inclusion of the following condition.

##### **Condition**

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

##### **Reason**

To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the rise of pollution.

Internal Consultees

#### 4.5 Transportation Manager

The proposed access to the site still does not provide visibility splays to full standards, but the design results in an improvement over the existing visibility splays, and in addition provides benefits to other users of Wyson Lane through traffic calming measures.

The increase in traffic is *de minimis* and within the capacity of the existing highway network.

No objection subject to conditions.

#### 4.6 Environmental Health Manager

No objection to revised layout for 10 houses.

#### 4.7 Parks and Countryside

In response to the original proposal for up to 12 houses:-

In accordance with pre-application comments and UDP Policies H19 and RST3 the applicant has considered the need to provide POS/Play as required for a development of this size between 10 - 30 family dwellings.

It is noted that the development will provide an area of open/amenity space sited to provide an attractive 'gateway' to the development but its usefulness for informal recreation would need to be made clear given its size. The applicant has acknowledged that the provision of a LAP (small children's play area) could be provided either on or off site. I would recommend that an off-site contribution is asked for but the final decision should be made in consultation with the Parish Council. On site provision would be very small of little play value and costly to maintain. However, in accordance with the Play Facilities Study and Action Plans, Brimfield play area which is at village hall is small catering for infants only and has limited room to expand. It is in fairly good condition and the recommendation is to establish a rolling programme of works to ensure it remains of a good quality. In the more rural parishes where there is limited access to formal play particularly for older children an off-site contribution could be used towards improving access to the wider countryside and semi natural POS via the public rights of way network and in accordance with the Council's Public Rights of Way Improvement Plan.

(The revision to the scheme will require a revision to the Heads of Terms, any comment received before the meeting will be reported, otherwise it will be dealt with under the scheme of delegation).

#### 4.8 Housing Commissioning Officer

Having reviewed the supporting documentation I would advise that the application meets the UDP requirement to provide 35% affordable housing, however, although the applicant proposes to build the affordable units to Level 3 of the Code for Sustainable Homes, there is no mention of the required local authority build standards. In order for me to fully support this application I require the draft heads of terms to be altered to reflect the build standards or assurance form the applicant that they will be included within the 8106.

The proposed mix, tenure and location of the affordable units is acceptable and meets the need as identified in the 2012 local housing need survey.

(This will be subject to the proviso above following reduction of the scheme).

## 5. Representations

### 5.1 Brimfield Parish Council

The Parish Council strongly object to this planning application for the following reasons:

- Access to the proposed development via Wyson Lane. This is already a very congested road, having to deal with local speeding traffic and parked vehicles. In addition it is located within a very short distance of a busy junction at which visibility is very poor – no consideration has been given to improving this junction at which a considerable extra number of vehicles would be using. We would strongly urge the Highways Officer to take ours and local residents views regarding this junction into consideration.

We do not feel that the measures proposed to ease traffic and speeding issues in Wyson Lane will alleviate these very real concerns. We do not agree that the significant amount of traffic that will be generated by this development against the planned changes adhere to Paragraph 32 of the National Planning Policy Framework. Safe and suitable access to the site has not been established, especially where the junction to the main village is concerned. The very nature of Wyson as a hamlet is equally as congested going out the other way with parked cars and the narrowness of the lane. Narrowing the road will only contribute to this problem. This would also present a problem with any construction traffic and emergency service vehicles.

- Previous development at this site has been refused in part for the reasons stated above.

- Sewerage. Significant development such as this should provide its own system, instead of connecting to the already aged and overloaded system currently in place.
- Contrary to the application, there is no regular public transport system – once a week every Friday and a booking system on one other day does not constitute a regular service.
- We support the views of the Environment Agency regards proposed alleviation of surface water at the entrance of the development not having been established and flooding concerns. The proposed entrance to the development is within flood zone 3, not flood zone 1 as detailed in the application. Any development within flood zone 3 should be refused.
- Although not yet a statutory document, Brimfield & Little Hereford Neighbourhood Development Plan (currently out for consultation and available to view on the Herefordshire Council website) clearly shows that significant development anywhere in Wyson must not be considered due to the reasons stated above. These are the wishes of our residents.

We remain concerned that although there is no up to date Local Plan or a 5 year land supply document for the county, the National Planning Policy Framework should not allow developers to ride roughshod over local communities wishes.

(Comments on the revision are expected prior to the meeting and will be reported in the committee update or verbally).

## 5.2 Crime Prevention Officer

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. I note that this application does not make reference to crime reduction measures within the Design Access Statement. There is a clear opportunity within the development to achieve the Secured by Design award scheme. The development appears to have good access control and natural surveillance already built into the design. The principles and standards of the award 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 prevention and reduction which would enhance the community well being within this village.

## 5.3 Objections have been received from 6 local residences making the following points:

1. Highway safety issues with Wyson Lane and the Salwey Arms junction.
2. Lack of village facilities.
3. Sewage disposal problems as referred to by objectors to application ref 143808 should be applied here.
4. Dwellings too close to A49.
5. Contrary to many provisions of the NPPF

(Ref 143808 an application for 4 dwellings with access from Salwey Lane, to the west of this site was refused in May 2015 on pedestrian access and visibility splay grounds).

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

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

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

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

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

- 6.1 The revised scheme has now satisfied the Environmental Health concern regarding noise by reducing the proposal to ensure no dwellings would be located on the part of the site nearest to the A49. Accordingly the requirements of the policies on noise and the National Planning Practice Guidance 2014 –Noise are considered to have been met.
- 6.2 The Transportation Manager has no objection subject to conditions which include traffic calming works in three locations along Wyson Lane. Whilst Highways England report that there are deficiencies at the Salwey Arms junction, they have not directed or suggested refusal of the application. The closest route from the site to the A49 would not involve using this junction.
- 6.3 Objections have also been made regarding sewage disposal, though Severn Trent Water has no objection subject to condition.
- 6.4 The Environment Agency have no objection regarding the access in Flood Zone 3, the 1 in 100 year occurrence, subject to condition. The houses are located outside of this zone and therefore not liable to flood. It will be noted that planning permission had previously been granted for a dwelling in this location.
- 6.5 The remaining main element of the proposal to consider is the accordance or otherwise with the NPPF, and the lack of 5 year housing land supply. Whilst Brimfield does lack a number of facilities including a school surgery and full time Post office, this is clearly a reasonably sized settlement, and a settlement boundary had been identified in the UDP, although the majority of the site lies outside of it. At this moment no weight can be given to the Neighbourhood Development Plan.
- 6.6 The three contributing elements to sustainable development as set out in the NPPF are social economic and environmental. This proposal contributes to those elements through the requirements of the S106 including social housing and contribution to play facilities, through investment in local infrastructure. Given the lack of adverse significant impacts arising from the proposal the application is considered to comply with the requirements of the NPPF and is recommended for approval accordingly.

## **RECOMMENDATION**

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

- 1. A02 Time limit for submission of reserved matters (outline permission)**
- 2. A03 Time limit for commencement (outline permission)**
- 3. A04 Approval of reserved matters**
- 4. A05 Plans and particulars of reserved matters**
- 5. I20 Scheme of surface water drainage**

**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.**

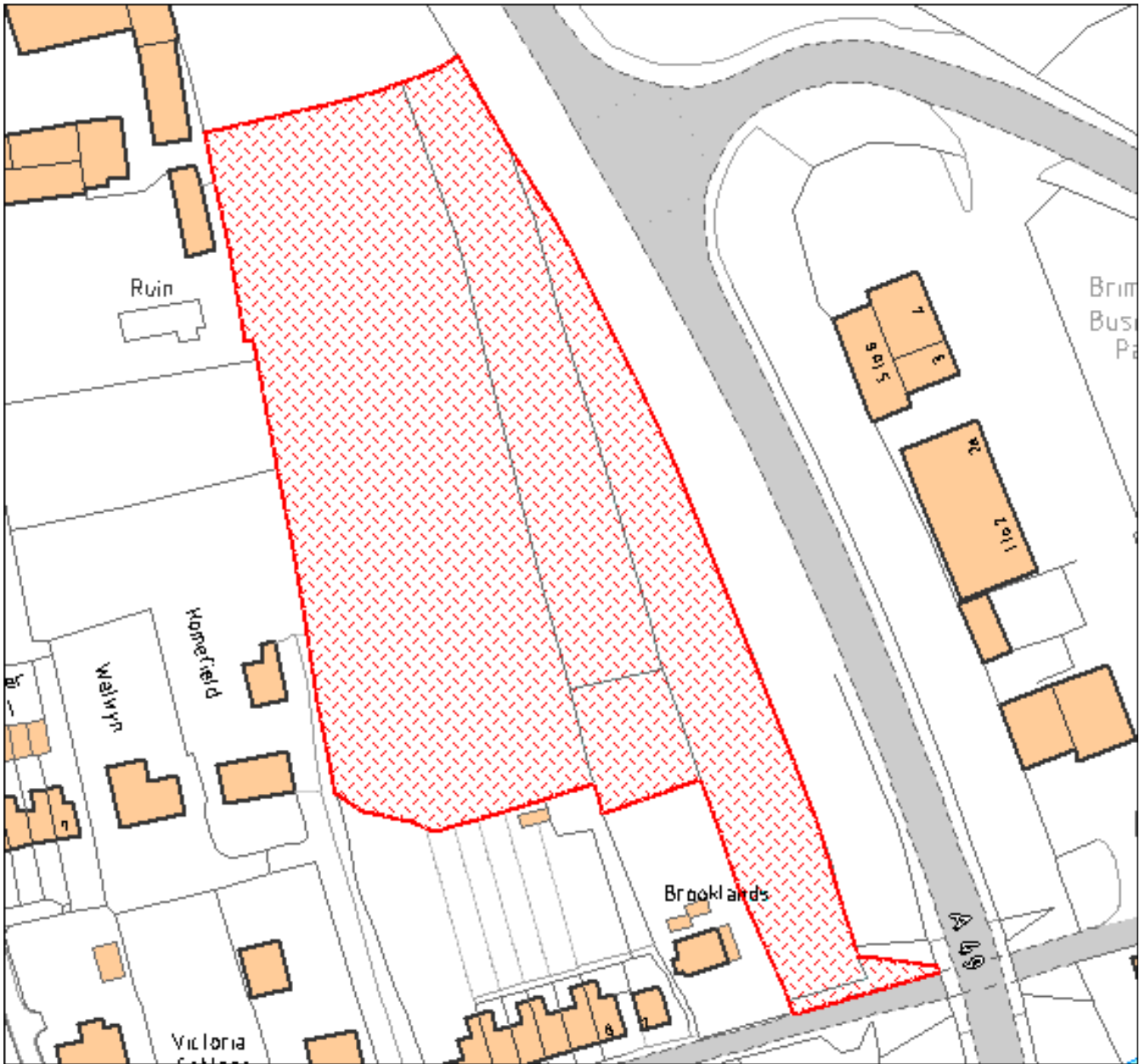
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 143489

**SITE ADDRESS :** LAND ADJACENT TO BROOKLANDS, WYSON LANE, BRIMFIELD, LUDLOW, HEREFORDSHIRE, SY8 4NQ

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Further information on the subject of this report is available from Mr M Tansley on 01432 261815





# DRAFT HEADS OF TERMS

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

### Pre- Planning Application

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 on general market units only.

Residential Development incorporating 35% affordable housing on land adjacent to Brooklands, Wyson Lane, Brimfield, Herefordshire.

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

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

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

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

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

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

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

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

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

£995	(index linked) for a 2 bedroom open market unit
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£1,640	(index linked) for a 3 bedroom open market unit
£2,219	(index linked) for a 4+ bedroom open market unit

To provide an off-site contribution towards the improvement of surrounding existing play areas. The sum shall be paid on or before the commencement of development, and may be pooled with other contributions if appropriate. (These figures are based on a development proposal of 10 -30 dwellings, if a larger scheme is proposed then consideration may be required to an on site play area. A smaller scheme (under 10 units), would generate a request for a smaller fee per unit).

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

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

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

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

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

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

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £120 (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate..
7. The developer covenants with Herefordshire Council that 35% of the residential units shall be "Affordable Housing" which meets the criteria set out in Policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
8. Of those Affordable Housing units, at least ? shall be made available for social rent with the remaining ? being available for intermediate tenure occupation. (Yet to be confirmed depending on size of the development).
9. 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.

10. 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 in the event of there being no person having a local connection to the parish of Brimfield, a person with a local connection to one of the neighbouring parishes
  - 10.3 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 Brimfield
  - 11.2 In the event of there being no person with a local connection to Brimfield any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 12.1 above.
- 12 For the purposes of sub-paragraph 13.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 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 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.
- 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 sums 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.

Philip Mullineux  
Planning Officer  
27<sup>th</sup> August 2013. .



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<b>141559 - OUTLINE APPLICATION FOR 8 AFFORDABLE DWELLINGS, USE OF AND AMENDMENTS TO ACCESS AND PROVISION OF TREATMENT PLANT. AT LAND AT ETNA, ORCOP HILL, MUCH DEWCHURCH, HEREFORD,</b>  <b>For: Mr Jones per Mr B Griffin, The Cottage, Green Bottom, Littledean, Cinderford, Gloucestershire GL14 3LH</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141559&amp;search=141559">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141559&amp;search=141559</a>
<b>Reason Application submitted to Committee -</b>	

**Date Received: 16 May 2014**

**Ward: Birch & Wormside**

**Grid Ref: 348124,228175**

**Expiry Date: 11 July 2014**

Local Members: Councillors DG Harlow and JF Johnson

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

- 1.1 The application site sits immediately to the north of Orcop Hill, a small settlement, 12km to the south-west of Hereford and 14km to the north-west of Ross-On-Wye. Orcop Hill is not listed in the Herefordshire Unitary Development Plan as a settlement but is a settlement identified for proportionate growth in the emerging Core Strategy.
- 1.2 The site measures approximately 0.14 hectares and sits to the north-east of an existing estate road known as Birch View, which was constructed to provide access to six dwellings at its terminus. Birch View adjoins the C1235. The A466 lies approximately 1.2km to the east. Land to the west, north and east of the site is agricultural land which gives way to a rolling landscape.
- 1.3 The boundary between the parishes of Much Dewchurch and Orcop dissects the site, whilst the road off which the site is accessed, Birch View, falls within the Parish of Llanwarne. The most westerly portion (c. 20%) of the site is within Orcop with the remainder of the site in Much Dewchurch.
- 1.4 The application seeks outline planning permission for the erection of 8 affordable dwellings. Approval is also sought for matters of access, layout and landscaping with matters of scale and appearance reserved for future consideration. The 8 dwellings are shown as being provided in 4 pairs of semi detached dwellings accessed off Birch View. The houses are shown in a row along the north side of Birch View. The existing access off Lyston Lane would be altered, with the removal of a dwarf brick wall and grading back the verge to create a suitable verge. Access onto the highway network would be via the existing junction between Birch View and the C1235. A footpath would also be provided along the southern flank of Birch View.

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

- 1.5 Amendments were made to the planning application to include a landscape plan which shows the planting of orchard to the east of the application site, a hedgerow being reinstated along the parish boundary of Much Dewchurch and Orcop and the provision of a hedgerow in place of a close boarded fence along the roadside boundary of the dwelling known as Etna. An ecology survey of the site was also submitted at the Council's Ecologist's behest. The application was re-advertised accordingly.

## 2. Policies

### 2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance to this application:

Introduction	-	Achieving Sustainable Development
Chapter 4	-	Promoting sustainable Transport
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

### 2.2 Herefordshire Unitary Development Plan 2007 (HUDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR7	-	Flooding
H6	-	Housing in Smaller Settlements
H7	-	Housing in the Countryside Outside Settlements
H9	-	Affordable Housing
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
CF2	-	Foul Drainage

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

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

### 2.4 Herefordshire Local Plan 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 Matt Tompkins on 01432 261795

SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H2	-	Rural Exception Sites
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety, Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geo-Diversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.5 The Examination in Public into the Draft Local Plan – Core Strategy (CS) has taken place and was completed on 25 February 2015. The Inspector found conflict between a number of Core Strategy policies and the NPPF. The Council have modified those policies to overcome the Inspector's concerns. The report of the inspector is awaited.

### 3. Planning History

3.1 List of relevant planning applications:

- **SH930279PF** Demolish 2 existing poultry houses and building replace with new, low profile bulk bins and ancillary works: *Approved*
- **DCSW2003/2651/O** Site for 11 dwellings with bio-disc treatment system after demolition of existing poultry houses: *Withdrawn*
- **DCSW20040407/O** Site for 6 dwellings (affordable housing) with bio-disc treatment system after demolition of existing poultry houses: *Approved*
- **DCSW2006/1534/RM(pursuant to the above mentioned outline application)** Six dwellings for affordable housing: *Approved*
- **DCSW2008/0202/O** Provision of six affordable dwellings bio-disc treatment plan and use of existing access: *Refused*
- **DCSW2009/0298/O** Provision of six affordable dwellings on site of former poultry unit bio-disc treatment plan and use of existing access: *Refused*
- **132383/O** Provision of fourteen dwellings (8 affordable) on site of former poultry unit bio-disc treatment plan and use of existing access: *Withdrawn*

3.2 Of the above applications, DCSW2006/1534/RM has been implemented and is the permission for the 6 dwellings at the terminus of the Birch View. Otherwise, the most pertinent decision is the refusal of planning permission DCSW2009/0298/O. This sought permission for 6 affordable units on a site similar to this one and was refused for the following reasons:

- a. The proposal constitutes development in open countryside where there is a strong presumption against new residential development unless there are exceptional circumstances to justify otherwise. The development will not meet an identified local need for affordable housing and does not satisfy the requirements of the rural exceptions policy. The proposal is therefore contrary to Policies H7 and H10 of the Herefordshire Unitary

Development Plan and the guiding principles of PPS7 - Sustainable Development in Rural Areas.

- b. The proposal by reason of its isolated rural location would not be sustainable in terms of reducing the need to travel by private car as required by Policies S1, S6 and DR2 and as set out in Government advice contained in PPS7 - Sustainable Development in Rural Areas and PPG13 - Transport.

3.3 It is worth members noting at this point, that permission DCSW2009/0298/O was for a similar development, but was refused for being contrary to UDP Policy H10. This application was determined at a time when the UDP was the sole development plan against which development proposals fell to be determined. No material considerations were found to erode the weight which may have been apportioned to the UDPs policies. In retaining full weight and in failing to demonstrate a need for the proposed affordable housing, the development failed the exception test of UDP Policy H10 and was therefore non-exceptional development in the open countryside contrary to the UDP. The present day policy climate is significantly more complex and, as is discussed below in more detail, the UDP cannot be solely relied upon to determine the acceptability of this application.

3.4 Also of relevance is application 132383/O which was on a similar but larger site and proposed the provision of 14 dwellings, 8 of which were to be affordable. The application was withdrawn on officer recommendation given concerns for the size and scale of the development.

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

4.1 The Council's Transportation Manager does not object:

*As previously mentioned, the development utilises an existing road layout that serves a number of properties, the road has not been adopted, if you are minded to approve, the layout needs to be adopted or a robust planning condition is required as to how the road will be maintained for the life of the development.*

*The updated plan shows a footway which provides no crossing points/dropped crossing and on the northern side the footway has no end.*

*Parking spaces should be a minimum of 4.8 x 2.4, however as these will be classed as drives should be extended to 6 metres. The driveway adjacent to the amenity space does not have a complete parking space. Parking areas within the site to allow for a car to park and pedestrian access adjacent.*

*If hedgerows are to be planted adjacent to the wooden fence which fronts the highway then they should reduce visibility.*

*CAE, CAH, CAJ, CAL, CAP  
I11, I09, I45, I08, I07, I05, I51, I47, I35*

4.2 The Council's Conservation Manager (Ecology) does not object:

*I note the intention to ascertain whether or not the pond to the north is habitat for great crested newts. To ensure information is received on this and enhancement measures are put in place I recommend that a non-standard condition is attached to any approval.*

4.3 The Council's Conservation Manager (Landscape) does not object to the principle of development. A framework of mitigation measures and landscape improvement works was also provided.



4.4 The Council' Commissioning Officer (Housing Development) supports the application:

*The Parishes of Much Dewchurch and Orcop have an unmet identified housing need so the delivery of affordable housing within these parishes is welcomed. The developer has proposed that all of the dwellings will be for Low Cost Market housing, a hugely popular tenure within the County and a tenure greatly in demand, however there is also a need for all forms of affordable rented housing in the County. The dwellings would be advertised for local connection to the parishes in the first instance and any over subscription would then then the cascading to the surrounding parishes.*

*Further discussions will need to take place with the developer prior to reserved matters.*

4.5 The Campaign to Protect Rural England object. The summary of their objection is as follows:

*I note that a previous application for 6 houses submitted in 2008 was refused on the grounds that it would be:*

- 1. Development in open countryside, contrary to H7, H10, PPS7*
- 2. It is an elevated site and the development would detract from the character of the locality, contrary to DR1, H13*
- 3. The site is isolated, with minimal transport or other facilities and thus not sustainable contrary to S1, S6, DR2, PPS7, PPG13*

*It is HCPRE's view that the same constraints are still valid.*

4.6 Welsh Water do not object:

*As the applicant intends utilising a private treatment works we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal.*

4.7 The Council's Public Rights Of Way Officer does not object.

## **5. Representations**

5.1 Much Dewchurch Parish Council neither object, nor support the application but comment that:

*MDPC still has the following concerns: 1. No proof of a local demand for this number of houses in a very rural location has been shown. 2. No local facilities so vehicles are vital, poor local bus route. There would be an excessive increase in traffic on this rural road which is poorly maintained and inaccessible in winter. 3. Would mean further loss of a green field site.*

5.2 Orcop Parish Council objects to the application:

*The Application is UNSUPPORTED by Orcop Parish Council as the proposed development is in open countryside, not in keeping with the rural setting of the parish, There would be an increase in traffic on Lyson Lane which is very narrow. Concerns with regard to the bio disc system and the effluent treated by the bio disc as there is no water course nearby to which the treated effluent can flow into. The proposed development is considered unsustainable and therefore is contrary to policy SS1.*

5.3 Llanwarne and District Group Parish Council supports the application.

5.4 Letters of representation were received from 10 households and Birch View Community Group. All letters object to the proposal. Whilst full copies of the representations can be viewed on the Council's website via the link in paragraph 5.5, the points raised are summarised as follows:

- Only one affordable dwelling is required in the parish of Orcop / no affordable housing is necessary in Orcop;
- The proposal would result in the loss of further greenfield grazing land;
- Lyston Lane is single track road with limited passing places and further traffic will cause highway safety issues with existing agricultural vehicles and lorries;
- Parking is limited;
- Emergency vehicles could have their way blocked;
- The bus service in Orcop is limited and is under review to be withdrawn;
- Orcop's facilities are limited;
- The bus service only offers one trip per day;
- The plan shows planting but no formal play area or parking provision;
- The land registry plan shows some of the land edged in blue to be under the ownership of a third party;
- The applicant has no right to alter Birch View;
- The applicant has no right to pass over the part of Birch View necessary to access the application site;
- Gardens along the cul-de-sac get water logged and the road itself floods in times of heavy rainfall;
- There is no indication of where the treatment plant is to be located;
- There is specific landscape harm in the form of the removal of an ancient hedgerow labelled A-B on the plan;
- It was stated by members at a previous planning meeting (2006) that there would be no more development along this road;
- Some market properties should be allowed on the site; and
- Street lighting would ruin the dark night sky.

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 S38 (6) of the Planning and Compulsory Purchase Act 2004 (PCP) states:

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

6.2 Therefore, the first consideration is for the proposal's compliance with the local development plan. As Orcop Hill is not mentioned in the exhaustive list of settlements in which the UDP's housing policies seek to allow residential development, the application site must be considered in open countryside. UDP Policy H7 seeks to resist non-exceptional residential development unless one of 7 specific circumstances is demonstrated. This proposal seeks to meet exception circumstance no.7 which allows the provision of rural exceptions sites in the open countryside where the more detailed objectives of UDP Policy H10 are met. The proposal is for more than one dwelling and does not adjoin a settlement identified under the UDP and as such, fails to meet criterion no.7 of UDP Policy H10. The development would therefore be contrary to the UDP.

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

6.3 Notwithstanding that the proposal is contrary to the development plan, the two-stage process set out at S38 (6) also requires an assessment of other material considerations. In this instance, and in the context of the housing land supply deficit reported in greater detail below, the NPPF is the most significant material consideration to the determining of this application.

6.4 At paragraph 14, the NPPF sets out its requirements of decision makers:

*At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.*

*For decision-taking this means:*

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

6.5 Therefore the first question is whether or not the development plan is absent or silent or its policies are out-of-date. In this regard and in the context of decision making, paragraphs 211, 212, 214 and 215 of the NPPF are relevant.

6.6 The NPPF was published in March 2012 and its 12 month adoption period has expired. As such, the test of paragraph 215 is applicable and the UDP's policies must be appraised for their degree of consistency with the NPPF. If the UDP's policies comply with the aims and objectives of the NPPF then an application must be determined against the UDP as laid out at paragraph 6.2 of this report. Alternatively, if the UDP's policies conflict with the NPPF then the application must be determined favourably if it is found to be representative of sustainable development.

6.7 Chapter 6 of the NPPF is relevant to Council's supply of housing land and consequently the weight which may be apportioned to the housing policies of the UDP. Paragraph 47 requires that Local Planning Authorities have an identified five year supply of housing land plus a 5% buffer. Where there has been a record of persistent under delivery of housing, local planning authorities should increase this buffer to 20%. Paragraph 49 requires that the 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.

6.8 Herefordshire Council cannot currently demonstrate a five year housing supply neither have they identified a sufficient quantity of land on a persistent basis – a position recently upheld at appeal – triggering the requirement for a 20% buffer. The Council's housing policies therefore conflict with the provisions of paragraphs 47 & 49 of the NPPF. On this basis, and as per the compliance tests of paragraphs 215 and 49 of the NPPF, the Council's housing policies cannot be relied upon to determine the location of housing. 'Saved' UDP Policies H6 and H7 are not therefore up-to-date policies in the context of this planning application.

6.9 Turning to the emerging Herefordshire Local Plan Core Strategy (CS), the NPPF requires, at paragraph 216, that decision-takers give weight to relevant policies in emerging plans according to:

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

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

6.10 The Examination in Public into the Draft Local Plan – Core Strategy (CS) has taken place and was completed on 25 February 2015. The Inspector found conflict between a number of Core Strategy policies and the NPPF. The council has modified those policies to overcome the Inspector’s concerns. Public consultation has now concluded for the amended policies. However, until the Inspector’s report is received, significant weight cannot be apportioned to CS policies in the determination process.

6.11 Given that insufficient weight can be apportioned to policies of the UDP and CS to determine the principle of development in this instance, the second limb of paragraph 14 becomes the test of the development’s acceptability. Essentially the NPPF supersedes the UDP given the inconsistency in approach and objectives. Therefore, and having failed to identify specific policies of the NPPF which individually would indicate that development should be restricted, permission must be granted unless:

*Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

6.12 Members may wish to note that Orcop Parish Council have not as yet drafted a Neighbourhood Plan and as such no regard can be had for a local document.

#### Locational sustainability having regard for the sites proximity to services and facilities

6.13 Within the foreword to the NPPF the purpose of planning is described as being to help achieve sustainable development. The Government’s definition of Sustainable Development is considered to be the NPPF in its entirety though paragraph 17 lays out a concise set of ‘core planning principles’. Amongst these principles are that planning should:

*“actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable.”*

6.14 The NPPF expands on this core principle at paragraphs 29 and 32 requiring development proposals to afford people a real choice about how they travel, having particular regard for public transport provision, and providing safe and suitable access for all. Moreover, paragraph 55 requires development to be sited as to enhance or maintain the vitality of rural communities and paragraph 69 requires development to be safe and accessible, containing clear and legible pedestrian routes.

6.15 Also of relevance to this application are paragraphs 47 and 50 which encourage local authorities to make provision for affordable dwellings. Paragraph 54 requires that local authorities are responsive to local circumstances and plan housing development to reflect local needs, particularly affordable housing, including through rural exception sites where appropriate. In officer opinion, the application site should be considered as a ‘rural exception site’, which is defined by the NPPF as being:

*Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection.*

- 6.16 Although based on now superseded government policy, similar aims to those of the NPPF are manifested in UDP Policies S1 and DR2 which require, amongst other things, that development proposals be directed to locations which reduce the need to travel, securing safe and convenient accessibility between land uses by modes other than personal motor transport. Given their level of consistency with the NPPF, UDP Policies S1 and DR2 continue to attract significant weight.
- 6.17 In determining the application site's ability to represent a 'sustainable location' within the context of the aforementioned, the following are relevant considerations:
- The level of amenities within a walking distance of the site;
  - The availability of truly usable public transport; and
  - The nature of the route between services and facilities and its ability to provide safe and convenient access thereto.

It should be noted that the NPPF at paragraph 29 concedes *some* use of the private motor vehicle is likely to be necessary in rural localities.

- 6.18 Facilities at Orcop Hill are limited to The Fountain Inn public house (presently closed) 300 metres from the site; and a bus stop (providing a once daily service to and from Hereford) 100 metres from the site. A village hall and church are provided within the wider area though are remote from the site and village. Orcop does not benefit from many pavements along its roads or street lighting. The roads along which one would walk are narrow with limited forward visibility in places though some pedestrian refuge is offered on verges and private drives. The limited facilities at Orcop Hill allied with the restrictive nature of the route to and from those facilities renders the application unsustainably located when this issue is considered in isolation.
- 6.19 The above notwithstanding, it is important to note that the application is promulgated as being a purely affordable housing scheme, (no open market housing is proposed) for which the Council's Commissioning Officer confirms there is a need. The latest available housing need studies confirm a need for 14 affordable units in the Parish of Much Dewchurch and 1 affordable unit in the Parish of Orcop. On this basis, and by virtue of its small size and rural location, the site is considered to qualify as a 'rural exception site' as defined at paragraph 6.15 of this report. Therefore, the application site's inability to represent a sustainable location for open market housing should not innately be a defining matter in this instance. This is a significant change in circumstances to when the previous application, DCSW2009/0298/O, was refused for a lack of identified affordable housing need.
- 6.20 It is officer opinion that, by virtue of the NPPFs inferred relaxation of locational sustainability requirements for 'rural exception sites' allied with an identified local affordable housing need, the application site, being contiguous with an established rural settlement, is suitable for development in the prescribed manner.

#### Landscape impact, character and appearance

- 6.21 The second pertinent 'core planning principle' of the NPPF cited at paragraph 17 is that decision taking should:

*“Take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.”*

- 6.22 In more detail, paragraph 55 of the NPPF seeks to direct development towards existing settlements to avoid isolated dwellings in the countryside. Paragraph 58 requires that development responds to local character and history, and reflects the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. Paragraph 61 requires development to integrate with the existing natural, built and historic environment.
- 6.23 Locally, UDP Policy S1 seeks to ensure that development proposals respect patterns of local distinctiveness and landscape character in both town and country. UDP Policy H13, supported by UDP Policy DR1, similarly requires that development should promote or reinforce the distinctive character of the locality particularly in terms of settlement pattern, layout, orientation, density, scale, massing, detailed design and material use. UDP Policy LA2 seeks to protect and uphold the character and appearance of the County’s landscape types as defined by the Herefordshire Council Landscape Character Assessment (LCA). These policies are generally consistent with the advice on design and distinctiveness set out in the NPPF (chapter 7) and so continue to attract considerable weight.
- 6.24 The application site is located on the edge of Orcop Hill. In the context of the village itself, the area of influence of the site is mainly limited to the northern edge due to local topography, vegetation and built form. The proposed development would extend this small village northwards into open countryside, where the landscape is sensitive to change and has very limited capacity to absorb new built development even on a small scale.
- 6.25 Orcop Hill is representative of many smaller rural settlements, being comprised of scattered, wayside dwellings of a cottage vernacular, individually accessed off a sinuous and narrow network of hedge lined roads. Birch View, the road off which the site is accessed, is atypical in this regard being a wide and highly engineered estate road providing access to six dwellings, akin to a small housing estate. The application site is therefore of a unique disposition being a part of a matrix of agricultural fields whose rural character is severely eroded by the existence of Birch View and the dwellings thereon. Indeed the site’s character is more closely associated with the rather untidy, modern built edge of the village as opposed to the open countryside beyond. Whilst in principle the site’s location represents a departure from the traditional individually accessed wayside settlement pattern of Orcop Hill, regard must be had for the existing provision of the engineered and surfaced cul-de-sac.
- 6.26 Although higher than existing properties on Birch View, those existing properties are a part of views already and the proposed dwellings would be seen against that backdrop. It is imperative that the appearance and scale of the dwellings are of very high quality to reflect the sensitivity of the location and the design and specification should be based on an assessment of local characteristics, elements and features. So long as the Reserved Matters fulfil this requirement the proposed development could be accommodated in this location without significant adverse effects on landscape character and visual amenity.
- 6.27 In the context of the above, the Council’s Conservation Manager (Landscape) finds the impact of the development to be minor at a county scale and moderate negative locally. Furthermore, opportunities to improve the character and appearance of the local landscape have been identified to offset the identified harm. The applicant has provided a landscape plan based on the identified opportunities as follows:
- a) Land between the application site and C1225 to the south was historically orchard. This has since been removed. The application proposes the reinstatement of the orchard of benefit to

- the landscape character as well as improving the appearance of the locality, filtering views of the proposed and existing development as one approaches Orcop Hill from the north;
- b) 19th century maps show that the larger field in which the site sits was once subdivided by a hedgerow which almost certainly marked the parish boundary. This important hedgerow boundary would be reinstated;
  - c) Some field boundaries have been replaced with fencing and some are in a poor condition. The application proposes the reinstatement of all field boundaries with native species hedgerow.
  - d) The dwelling known as Etna is the first roadside dwelling encountered as one approaches Orcop Hill from the north. Thus it plays a prominent local role in comprising the gateway to the village. At present, the roadside boundary of Etna is marked by a 6 foot close boarded fence, a particularly suburban feature which belies the rurality of the locale. It is proposed to replace this close boarded fence with a native species hedgerow.

6.28 With the proposed mitigation in place, the level of effects identified above would be reduced, resulting in localised enhancement to landscape character by restoring lost, traditional landscape elements, removal of stark fencing, and screening/filtering views of the development from the village road.

6.29 To conclude on this matter, the provision of 8 dwellings in the prescribed manner would, when considered in isolation give rise to moderate negative local landscape harm, by virtue of extending the settlement into open countryside in a manner uncharacteristic of the historic settlement pattern of Orcop Hill. The strength of this concern is not greater given the existence of the infrastructure on which the proposed dwellings would rely and that the application site's backdrop when viewed from long range vantage points to the north-east of the site is of modern residential development. The magnitude and detail of the proposed mitigation, to include the planting of an orchard and the reinstatement of traditional hedgerows, would result in localised enhancement to the landscape character and appearance. On this basis, and subject to the appearance and scale of development being appropriate, the application is considered to respect the role and character of the area upholding the intrinsic beauty of the countryside as required by the NPPF and UDP.

#### Other Matters

6.30 The Conservation Manager (Ecology) does not object to the proposal. The ecology survey submitted with the proposal sufficiently appraises the scheme's ecological impact which, subject to the implementation of mitigation measures, will not be unduly detrimental. It will however be necessary to ascertain whether or not the pond to the north is habitat for the great crested newt. To ensure information is received on this and enhancement measures are put in place a condition should be appended to any approval given to ensure the survey's biodiversity mitigation and enhancement is carried out.

6.31 The application site is accessed off a well engineered road known as Birch View, which is of sufficient construction to accommodate the proposed increase in traffic travelling thereon. The intensification of the use of the junction between Birch View and the Lyston Lane (C1225) would not unduly impact on highway safety given the acceptable visibility thereto. A footpath is to be provided along the eastern flank of the roadway. The Council's Transportation Manager does not object to the application but recommends that conditions be appended to any permission given requiring detail of road construction works and the design and construction of parking, access and turning be submitted prior to development commencing. Furthermore, the applicant will be required to enter into section 38 and section 278 agreements to ensure the proper engineering detail of works within the highway.

6.32 The closest of the proposed dwellings would be approximately 16 metres from the nearest existing dwelling, and its orientation is such that the two competing dwellings would be side on to each other. There is one modest window on the side elevation of the existing dwelling which

the proposed building design will need to take into account. There is however scope for a suitably designed scheme to provide suitable levels of residential privacy and amenity for both existing and proposed dwellings.

- 6.33 Third party representations refer to the historic provision of poultry buildings at the site and that asbestos has been buried beneath the site. The site's application history confirms that poultry units were historically located on the site and permission was granted for their removal. Such a use of land is potentially contaminative and as such, it would be reasonable and proportionate to require investigative works prior to the commencement of any development of the land to establish the contaminated of the land. If the site were found to be contaminated, remediation works would be necessary. This concern is compounded by anecdotal evidence suggesting that asbestos remains buried beneath ground level.
- 6.34 A number of representations refer to the applicant not having the necessary legal right to provide access to the site along Birch View, being restricted by covenants. This is a civil matter and cannot be considered in the determining of this planning application. The physical ability of Birch View and the surrounding highway network to provide safe access to the application site is a material consideration but ownership rights or the right to pass or repass over the land are not. This notwithstanding, the granting of planning permission would not supersede or erode any legal mechanism which presently exists.

### Conclusion

- 6.35 Given the Council's lack of a published five-year housing land supply, the housing policies of the UDP are considered out of date. The appropriate method of determining this application is therefore the 'planning balance' required by the first limb of the second bullet point of the decision taking part of paragraph 14. Unless it can be demonstrated that the harm associated with the scheme would substantially outweigh its benefits, then the development must be considered sustainable and the positive presumption engaged.
- 6.36 The NPPF, at paragraph 7, offers a structure within which the potential benefits and harm of development should be assessed. Development must essentially fulfil the three dimensions of sustainable development: social, economic and environmental. It is important to note that whilst this framework is provided, in weighing up the scheme the three dimensions of sustainable development should not be considered in isolation. Indeed paragraph 8 requires that gains in all three dimensions should be jointly sought meaning that a scheme which robustly fulfils two dimensions may be unacceptable for its failure to fulfil the outstanding dimension – thus the planning balance.
- 6.37 The scheme's economic benefits include short term job creation in the construction industry during the building phase and the long term support for local businesses. Whilst the new homes bonus would be afforded to the Council should the development be built, it is not regarded as a material consideration. The social dimension acknowledges the benefit of providing affordable housing where there is an identified need as well as the scheme's contribution to the county's holistic supply of housing land. A poor level of local community, leisure, education and employment facilities proximal to the site does however reduce the magnitude of the aforementioned benefits given a lack of meeting places. Furthermore and in terms of its environmental role, the lack of local facilities and public transport services would promote the use of the private motor vehicle giving rise to inflated carbon emissions although the NPPF acknowledges that some use of the private motor vehicle will be inevitably necessary in rural areas. The proposal is not considered to represent development which would unduly harm the appearance or character of the landscape or the villages setting in principle, whilst the scheme has made the most of opportunities to reinstate historic and traditional landscape features eroded by previous development proximal to the site which would result in an environmental benefit, both in terms of landscape character and biodiversity.



- 6.38 On the above basis, it is officer's opinion that the social, economic and environmental benefits of the scheme identified above and throughout this report, outweigh the economic and social disbenefits associated with the application site's isolation from local facilities and services. The scheme is therefore representative of sustainable development and accords with the provisions of paragraph 14 of the NPPF. It is recommended that planning permission be granted.

## **RECOMMENDATION**

**That authority be delegated to officers named in the Scheme of Delegation to grant outline planning permission for the development subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement providing the requisite legal mechanism to provide and secure the provision of affordable unit and subject to the following conditions:**

1. **A02 Time limit for submission of reserved matters (outline permission) – Landscaping & Scale**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters – Landscaping & Scale**
4. **A05 Plans and particulars of reserved matters – Landscaping & Scale**
5. **B01 Development in accordance with the approved plans**
6. **The recommendations for species survey and mitigation with habitat enhancements set out in the ecologist's report from Wydean Ecology dated December 2014 should be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. On completion of further surveys specified, confirmation of the results together with any mitigation required should be made in writing to the local planning authority together with enhancement measures proposed.**

**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.**

7. **G11 – Landscaping scheme - implementation**
8. **I51 Details of slab levels**
9. **C01 Samples of external materials**
10. **H06 - Vehicular access construction**
11. **H09 - Driveway gradient**

12. H11 - Parking - estate development (more than one house)
13. H13 - Access, turning area and parking
14. H17 - Junction improvement/off site works
15. I18 Scheme of foul drainage disposal
16. I20 Scheme of surface water drainage
17. Prior to the first occupation of the dwellings hereby approved, adoption and maintenance schemes for the foul and surface water drainage systems shall be submitted to and approved in writing by the local planning authority. The foul and surface water drainage systems shall be adopted and maintained in accordance with the approved details.

**Reason:** To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policy DR4 of Herefordshire Unitary Development Plan.

18. 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.

19. The Remediation Scheme, as approved pursuant to condition no. 18 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.

20. 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.

21. I16 Restriction of hours during construction

#### **INFORMATIVES:**

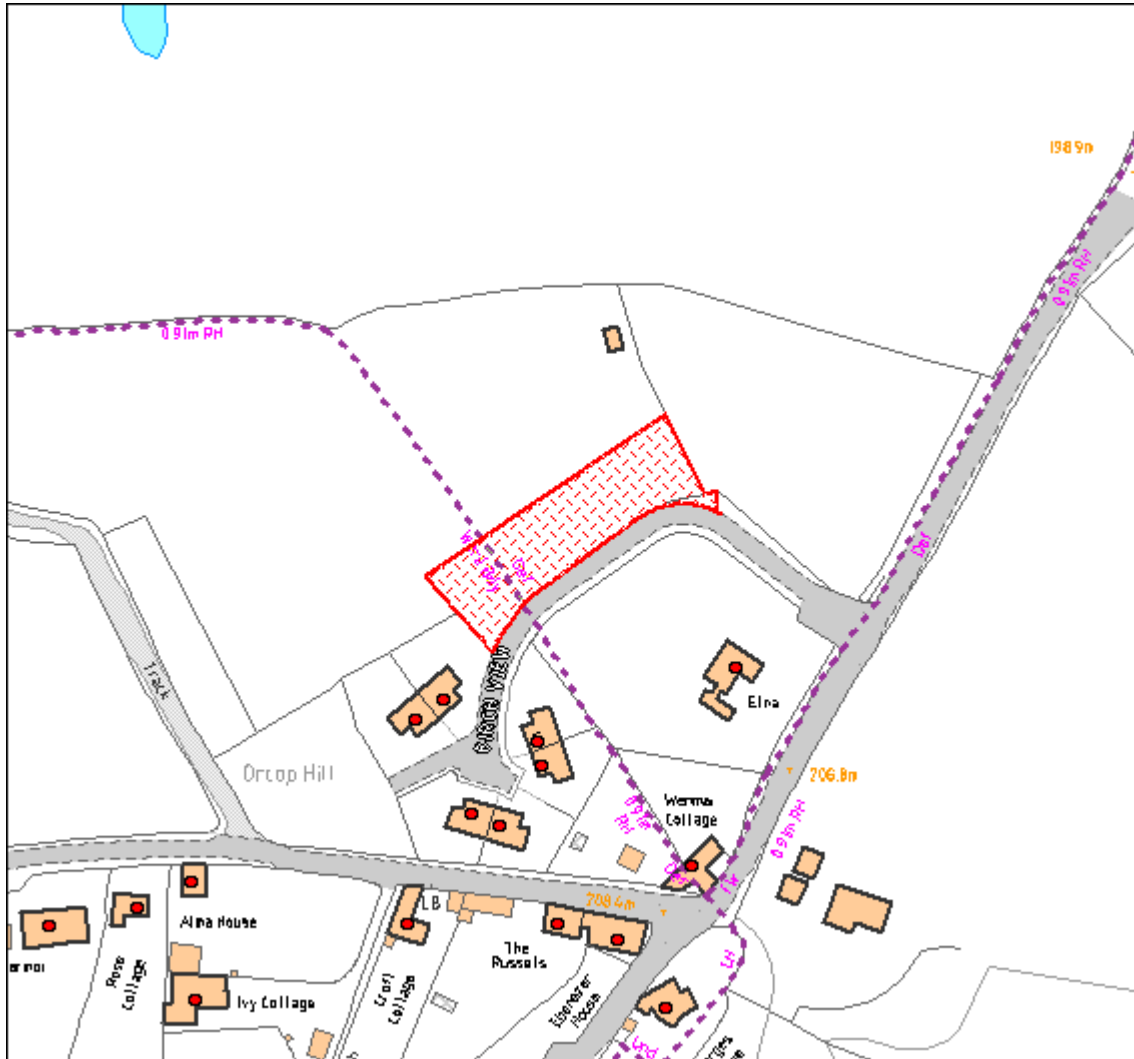
1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. HN01 – Mud on highway
3. HN04 – Private apparatus within the highway (Compliance with the New Roads and Streetworks Act 1991, the Traffic Management Act 2004 and the Highways Act 1980)
4. HN05 – Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)
5. HN07 – Section 278 Agreement
6. HN08 – Section 38 Agreement & Drainage details
7. HN10 – No drainage to discharge to highway
8. HN22 – Works adjoining highway
9. HN24 – Drainage other than via highway system
10. HN28 – Highways Design Guide and Specification
11. The contaminated land assessment required to by condition 18 of this permission must be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012.
12. All investigations of potentially contaminated sites must undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.

#### **Background Papers**

Internal departmental consultation replies.

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



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**APPLICATION NO:** 141559

**SITE ADDRESS :** LAND AT ETNA, ORCOP HILL, MUCH DEWCHURCH, HEREFORD, HEREFORDSHIRE

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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<b>151752 - PROPOSED ERECTION OF 2 NO NEW DETACHED DWELLINGS AT LAND ADJACENT TO SEVEN ACRES, KINGS CAPLE, HEREFORDSHIRE, HR1 4TZ</b>  <b>For: Mr Brooke per Mr John Kendrick, Procuo, St Owens Cross, Hereford, Herefordshire HR2 8LG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151752&amp;search=151752">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151752&amp;search=151752</a>
<b>Reason Application submitted to Committee – Contrary to Policy</b>	

**Date Received: 10 June 2015**

**Ward: Old Gore**

**Grid Ref: 356507,228780**

**Expiry Date: 5 August 2015**

Local Member: Councillor BA Durkin

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

- 1.1 Seven Acres is a large detached dwelling located in well appointed grounds whose landholding includes a large domestic curtilage, orchard, paddock and adjoining fields currently utilised it appears to graze and keep horses. Although the existing dwelling is not listed, it has an attractive appearance which is formed and enhanced through its setting.
- 1.2 The site is located adjacent to the existing built form of Kings Caple, a designated smaller settlement under policy H6 of the Herefordshire Unitary Development Plan. Kings Caple has a number of services and facilities including Primary School, Church, village hall and bus services, albeit limited. The site, as is the whole of Kings Caple and its environs, is located within the Wye Valley Area of Outstanding Natural Beauty, a statutory designated and protected landscape.
- 1.3 The application site is 0.22 hectares in extent and relates to land located east of and immediately adjacent to Seven Acres and is broadly rectangular in extent and is partly an orchard.
- 1.4 The proposal is an outline application for the erection of two dwellings, with layout, scale and access forming part of the application under assessment. Matters regarding detailed design and landscaping are reserved for future consideration. An indicative design has been provided.

## **2. Policies**

- 2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

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

- 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
- DR3 – Movement
- H4 – Main villages
- T8 – Road Hierarchy
- LA1 – Areas of Outstanding Natural Beauty
- LA2 – Landscape Character and Areas Least Resilient to Change
- LA3 – Setting of Settlements
- LA6 – Landscaping Schemes
- NC1 – Biodiversity and Development
- NC6 – Biodiversity Action Plan Priority Habitats and Species
- NC7 – Compensation for Loss of Biodiversity
- NC8 – Habitat Creation, Restoration and Enhancement
- NC9 – Management of Features of the Landscape Important for Fauna and Flora

## 2.3 Herefordshire Core Strategy:

- SS1 – Presumption in favour of Sustainable Development
- SD1 – Sustainable design and energy efficiency
- RA1 – Rural Housing Strategy
- RA2 – Herefordshire's villages
- LD1 – Landscape and townscape

2.4 Kings Cople is preparing a Neighbourhood Development Plan however it is at an early stage and has not been through any regulatory consultations yet (stages regulation 14 and/ or 16).

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

## 4. Consultation Summary

4.1 The Transportation Manager comments the turning area on the submitted plans should show a larger turning area as length of the shared drive is over 25 metres from the adopted highway. The applicant is referred to the Council's highways design guide.

Whilst the primary school is within walking distance from the proposed site, connections further afield are limited to a few bus services during the week, therefore reliance on car travel would be the only unrestricted option.

Kings Cople is subject to a national speed limit, however due to the rural nature of the road, houses fronting the highway and a school in the vicinity vehicles are unlikely to attain these

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

speeds. The site attached to this permission is part of the PROW therefore speeds will be low due to the short length and limited vehicle use therefore visibility requirements can be reduced. The lane/PROW is narrow and provision of a passing place should be provided.

Following the above, amended plans were received, the Transportation Manager on being reconsulted agreed these amendments were satisfactory and has no objection to the proposal.

- 4.2 The Conservation Manager (Ecology) notes this site proposed partially includes an area of Traditional Orchard - a UK Biodiversity Action Plan priority habitat (now a Habitat of Principal Importance). As such, it is of significant value for their wildlife potential within the landscape. These orchards are habitat for a variety of species which are considered of local importance including noble chafer, lesser spotted woodpecker with many species of fungi and saproxylic beetles. Conservation of these habitats is especially important for the latter due to the maturity of the trees and wood decay within them. The NERC Act 2006 with a 2010 updated habitat and species list including Traditional Orchards as UK Priority Habitat.

As the Council's policy documents state, "*Policy NC6 of the UDP and the NPPF support the protection of priority habitats. Traditional Orchards are important features in the wider landscape and are protected under UDP Policy LA2.*" On the basis of the ecological importance of the above policy, there is presumption against development of these priority habitats and [I] would ordinarily object to any application which did not acknowledge this and which does not incorporate ecology within the plans.

However, the portion of the orchard site with trees appears to be part of a garden environment and trees are not of a decent qualifying size or age to significantly contribute to biodiversity. In addition, having read the ecological survey from NKM Associates, [I] would agree that the development is likely to have a low biodiversity impact but that there is potential for enhancement on the site. In particular features for nesting birds and some preservation/future planning for traditional orchard conservation might be built into the scheme for landscaping,

To secure this it is suggested that a non-standard condition is attached to any approval.

- 4.3 The Public Rights of Way Manager notes access will be via public footpath KC11. This is only maintainable to footpath status however he has no objection.
- 4.4 Welsh Water has no objection however request conditions are attached should permission be granted.

## 5. Representations

- 5.1 **Kings Cagle Parish Council** supports the application subject to the following conditions:

- Measures should be put in place to ensure that the visual impact of the development from Sellack and other locations in the valley is minimised due to the site's elevated position within the AONB. Any screening planting must be protected and maintained.
- The two properties should both be of similar materials rather than one in white render and one red brick.
- Safe access to the PROW KC11 (part of the Herefordshire Trail) must be ensured

- 5.2 A representation has been received from a local resident. Comments are summarised as –

- This is a relatively elevated site near the highest part of the central ridge in the village.
- The site is on the boundary of a nucleated settlement.
- There has been an approval, now lapsed, for an annex to Seven Acres, and this application involves some re-use of land currently occupied by outbuildings.
- The south facing slopes in the village are very sensitive in terms of the AONB viewpoints. Whatever the arguments for or against removing trees which form a part of a traditional

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

orchard, development here would need careful attention to screening from Sellack and from roads and paths in Kings Caple between the site and the river.

- In Kings Caple the relatively few larger houses are generally distinctive in design and individually sited
- In the rural villages of the Ross Housing Market Area identified in the Core Strategy (the district including Kings Caple) the requirement for 4-bedroom houses is 3.9% of the total. This would equate to one house of such size in Kings Caple required over the plan period.
- Kings Caple has no shop, pub or post office. There is no daily bus service.
- The houses proposed are large executive homes. Given local wage and salary levels these properties are likely to attract older buyers either commuting perhaps over relatively long distances or else retired. This development runs counter to the principles of the Core Strategy and the NPPF
- The site is suitable if adequately screened, but more modestly sized market housing would far better reflect the county's needs, the preferences of villagers, and national policy

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

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

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

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

## 6. Officer's Appraisal

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires local planning authorities to determine applications in line with the provisions of the local development plan unless material circumstances dictate otherwise.

6.2 The Council's published position is that it cannot demonstrate a 5 year supply of housing land with buffer. The most recently published figure puts the supply of housing land at between 2.09 and 2.6 years depending on the method of assessment. The Council accepts that the housing supply policies of the UDP are out-of-date and that the application should be considered in the light of the positive presumption enshrined in paragraphs 14 and 49 of the NPPF. This presumption is, however, contingent on the appeal scheme being able to contribute to the attainment of sustainable development.

6.3 Paragraph 14 of the NPPF clearly defines '*presumption in favour of sustainable development*' as the golden thread running through the NPPF. It goes on to state that for decisions taking this means:

1. approving development proposals that accord with the development plan without delay;  
and
2. where the development plan is absent, silent or relevant policies out-of-date, granting permission unless:
  - i. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - ii. specific policies in this Framework indicate development should be restricted.

6.4 Paragraph 215 of the NPPF stipulates that the level of weight which shall be afforded to local policies shall depend on their level of consistency with the policies of the NPPF.

6.5 Paragraph 47 of the NPPF requires LPAs demonstrate that there are deliverable sites sufficient to provide five years worth of housing with a 5% buffer. This buffer shall increase to 20% where



the LPA have consistently failed to demonstrate a five year housing land supply. The Council acknowledges it's under provision and accepts UDP housing supply policies carry no weight.

- 6.6 The NPPF is clear, however, that even in this context, the three dimensions of sustainable development are indivisible. This assessment demonstrates that the adverse impacts associated with granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. In Paragraph 8 of the NPPF sets out the economic, social and environmental roles of planning should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions.
- 6.7 Paragraph 9 of the NPPF states pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, Including (but not limited to) improving the conditions in which people live, work, travel and take leisure
- 6.8 The Ministerial forward to the NPPF states *our standards of design can be so much higher. We are a nation renowned worldwide for creative excellence, yet, at home, confidence in development itself has been eroded by the too frequent experience of mediocrity* and goes on to set out the Government's policies, aims and objectives in Section 7 Requiring Good Design, paragraphs 56-68.
- 6.9 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states planning policies and decisions should aim to ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
  - optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
  - respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
  - create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
  - are visually attractive as a result of good architecture and appropriate landscaping.

Whilst LPA's are advised not to impose architectural styles, paragraph 60 states it is proper to seek to promote or reinforce local distinctiveness.

- 6.10 Paragraph 61 acknowledges that 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.
- 6.11 Paragraph 64 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

- 6.12 Local Plan policies DR1, DR2, DR3 and H13 are considered to be in conformity with these policies, aims and objectives of the NPPF. In addition and in order to establish a degree of consistency in the absence of housing policies that are considered to be up-to-date with the National Planning Policy Framework (NPPF), the Council has adopted an interim protocol for the consideration of applications that would otherwise be contrary to Policy H7 of the UDP. It accepts that appropriate residential development outside the development boundaries of main settlements may be permitted to help address the housing shortfall, subject to all other material planning considerations, and specifies that sites should be located adjacent to main settlements defined by Policy H4 of the UDP. This approach is consistent with the NPPF which presumes in favour of sustainable development.
- 6.13 Kings Caple is considered a sustainable location for residential development by virtue of its current local plan designation as a designated smaller settlement under policy and its designation in the emerging Core Strategy under Policy RA2 as a settlement. Whilst Kings Caple is wholly within the Wye Valley Area of Outstanding Natural Beauty, this does not preclude development in sustainable locations on suitable sites. This would in the main only comprise sites within or adjoining existing sustainable settlements.
- 6.14 As neither the existing local plan nor the emerging one can be relied upon to determine the principle of residential development, as per the test laid out at paragraph 14 of the NPPF, where the development plan is out-of-date or otherwise silent, the presumption in favour of sustainable development will be engaged unless:
1. specific policies of the NPPF indicate otherwise; or
  2. where harm associated with the development would outweigh its benefits when held against the NPPF as a whole – ‘the planning balance’.
- 6.15 Development within the AONB is listed within the NPPF as being a scenario whereby bullet point no.1 may be pertinent. In more detail, the appropriate method of determination in the context of the above hinges on whether or not the scheme is considered ‘major development’ in the context of paragraph 116:
- If the development is found to meet the definition of major development then the cost-benefit analysis required by paragraph 116 becomes the test of acceptability; or
  - If the scheme does not meet the definition of major development, the planning balance remains the relevant test of acceptability albeit with great weight afforded to retaining the landscape character and scenic beauty of the AONB required at paragraph 115.
- 6.16 Officers do not consider the provision of two dwellings to represent major development in the context of Kings Caple and paragraph 116 of the NPPF. The planning balance therefore applies here.
- 6.17 If a proposal is considered to represent sustainable development, then the decision taker is required by paragraph 14 of the NPPF to engage the positive presumption in favour of the proposal. The Government’s definition of sustainable development is considered to be the NPPF in its entirety, though a concise list of core planning principles is offered at paragraph 17. In terms of residential development, bullet points 5 and 11 of this paragraph to be most relevant in requiring that planning:
5. takes account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; and

11. actively manages patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable.

- 6.18 The site comprises land associated with Seven Acres and relates to in the main domestic curtilage although would be some loss of orchard. The South boundary of the existing property and its curtilage is considered a significant demarcation that should not be breached by development in the interests of maintaining and protecting the AONB and its high value landscape character and appearance hereabouts. Development follows this advice and is contained within land readily adjacent to the dwelling and results in a rounding off to the village at this edge and transition from built form to open countryside. Further landscaping will strengthen this important Southern boundary as required by suggested conditions. On the basis of the above, and having regard to context and scale of development, it is considered there is no significant detrimental impact on the character and appearance of the AONB.
- 6.19 Whilst appearance is a reserved matter, the scale and layout of the development is for consideration. It is acknowledged these are larger dwellings, however it is considered they relate to their context and setting, resulting in no significant adverse impact on adjoining land uses or the character and appearance of the area and furthermore there is no basis to enforce smaller or affordable dwellings on such a site. The layout respects the context and landscape pattern hereabouts, utilising the existing building line of the retained dwelling and not breaking through important boundaries or enclosures. Development is kept within and relates to the existing developed area and pattern rather than encroach in a harmful manner into well defined open countryside. Furthermore the main section of the proposed dwellings is set slightly behind the building line of the existing dwelling in order to ensure the original property retains a sense of prominence when accessing the site.
- 6.20 In response to the comments from the Parish Council, detailed design and materials would be considered against a subsequent Reserved Matters application. This would be open to public comment and consultation, however it is clearly useful the Parish Council has expressed their opinion on this matter at this stage and the applicant would be recommended to consider these comments.
- 6.21 On the basis of the above, approval with the conditions, below, is recommended.

## **RECOMMENDATION**

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

1. **A02 – Time limit for submission of reserved matters (outline permission)**
2. **A03 – Time limit for commencement (outline permission)**
3. **A04 – Approval of reserved matters**
4. **A05 – Plans and particulars of reserved matters**
5. **Foul water and surface water discharges shall be drained separately from the site.**  
**Reason: To protect the integrity of the public sewerage system.**
6. **Foul water and surface water discharges shall be drained separately from the site.**  
**Reason: To protect the integrity of the public sewerage system.**
7. **Prior to commencement of the development, a habitat protection and enhancement**

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

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.

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

8. 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), NERC Act 2006, the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6, NC7, NC8 and NC9 of Herefordshire Unitary Development Plan.

9. C89 – Retention of existing trees/hedgerows: scope of information required
10. C90 – Protection of trees/hedgerows that are to be retained
11. G09 – Details of Boundary treatments
12. G10 – Landscaping scheme
13. G11 – Landscaping scheme - implementation

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

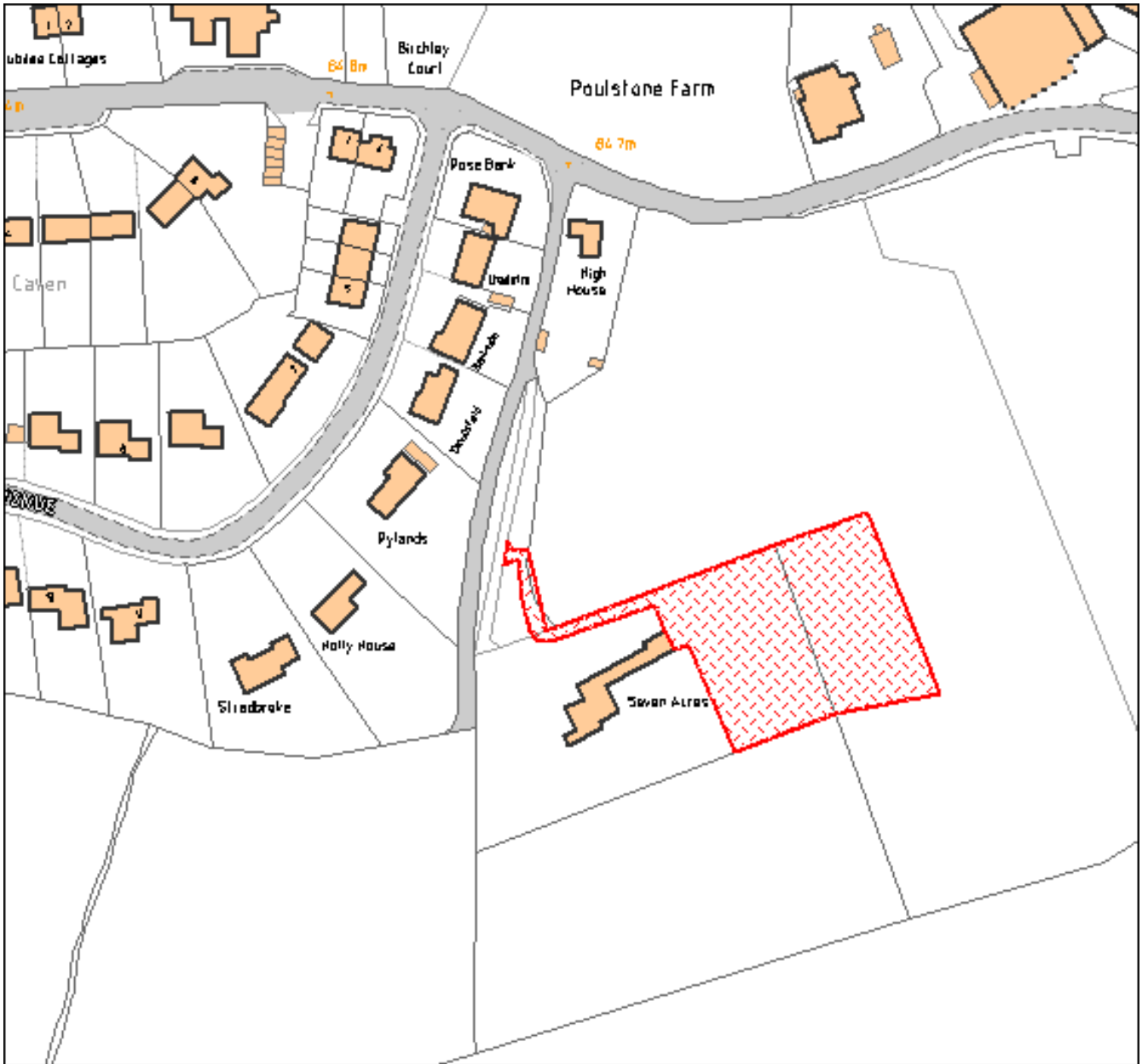
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 151752

**SITE ADDRESS :** LAND ADJACENT TO SEVEN ACRES, KINGS CAPLE, HEREFORDSHIRE, HR1 4TZ

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