

AGENDA

Planning Committee

Date: **Wednesday 22 February 2017**

Time: **10.00 am**

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

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

For any further information please contact:

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Agenda for the meeting of the Planning Committee

Membership

Chairman	Councillor PGH Cutter
Vice-Chairman	Councillor 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 FM Norman
	Councillor AJW Powers
	Councillor A Seldon
	Councillor WC Skelton
	Councillor D Summers
	Councillor EJ Swinglehurst
	Councillor LC Tawn

AGENDA

		Pages
1.	APOLOGIES FOR ABSENCE To receive apologies for absence.	
2.	NAMED SUBSTITUTES (IF ANY) To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
3.	DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	MINUTES To approve and sign the Minutes of the meeting held on 18 January 2017.	7 - 20
5.	CHAIRMAN'S ANNOUNCEMENTS To receive any announcements from the Chairman.	
6.	APPEALS To be noted.	21 - 24
7.	163797 - CAREY BANK, KILFORGE ROAD, CAREY, HEREFORDSHIRE Change of use of part of paddock from equestrian to residential. Construction of new 3 bed dwelling with associated garaging, access and landscaping.	25 - 38
8.	162254 - LAND ADJACENT TO LITTLE WEIR, MIDDLETON ROAD, KIMBOLTON Proposed dwelling.	39 - 46
9.	162824 - LAND AT BALANCE FARM, EYWOOD LANE, TITLEY, KINGTON, HEREFORDSHIRE, HR5 3RU Site for the proposed erection of 5 dwellings.	47 - 56
10.	DATE OF NEXT MEETING Date of next site inspection – 14 March 2017 Date of next meeting – 15 March 2017	

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 18 January 2017 at 10.00 am

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

Councillors: BA Baker, CR Butler, PJ Edwards, DW Greenow, KS Guthrie, EL Holton, JA Hyde, TM James, FM Norman, AJW Powers, A Seldon, WC Skelton, D Summers, EJ Swinglehurst and LC Tawn

In attendance: Councillors WLS Bowen, DG Harlow and EPJ Harvey

92. APOLOGIES FOR ABSENCE

There were none.

93. NAMED SUBSTITUTES

There were none.

94. DECLARATIONS OF INTEREST

Agenda item 7: 162166 – Land to the South of Martindale, Kingsland

Councillor LC Tawn declared a non-pecuniary interest because he lived close to the application site.

Agenda item 9: 160238 – Land at Oak Tree View, Beggars Ash Lane, Wellington Heath

Councillor EL Holton declared a non-pecuniary interest as one of the Council's representatives on the Malvern Hills AONB Joint Advisory Committee.

95. MINUTES

RESOLVED: That the Minutes of the meeting held on 7 December 2016 be approved as a correct record and signed by the Chairman.

96. CHAIRMAN'S ANNOUNCEMENTS

There were none.

97. APPEALS

The Planning Committee noted the report.

98. 162166 - LAND TO THE SOUTH OF MARTINDALE, KINGSLAND, HEREFORDSHIRE.

(Outline planning application for residential development of 10 dwellings and associated works.)

The Principal Planning Officer gave a presentation on the application. Whilst not referenced in the title of the report he reported that the application documentation stated that the application was for 10 dwellings. He proposed that for clarification a condition be added to the recommendation limiting the development to up to 10 dwellings.

In accordance with the criteria for public speaking, Mrs C Sawyers, of Kingsland Parish Council spoke in opposition to the Scheme. Mr B Davies, the applicant's agent, spoke in support.

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

He made the following principal comments:

- The site access was opposite the entrance to Luctonians Rugby Club. There was a considerable amount of traffic on the A4110 including large lorries from quarries and from chicken farms. Traffic exceeded the 40mph speed limit. The report recorded accident data but did not include a further recent accident. The combination of the access to the rugby club and two nearby road junctions created a problem.
- Even with the proposed visibility splays the access would still be dangerous.
- The Neighbourhood Development Plan (NDP) was at Regulation 16 stage and it was important that it was given weight. The proposed site was outside the settlement boundary which had a definitive end point at the monument to the battle of Mortimer's cross. Development should not be permitted to dribble out without limitation into the countryside.
- The NDP provided for the housing target within the Core Strategy to be met over the life of the Strategy which was up until 2031.
- The monument to the battle was important as was the site of the battle which was attracting increasing interest. The site was important historically and as an attraction to tourists. It was thought that the development site potentially formed part of the battlefield. The Conservation Manager (historic buildings) had objected to the application.
- The development comprised 3 and 4 bed houses with no smaller houses or affordable element.
- The sewerage system, contrary to Welsh Water's claims, was inadequate.
- The principal grounds for objection were highway safety, the site was outside the settlement boundary and contrary to the NDP, and there was no support for it within the village.

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

- The principal concern was the volume and speed of traffic and pedestrian and highway safety.
- The site was suitable for development if a 30 mph speed limit was imposed.
- Consideration should also be given to a village gateway.
- A pedestrian crossing should be provided.
- Kingsland was a linear development and the site would be an extension of the village.
- A development of 10 homes was not problematic.

- The site was opposed by the Parish Council and was not identified for development within the NDP.
- The Conservation Manager (historic buildings) had expressed his concerns about the application.
- The setting of the village was important and there was currently a natural end to the village. The site was situated beyond that natural boundary.
- The NDP was not adopted and could only be afforded limited weight.
- The timing of the application was unfortunate. By the time a detailed application came forward the NDP would have been adopted. It was to be hoped that the Parish Council would be fully consulted on that application and its views taken into account.
- The impact on the conservation area was considered low to moderate. At the reserved matters stage it would be important to ensure that the design of the development was in keeping with the character of the village.
- The entry to the village would be adversely affected.
- Two applications on adjoining land had been refused.

In response to concerns about archaeology the Principal Planning Officer (PPO) commented that a condition would require a watching brief to be kept.

In relation to highway safety the PPO referred to the speed survey at paragraph 6.37 of the report. This had found that average speeds were below 50mph. The accidents referred to in the report were a result of driver error.

The Lead Development Manager added that a traffic regulation order could not be imposed as a condition. The proposed visibility splays were greater than required by manual for streets 2 and the technical data indicated the proposed access was satisfactory. There were objections to the NDP which was not considered to conform to Core Strategy policies RA1 and RA2 and only limited weight could be given to it.

The Transportation Manager commented that the provision of the proposed visibility splays and a footpath would achieve a suitable access.

It was advised that a motion that the application be approved, subject to the imposition of a 30mph speed limit on the relevant part of the A4110 could not be implemented. It was suggested instead that officers could be authorised to grant permission subject to a legal agreement to provide traffic calming measures being secured.

The local ward member was given the opportunity to close the debate. He reiterated his concerns about highway safety and the need for a 30mph speed limit, his view that the NDP was compliant with the Core Strategy, and that the site was outside the natural boundary to the village. If permission were granted he requested that consideration be given to the provision of some affordable housing.

RESOLVED: That officers named in the scheme of delegation to officers be authorised to grant outline planning permission, subject to the following conditions and any other conditions considered necessary by officers, subject to a legal agreement in relation to the provision of traffic calming measures and consultation with the Chairman and local ward member:

1. **C02 - A02 Time limit for submission of reserved matters (outline permission)**
2. **C03 - A03 Time limit for commencement (outline permission)**

3. **C04 - A04 Approval of reserved matters**
4. **C49 - Site observation – archaeology**
5. **CD3 - Foul/surface water drainage**
6. **CAB – Visibility splays**
7. **CAC – Visibility over frontage**
8. **CAE – Vehicular access construction**
9. **CAJ – Parking (estate development)**
10. **CAL – Access, turning area and parking**
11. **CAP – Junction improvements / off site works**
12. **CAQ – On site roads – submission of details**
13. **CAS – Road completion in 2 years**
14. **Prior to the first occupation of any of the dwellings hereby approved a scheme for the provision of covered and secure cycle parking within the curtilage of each dwelling shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. The cycle parking shall be installed and made available for use prior to occupation of the dwelling to which it relates and shall be retained for the purpose of cycle parking in perpetuity.**

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

15. **No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:**
 - a. **Wheel cleaning apparatus which shall be operated and maintained during construction of the development hereby approved.**
 - b. **Parking for site operatives and visitors which shall be retained and kept available during construction of the development.**
 - c. **A noise management plan including a scheme for the monitoring of construction noise.**
 - d. **Details of working hours and hours for deliveries**
 - e. **A scheme for the control of dust arising from building and site works**
 - f. **A scheme for the management of all waste arising from the site**
 - g. **A travel plan for employees.**

The agreed details of the CMP shall be implemented throughout the construction period.

Reason: In the interests of the residential amenity of properties within the locality and of highway safety in accordance with Policies SD1 and MT1 of

the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 16. No new development shall commence on site until a detailed habitat & biodiversity enhancement scheme, including type and location of bat roosting and bird nesting mitigation/enhancements, a lighting plan, landscape & planting proposal and an associated 5 year maintenance and replacement plan has been submitted to, and approved in writing by, the local planning authority. The scheme shall have particular regard to the sites former use as an orchard and the planting scheme should include the use of traditional heritage fruit varieties The scheme shall be implemented as approved.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 17. CA1 – Landscape management plan**
- 18. CBK – Restriction of hours during construction**
- 19. CCD - No burning of materials/substances during construction phase**
- 20. CE6 - Efficient use of water**
- 21 Development will be limited to no more than 10 dwellings.**

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. I11 – Mud on the highway**
- 3. I09 – Private apparatus within the highway**
- 4. I45 – Works within the highway**
- 5. I05 – No drainage to discharge to highway**

(The meeting adjourned between 11.10 and 11.20 am.)

- 99. 130945 - LAND AT, TUMP LANE, MUCH BIRCH, HEREFORD, HR2 8HW**

(Residential development comprising up to 20 dwellings, including up to 10 affordable dwellings with associated new access (via Tump Lane) and car parking arrangements for both existing and proposed and community facility.)

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mrs A Cook, of Much Birch Parish Council spoke in opposition to the Scheme. Mr K James and Miss R Rigby, local residents, spoke in objection. Ms A Shaw, the applicant's agent, spoke in support.

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

He made the following principal comments:

- The settlement along Tump Lane was one of the largest groupings of houses in the rural area of his ward.
- Whilst he supported the provision of additional affordable housing the proposed site was not suitable.
- A development of 20 homes was significant in the context of a settlement of some 60 dwellings.
- Tump Lane was a country road linking the A49 and A466.
- Local amenities needed to be accessed at both Much Birch to the north and Wormelow to the south. The settlement was equidistant between them.
- Both the primary school and the GP surgery were very good.
- The proposal would provide a footpath, but not continuous to the north providing safe passage to Much Birch, but not to the south. It should be noted that the steiner academy to which many local parents sent their children was situated to the south. Pedestrian access was essential.
- A request for a reduction in the 40mph speed limit to 30 mph at the junction with the A466 was under consideration.
- He noted the findings of a 2016 traffic survey, adding that when school children were being dropped off or collected Tump Lane was extremely busy. There was a risk of traffic on the A49 being backed up.
- The level of concern about Tump Lane was such that a community group had been set up to liaise with Highways England.
- Residents of the pilgrim hotel exited onto Tump Lane. This distorted the traffic speed figures.
- The new footpath proposed had some appeal to residents. However, the proposed width was quite shallow and the road safety audit suggested that vegetation bordering the path may make pedestrians walk on the road creating a hazard.
- The Committee had refused a previous application for 12 dwellings in March 2014 on the grounds of poor connectivity and landscape impact.
- Parking was an issue. Eleven vehicles currently parked in the garage area. No replacement parking area had been identified.
- Much Birch was on target to provide the homes required in the Core Strategy and was not resistant to development. The local community considered that the proposal was in the wrong location.
- The proposal to provide a play area for children was welcome but the proposed site was crossed by telephone lines and was unsuitable.

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

- There was considerable concern about the access. It was noted that Tump Lane was particularly narrow at the end where it joined the A49. The appeal decision in 2014 had concluded that development would present a harm to highway safety.
- It was noted that the scheme would provide additional footpath that would benefit existing residents as well as new ones.
- The development was backland development uncharacteristic of the settlement.
- There were many positive aspects to the development. However, it appeared that the question of highway safety outweighed the potential benefits.
- It was noted that a 7.5 tonne weight restriction could be imposed.
- Some concern was expressed about the capacity of the school and GP surgery to cope with additional demand.

The Transportation Manager commented that it was not an easy situation and there were constraints. However, whilst further detailed work was required he considered that a good scheme could be delivered that would benefit existing residents as well as new residents.

The Lead Development Manager commented that further work would be undertaken prior to any development. The decision was a finely balanced one. The concept was excellent providing more affordable housing as a percentage of the development than policy required. The proposal would achieve connectivity to the A49. The provision of the footpath and passing bays would be an improvement on the current situation and therefore represent a significant benefit. The section 106 agreement would also enable a contribution to be made to school capacity if required. The access to the A49 via Tump Lane had been a significant aspect of the appeal decision in March 2014 rejecting development. The application before the Committee this time did offer improvements.

The local ward member was given the opportunity to close the debate. He commented that there were benefits associated with the type of development proposed. However, the access was not suitable.

It was proposed that the application should be refused on the grounds of highway safety and poor connectivity and that it was therefore contrary to policies MT1 and SS4.

RESOLVED: That planning permission be refused and officers named in the Scheme of Delegation to Officers be authorised to finalise the drafting of the reasons for refusal for publication based on the Committee's view that the proposal was detrimental to highway safety, there was poor connectivity and it was therefore contrary to policies MT1 and SS4.

(The meeting adjourned between 12:30 to 12:40.)

100. 160238 - LAND AT OAK TREE VIEW, BEGGARS ASH LANE, WELLINGTON HEATH, HEREFORDSHIRE, HR8 1LN

(Change of use of land from agricultural to a one family traveller site including stationing of two mobile homes, 2 touring caravans, treatment plant, sheds and associated parking/turning/hardstanding and new access.)

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

He reported that a further representation had been received outlining a number of points in the report that required correction. He confirmed that the reference to the river leadon

at paragraph 1.2 of the report was incorrect and that a stream ran along the western side of the site; that the site was within Wellington Heath Parish not within Ledbury Town and that the land was settled farmland on river terrace not timbered farmland plateau as it was described at paragraph 1.5. He added that the Wellington Heath Neighbourhood Development Plan was not at Regulation 15 stage and that no material weight could therefore be given to it. The corrections did not change the assessment of the application and the recommendation.

In accordance with the criteria for public speaking, Mr F Rozelaar, of Wellington Heath Parish Council spoke in opposition to the Scheme. Mr C Davis, a local resident, spoke in objection. Mr P Baines spoke in support on behalf of the applicant.

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

She made the following principal comments:

- The applicant's family were Romany Gypsies. That was not at issue. Her concerns about the application related to lifestyle, landscape impact and sustainability.
- Paragraph 6.8 of the report set out the criteria for policy H4 – traveller sites. She noted that paragraph 6.12 of the report referred to the definition of “gypsies and travellers” for the purposes of planning policy and the report stated that the applicant's supporting statement “in principle” addressed the points to be considered in determining whether a person was a “gypsy or traveller”. She asserted that the applicant needed to satisfy the requirements of the policy in practice not merely in principle. She detailed the family circumstances and questioned the sustainability of the proposed site, having regard to those circumstances, and whether, also given those circumstances, it was credible that the applicant would return to and sustain a travelling lifestyle and the criteria for policy H4 would be met.
- She questioned whether the proposal complied with the Department for Communities and Local Government guidance issued in May 2008: designing gypsy and traveller sites – good practice guide.
- The proposed access while better than the existing access would need considerable work to address changes in ground level.
- There were many pitches available on gypsy sites in the locality. The Planning Appeal decision dismissing an appeal against the Committee's refusal of application 141687 - land at Oakley Cottage, mid summer orchard, Ridgehill had confirmed this position.
- The site was adjacent to the Malvern Hills AONB and in open countryside.
- Whilst no weight could be given to the Neighbourhood Development Plan it was clear that the site was not appropriate. The land was a green buffer between Wellington Heath and Ledbury and maintained the village's separation from the Town.
- The proposal, at the entrance to Wellington Heath, was detrimental to the setting of the village.

In conclusion, she considered that the proposal was contrary to policies LD1, SD1, and SS6 and that the applicants failed to meet the criteria of policy H4.

In the Committee's discussion several members expressed support for the views advanced by the local ward member with a number highlighting the practicalities of creating the access given the difference in ground levels.

The Lead Development Manager (LDM) commented that the question of whether the applicant had a need for the development was not a material consideration. The legal

adviser added that each application should be considered equally in the same way regardless of who had made the application. There was no requirement to have need for the Council to be able to consider the matter.

The LDM added that DCLG publication was guidance. However, Members had highlighted material reservations about the application, including the amount of fill needed to create the access, and the landscape impact, noting also that the site adjoined the AONB, and identified relevant policies supporting those reservations.

The local ward member was given the opportunity to close the debate. She had no additional comments.

RESOLVED: That planning permission be refused and officers named in the Scheme of Delegation to Officers be authorised to finalise the drafting of the reasons for refusal for publication based on the Committee's view that the proposal was contrary to policies LD1, SD1, SS6 and that the applicants failed to meet the criteria of policy H4.

101. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix - Schedule of Updates

The meeting ended at 1.30 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 18 January 2017

Schedule of Committee Updates/Additional Representations

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

SCHEDULE OF COMMITTEE UPDATES

160238 - CHANGE OF USE OF LAND FROM AGRICULTURAL TO A ONE FAMILY TRAVELLER SITE INCLUDING STATIONING OF TWO MOBILE HOMES, 2 TOURING CARAVANS, TREATMENT PLANT, SHEDS AND ASSOCIATED PARKING/TURNING/HARDSTANDING AND NEW ACCESS AT LAND AT OAK TREE VIEW, BEGGARS ASH LANE, WELLINGTON HEATH, HEREFORDSHIRE, HR8 1LN

For: Mr Tony Holland, 21 Hardinge Close, Holme Lacy, Hereford, Herefordshire HR2 6JY

ADDITIONAL REPRESENTATIONS

The applicant has provided the following statement:

My own and my family's work is set out briefly in paragraph [25/4](#) of the Design and Access statement in response to the Core Strategy Policy H4.

My business is basically landscape gardening and related activities. Because of the problems we had with storing caravans at the house where we are living and my family responsibilities, most of my work has of necessity been within the local area. However I am aware that there is a demand for this sort of work all over the country, and I have had offers of work away from Herefordshire, in London for example. I have had to turn these down as the costs of accommodation would have made the work uneconomic. Now, if the Planning Application is successful, I will be able to take up these opportunities and simply move to where the work is with my caravan. This is also made easier now that our daughter has finished school which she did in 2015 (which is the main reason we gave up Travelling in the first place). Obviously I am not able at this point to know how much travelling this will involve.

We will emphatically not be running an onsite business with customers coming to the site as some Objectors seem to have supposed.

Clearly my parents are unlikely to be Travelling much if at all due to their advanced age."

A separate letter of objection from Mr Kirk with opinion from Colin Davis contains the following concluding statement:

"The applicant family no longer meet the PPTS definition of a gypsy or traveller by virtue of not travelling for an economic purpose as established in case law. They have been housed for over 13 years and the parents of Mr Holland are accommodated on an authorised traveller site managed by Herefordshire Council. The planning application should not therefore be considered under the provisions of Core Strategy Policies H4 or RA3.

Any such application, if valid, must be judged against factors other than simple need for traveller pitches within Herefordshire. Important issues of landscape character and adverse impact, effect on local distinctiveness and sustainability must be considered alongside the usual planning considerations of access, drainage/sewerage, waste, biodiversity and habitat impact.

On balance the harmful impact of the proposed development outweighs any benefit to the applicant, even if the applicant was considered to be eligible under the PPTS definition. It is my opinion that the application should be refused, which would be consistent with refusal in the markedly similar case in Ridgehill.”

OFFICER COMMENTS

The further information from Mr Holland (applicant) shows that a break from travelling took place due to the need in planning terms to provide an education for their daughter (amongst other matters). This is considered to be an acceptable reason for not actively travelling for a period of 12 years or so.

The further representations received have been considered together with the additional information submitted by the applicant. The site is considered acceptable as a travellers site and therefore no change to the recommendation is proposed.

NO CHANGE TO RECOMMENDATION (ONE ADDITIONAL PLANNING CONDITION)

Proposed Additional Planning Condition 12:

Access, turning area and parking

12. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy [and the National Planning Policy Framework].

MEETING:	PLANNING COMMITTEE
DATE:	22 FEBRUARY 2017
TITLE OF REPORT:	APPEALS

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the progress in respect of the following appeals.

Key Decision

This is not an executive decision.

Recommendation

That the report be noted.

APPEALS RECEIVED

Application 162117

PLEASE NOTE: THE APPEAL PROCEDURE HAS CHANGED FROM WRITTEN REPS TO HEARING

- The appeal was received on 18 January 2017
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Ms Karen Harris
- The site is located at Losito Stud, Whitchurch, Ross-on-Wye, Herefordshire
- The development proposed is Replace a redundant barn with a four bedroom house in a sustainable
- The appeal is to be heard by Hearing

Case Officer: Mrs Charlotte Atkins on 01432 260536

Enforcement Notice 170069

- The appeal was received on 11 January 2017
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr Mark Dew
- The site is located at Land at Doward Farm, Whitchurch, Ross on Wye, Herefordshire
- The breach of planning control alleged in this notice is: Without planning permission the unauthorised material change of use of land from agricultural to a mixed use of agricultural and for siting of numerous old/scrap cars, vans and non-agricultural vehicles.
- The requirements of the notice are: Permanently remove the numerous old/scrap cars, vans and non-agricultural vehicles from the land thereby causing the cessation of its mixed use on the land.

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

- The appeal is to be heard by Written Representations

Case Officer: Mr Scott Low on 01432 261814

Application 162047

- The appeal was received on 6 February 2017
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr Adam Cale
- The site is located at Bickerton Cottage, Much Marcle, Herefordshire
- The development proposed is Proposal to split existing land and build a new dwelling which will replace the large workshop.
- The appeal is to be heard by Written Representations

Case Officer: Miss Emily Reed on 01432 383894

Application 161413

- The appeal was received on 6 February 2017
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr G Adams
- The site is located at Land adjoining Millbrook Gardens, Lea, Ross-on-Wye, Herefordshire
- The development proposed is Outline application for 3 nos. four bedroom dwellings, turning and manoeuvring area.
- The appeal is to be heard by Written Representations

Case Officer: Mr C Brace on 01432 261947

Application 161522

- The appeal was received on 6 February 2017
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr F Price
- The site is located at Land at Yarpole, Leominster, Herefordshire, HR6 0BA
- The development proposed is Proposed 6 no. detached dwellings and 4 no. garages.
- The appeal is to be heard by Written Representations

Case Officer: Mr M Tansley on 01432 261815

APPEALS DETERMINED

Application 160462

- The appeal was received on 19 September 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr David Adams
- The site is located at Windy Oaks Farm, Birchwood, Storridge, Malvern, WR13 5EZ
- The development proposed was Conversion of agricultural building to three dwellings.
- The main issue was whether the proposal would provide a suitable site for housing, having particular regard to national and local policies on the re-use of rural buildings.

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

Decision:

- The application was Refused under Delegated Powers on 8 April 2016
- The appeal was Dismissed on 16 December 2016

Case Officer: Mr Fernando Barber-Martinez on 01432 383674

Application 162426

- The appeal was received on 5 January 2017
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission (Householder)
- The appeal was brought by Mrs Cathy Thomas
- The site is located at 37 Scotch Firs, Fownhope, Hereford, Herefordshire, HR1 4NP
- The development proposed was Removal of 24m of hedge and replace it with a block rendered wall
- The main issue was the effect of the proposal on the character and appearance of the area.

Decision:

- The application was Refused under Delegated Powers on 28 September 2016
- The appeal was Dismissed on 9 February 2017

Case Officer: Mr Fernando Barber-Martinez on 01432 383674

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



MEETING:	PLANNING COMMITTEE
DATE:	22 February 2017
TITLE OF REPORT:	163797 - CHANGE OF USE OF PART OF Paddock FROM EQUESTRIAN TO RESIDENTIAL. CONSTRUCTION OF NEW 3 BED DWELLING WITH ASSOCIATED GARAGING, ACCESS AND LANDSCAPING AT CAREY BANK, KILFORGE ROAD, CAREY, HEREFORDSHIRE For: Mr & Mrs Du Cros per Mr Dean Benbow, 21-22 Mill Street, Kington, Herefordshire, HR5 3AL
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=163797&search=163797
Reason Application submitted to Committee – Redirection	

Date Received: 28 November 2016 Ward: Dinedor Hill Grid Ref: 356287,231503

Expiry Date: 27 February 2017

Local Member: Councillor D Summers

1. Site Description and Proposal

- 1.1 The 0.54 hectare site lies on the western side of an unclassified road between Carey and Bolstone and to the northwest of Carey Bank and to the west of Carey Court (formerly the vicarage). The site is in the parish of Little Dewchurch, but borders Ballingham Parish to the south and east. It is within the Wye Valley Area of Outstanding Natural Beauty (WVAONB). Presently a public right of way (LD10) crosses the site from the northwestern corner to the southeastern corner, essentially dissecting the site in two. There is an existing access off the unclassified road on the northeastern part of the site. Levels rise within the site from south to north, and levels decline more steeply to the west of the site into the valley.
- 1.2 Currently the site comprises a paddock, which along with the stables to the southeast, tennis courts and workshop building fall within the ownership of Carey Bank, a detached, two storey dwelling to the southeast.
- 1.3 It is proposed to erect a 3 bedroomed, one and half storey dwelling, with an attached double garage with stores and W.C towards the western part of the site. The property would be some 7.9 metres in height, with an eaves height of 2.6 metres. The garage section would have a roof ridge height of 6.4 metres and floor area of some 62.7 metres squared. Lead clad box dormers to both front and rear elevations, and first floor windows in the gables would provide light to the upper floor, where there would be two bedrooms, each with ensuite bathrooms and a laundry/plant room. At ground floor there would be an entrance hall, W.C, bedroom with dressing room and ensuite bathroom, a carer's room/study, sitting room, kitchen, dining room, larder and utility room linking to the double garage, stores and W.C.

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

- 1.4 The principal elevation would face approximately north and would have a gabled, modest projection to the left hand side, a flat roofed canopy porch over the solid oak front door, with glazed panels either side set in oak framing, set in a stone elevation under a slate roof with a centralised stone chimney stack. Windows and doors would be aluminium/timber hybrid. The garage element of the building would be clad in grey stained timber boarding. The footprint would be 18.9 metres (principal elevation of dwelling element – excluding the garage section) by 23.1 metres, with two projecting rear gables at either end of the rear (south) elevation.
- 1.5 The site is sloping in nature and as level access is required to create a disabled compliant dwelling it is proposed to cut and fill the levels to provide a levelled footprint and access. This would comprise a cut of approximately 1 metre below existing ground levels to the north and an increase of 1 metre above existing ground levels to the south.
- 1.6 The proposal also includes the modification of the existing field access, with the provision of a 5 metre tarmacked section and removal of an Oak tree. The existing access track to the stables would be retained, with the provision of new gates to each access track and a post and rail fence between them. Further planting is proposed to the southern boundary. A group of trees are proposed to be removed to accommodate the proposed building.
- 1.7 The submitted plans indicate a proposed diversion of the public right of way, so that it would be aligned parallel and adjacent to the northern site boundary. A new post and rail fence and hedgerow is shown to the south of the proposed diverted route of the public right of way, resulting in a 3.9 metre wide revised route.
- 1.8 A Design and Access Statement, Tree Survey and Arboricultural Impact Assessment, preliminary ecology appraisal and Landscape and Visual Impact Assessment were submitted in support of the application. The full content of these reports can be viewed on the website, at <https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=163797&search=163797>
- 1.9 In summary the Design and Access Statement advises that the applicants wish to occupy the proposed dwelling as they have strong ties with the area and it would provide fully disabled compliant accommodation with the capability of housing a live-in carer. Carey Bank, the applicants' current home, would be sold to fund the new build and long term care. The applicants assert that their personal health needs are material considerations that should be taken into account in the planning balance. It is stated that the previous owners of Carey Bank retained a part of the land when they sold it to the applicants and built two bungalows for similar reasons; to downsize and stay in Carey. The submission advises that the layout is designed to maximise passive solar gains and provide full wheelchair access and the scheme would ensure low energy consumption, through the adoption of the 'fabric first' approach. In addition, it is stated that the proposal would include 'green' technologies, such as an air source heat pump, PV panels on the garage roof and a wood burning stove. The applicants state that a new stand of Scots Pines would be strategically planted to the north of the site on land leased by them and trees planted along the southern boundary, to the north of the tennis court. The parking courtyard and driveway would be finished in a resin bound gravel.

2. Policies

Herefordshire Local Plan – Core Strategy

- | | | | |
|-----|-----|---|--|
| 2.1 | SS1 | - | Presumption in Favour of Sustainable Development |
| | SS2 | - | Delivering New Homes |
| | SS3 | - | Releasing Land for Residential Development |
| | SS4 | - | Movement and Transportation |
| | SS6 | - | Environmental Quality and Local Distinctiveness |
| | RA1 | - | Rural Housing Strategy |
| | RA2 | - | Herefordshire's Villages |

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

RA3		Herefordshire's Countryside
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sport and Recreation Facilities
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
ID1	-	Infrastructure Delivery

Neighbourhood Planning

2.2 The site falls within the Parish of Little Dewchurch

The Neighbourhood Plan area for Little Dewchurch was designated on 19 June 2013. The Regulation 16 stage Neighbourhood Development Plan Regulation was submitted to the Council on 22 September 2016. The consultation ran from 5 October 2016 to 16 November 2016. It was sent for examination on 28 November 2016 and the examiner's report is awaited. In line with paragraph 216 of the NPPF significant weight can be attributed to the plan.

The relevant policies are considered to be:

Policy LD SB1: Settlement Boundary

Policy LD ENV 1: A Valued Natural and Built Environment

National Planning Policy Framework (NPPF)

2.3 The following chapters are of particular relevance to this proposal:

Introduction

Achieving sustainable development

Section 1 – Building a strong, competitive economy

Section 4 - Promoting sustainable transport

Section 6 - Delivering a wide choice of high quality homes

Section 7 - Requiring good design

Section 8 - Promoting healthy communities

Section 11 - Conserving and enhancing the natural environment

Decision-taking

2.4 National Planning Practice Guidance

2.5 The Core Strategy 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/core-strategy/adopted-core-strategy>

3. Planning History

3.1 SH97/1016PF - Proposed alterations and extensions – approved 23.10.1997

CE1999/2259/F - Widening of existing vehicular access to site. Erection of timber framed garage/garden store. Erection of horse shelter and secure shelter for fireworks – approved 04.11.1999

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

4. Consultation Summary

Statutory Consultees

4.1 Welsh Water:

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. However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

4.2 Public Rights of Way Manager:

We have received an application to legally divert public footpath LD10. We therefore have no objection to the development, providing work does not commence until after the completion of the diversion process.

Internal Council Consultees

4.3 Transportation Manager: Recommends standard conditions

4.4 Conservation Manager (Landscape):

The application is for a change of use from equestrian paddock to residential with the proposed construction of a 3 bed dwelling with associated access and landscaping.

The site lies within the Wye Valley AONB and as such paragraph 115 of the NPPF states that great weight should be given to conserving its landscape and scenic beauty.

The proposal lies in open countryside and as such policy RA3 of the Core Strategy applies. As none of the specified exceptions apply, a new dwelling in this location is unacceptable in principle.

Turning to the specific landscape issues in this case I have visited the site and my assessment is as follows:

Currently the site forms part of a small paddock adjacent to Carey Bank and north of a small cluster of buildings formed either side of the Kilforge Road. The historic maps indicate the presence of a vicarage (now known as Carey Court) at the bend in Kilforge Road around which several other dwellings have formed. To the west of Kilforge Road a number of later 20th century bungalows have provided infill altering the dispersed settlement pattern of Principal Settled Farmlands to a more prominent type. Despite this change in pattern the more recent built form is not unduly prominent within the landscape because the built form is single storey infill set into the contours of the land.

The proposed dwelling which can be described as one and half storey is set back substantially from the roadside in contrast with the existing pattern to the west, visually separate from the existing cluster on land reaching 100m AOD. This represents a substantial change in character within this localised area and will be visually prominent from the PROW LD10 which currently crosses the site diagonally.

I understand that a diversion order for the PROW has been applied for and whilst this in its own right does not pose a problem the newly proposed hedging will represent an adverse impact upon the local character and the visual effects experienced by the user will be adverse as a result of the proposal.

The proposal is therefore considered to conflict with LD1 of the Core Strategy. If the applicant desires to construct an additional dwelling that is acceptable in landscape terms I would suggest the redevelopment of the existing stables. This would reduce the landscape impact in a number of respects: the siting of such a proposal would relate better to the existing built form, the use of the existing access could be retained and the proposal will be less prominent within the local landscape.

If the current proposal is supported the landscape plans should be agreed with the local authority via condition.

4.5 Conservation Manager (Arboriculture):

I have reviewed all arboricultural information relating to the current planning application. The proposals would result in 1 moderate quality tree and 4 low quality trees having to be removed. Although most of these trees have a useful life expectancy of at least 40 years, the impact from their removal will be lessened by the presence of the retained mature trees on the site.

I have no objection to the tree removals, however, there should be additional tree planting on the site to mitigate their loss.

As long as the tree protection measures are implemented as per the Tree Protection Plan (Mackley Davies Associates Limited_16/528/02_Oct 2016) I have no objection to the scheme.

Adherence to the submitted documents should be enforced via planning conditions. I also consider we should include the standard condition – C90 (b-e).

4.6 Conservation Manager (Ecology):

I note the responses from colleagues as regards ensuring conditions are included related to tree & hedgerow protection and that no work should commence on site until the PROW Legal Diversion has been completed.

It is noted that the proposed foul water is managed by a package treatment plant but there are no details on capacities or how the final out fall will be managed. The planning authority has a responsibility to assess this with regard to 'The Conservation of Habitats and Species Regulations:2010' as the proposed development lies within the River Wye SAC catchment. Any direct discharge in to a watercourse is likely to impact both the immediate local hydrology and ecology and an impact downstream through the residual phosphate and suspended solids discharges. To mitigate this impact we would request that the outflow from the PTP is managed through a soakaway system hence managing the direct impact of phosphate levels and reducing the impact over time of the suspended solid settlement. Full details of the system and location of the soakaway system should be provided in support of any full application so a final HRA screening can be completed before determination of that full application.

I note that contrary to NPPF guidance and HC Core Strategy there appears to be no biodiversity enhancements included in the plans and there is no detailed Landscaping Plan. I would request that a detailed landscaping and biodiversity enhancement plan is supplied for consideration.

As guidance:

The enhancement plan should include details and locations of any proposed Biodiversity/Habitat enhancements as referred to in NPPF and HC Core Strategy. At a minimum we would be looking for proposals to enhance bat roosting, bird nesting and invertebrate/pollinator homes to be incorporated in to the new building as well as consideration for amphibian/reptile refugia and hedgehog houses within the landscaping/boundary features. No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative. The detailed landscaping scheme should include full details of planting and protection methods as well as a 5 year establishment & replacement scheme and a subsequent 5 year management plan.

4.7 Conservation Manager (Ecology) – revised comments:

I have now received confirmation and updated plan indicating that the requested final PTP outfall via soakaway/spreader is possible. I am now happy that through a basic Habitat Regulations Assessment screening I can conclude that this proposed development would have no unmitigated 'likely significant effects' on the River Wye SAC & SSSI.

I note that contrary to NPPF guidance and HC Core Strategy there appears to be no biodiversity enhancements included in the plans and that there is no detailed Landscaping Plan. I would request that a detailed landscaping and biodiversity enhancement plan is subject to Condition should planning consent be granted.

Nature Conservation – Enhancement

Prior to commencement of the development, a habitat enhancement scheme integrated with a detailed landscaping plan should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) Herefordshire Council Core Strategy (LD2 & LD3), the National Planning Policy Framework, NERC 2006

Informative:

The enhancement plan should include details and locations of any proposed Biodiversity/Habitat enhancements as referred to in NPPF and HC Core Strategy. At a minimum we would be looking for proposals to enhance bat roosting, bird nesting and invertebrate/pollinator homes to be incorporated in to the new building as well as consideration for amphibian/reptile refugia and hedgehog houses within the landscaping/boundary features. No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative. The detailed landscaping scheme should include full details of planting and protection methods as well as a 5 year establishment & replacement scheme and a subsequent 5 year management plan.

4.8 Neighbourhood Planning Manager:

The Little Dewchurch NDP is currently at examination. In line with para 216 of the NPPF, significant weight can be attributed to the plan given its stage, there were only minor or supportive comments received during the submission consultation and no conformity issues have been raised by the Strategic Planning team.

Policy LBSB1 indicates that outside of the settlement boundary only dwellings in line with Core Strategy policy H2, RA3, RA4 and RA5 should be permitted. The application is outside of the settlement boundary of Little Dewchurch, therefore the above policies would apply.

5. Representations

5.1 Little Dewchurch Parish Council:

The proposed site is just within the Parish of Little Dewchurch and the "hamlet" of Carey. It may be considered to be defined on the North Eastern boundary by the public footpath, (LD10) which crosses the site diagonally. The proposed dwelling is not infill and must therefore must be considered as development into the open countryside, which conflicts with local policy (and the emerging Neighbourhood Plan).

The property is, in the opinion of the Little Dewchurch PC, well designed and, given the planting and siting, does not have a significant impact on the landscape, or indeed have detrimental effect on adjoining properties.

However, the PROW (LD10) would have to be diverted and no real justification has been given for this. The proposal does require the felling of some mature trees and the extension into open countryside is at odds with both national and local policy. If permission was therefore permitted it would set a dangerous precedent on land parcels on the edge of settlements.

For the foregoing reasons the PC do not support the application

5.2 Ballingham Parish Council:

Support the application and to make the following comments. The Parish Council acknowledges the community work that the applicants have been involved in over the years. The application meets the criteria set out in the NPPF which promotes sustainable development which is assessed under three areas. Social, economic and environmental roles. It was the PC's view is that the application meets the NPPF criteria.

5.3 The Ramblers - object to this planning application on the grounds that the Public Right of Way, Little Dewchurch LD10 will be built upon and obstructed.

Currently there is a request to divert this footpath, the Ramblers have accepted the proposed new route and once full planning permission has been granted would agree to the Diversion and hence remove our objection.

We ask you to ensure that the developer is aware that there is a legal requirement to maintain and keep clear a Public Right of Way at all times

5.4 26 letters of support have been received. In summary these comment as follows:

- Appropriate design, sensitive to location and energy efficient
- Well planned landscaping enhances the environment
- Pleasant addition to cluster of houses nearby
- Social and economic benefits
- Strengthen the community - Applicants are active participants
- Dwelling would provide long term resource – fully adapted for those with disabilities
- Releases another dwelling (applicants' current residence) to bring new lifeblood into the village
- Construction would provide jobs for local craftspeople
- Current home does not meet the applicants' needs and they would have to move away
- Conforms with Cs policies SS1, SS2, RA1, RA2, H3 and SD1
- Demand for suitable housing for elderly within the parish
- Council previously approved dwellings for the previous occupants of Carey Bank when they need to downsize in the 1990's.

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

- Applicants' desire to provide for their own needs should be commended
- National policy is to facilitate people staying in the community they have lived in
- Additional homes are needed in every parish
- The little settlement of 7 properties around Carey Bank has grown steadily and would be enhanced by one more
- Carey Bank could be purchased by a young people who could contribute to the community

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

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=163797&search=163797>

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 legal starting point for the consideration of this application is that set out in section 38 (6) of the Planning and Compulsory Purchase Act 2004. This states that:

"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 The development plan is, for the purpose of this application for residential development, the Herefordshire Local Plan – Core Strategy 2011-2031 (CS). The Little Dewchurch Neighbourhood Development Plan (LDNDP) is at an advanced stage. As it is not yet a made plan it does not form part of the development plan, but nevertheless the weight to be afforded to it as a material planning consideration is considered later in this appraisal.

6.3 The National Planning Policy Framework (NPPF) is a material planning consideration in decision taking. It promotes sustainable development and recognises that there are three dimensions to this: economic, social and environmental. It states that these three roles are not to be undertaken in isolation, as they are mutually dependent. Similarly to the NPPF, the pursuit of sustainable development is a central principle of the CS. Again, the pursuit of these objectives fall under similarly worded headings of 'social progress', 'economic prosperity' and 'environmental quality'. CS Policy SS1 reflects the positive presumption in favour of sustainable development and the NPPF paragraph 14 decision-making process insofar as development according with the CS should be approved unless material considerations indicate otherwise. Where policies are silent or otherwise out of date, CS policy SS1 follows the same two-limb approach set out in paragraph 14 of the NPPF.

6.4 In terms of new housing provision across the County CS policy RA1 identifies that Herefordshire's rural areas will need to find a minimum of 5,300 new dwellings between 2011 and 2031 to contribute towards the county's housing needs. The policy states that the dwellings will be broadly distributed across the identified seven Housing Market Areas (HMA's), with specific indicative housing growth targets set to reflect the different housing needs of these areas. CS policy RA2 - Housing in settlements outside Hereford and the market towns, states that sustainable housing growth will be supported in or adjacent to those settlements identified in Figures 4.14 and 4.15 and this will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the communities concerned.

6.5 In terms of its location the site is most closely associated with Carey, a hamlet comprising a public house, with a small cluster of dwellings around the junction of unclassified lanes to the southwest of the public house and loose knit, sporadic development in the wider locality. Although the site is within the Parish of Little Dewchurch, and indeed within the designated

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

LDNDP area, the site quite clearly is not within the village, which lies some 3 kilometres (1.8 miles) as the crow flies to the west and is accessed via unlit lanes with no footway provision. Figures 4.14 and 4.15 of the CS list the settlements within each of these HMAs, that are to either be the main focus of proportionate growth (figure 4.14) or where proportionate growth is appropriate (figure 4.15). Carey is not included in either list. As a consequence of the site not being within or adjacent to a RA2 village the proposal for residential development would fall to be considered against RA3 – Herefordshire’s countryside.

6.6 The preamble to CS policy RA3 advises that outside of settlements listed in figures 4.14 and 4.15, new housing will be restricted to avoid unsustainable patterns of development. It confirms that residential development outside of these listed settlements will therefore be limited to those proposals which meet the criteria listed in Policy RA3. This policy limits residential development to proposals which satisfy one or more of the following seven specified criteria:

1. Meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or
2. Accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with Policy RA4; or
3. Involves the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage, of the existing dwelling; or
4. Would result in the sustainable re-use of a redundant or disused building(s) where it complies with Policy RA5 and leads to an enhancement of its immediate setting; or
5. Is rural exception housing in accordance with Policy H2; or
6. Is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 of the National Planning Policy Framework and achieves sustainable standards of design and construction; or
7. Is a site providing for the needs of gypsies or other travellers in accordance with Policy H4.

6.7 The site falls within the Little Dewchurch designated neighbourhood area and the LDNDP is currently at examination stage (post regulation 16). Within the LDNDP the vision for the parish is stated to include a protected AONB and the general environment and new homes that are built in areas agreed by the local people in manageable quantities that respect the character of the area. In terms of the LDNDP the site falls outside of the defined settlement boundary and as a result policy LD SB1 applies. This policy, taking a similar stance to CS policy RA3, indicates that outside of the settlement boundary only dwellings in line with Core Strategy policies H2, RA3, RA4 and RA5 should be permitted. As the application is outside of the settlement boundary of Little Dewchurch, and would not comply with any of the exceptions set out in CS policies H2, RA3, RA4 or RA5, the proposal is not compliant with the LDNDP. In line with paragraph 216 of the NPPF, significant weight can be attributed to the plan given its stage, as there were only minor or supportive comments received during the submission consultation and no conformity issues have been raised by the Strategic Planning team. Whilst at this time the LDNDP is not part of the Development Plan, as it has not been made, given its advanced stage it can be afforded significant weight. The LDNDP sets the local planning context for appraising the proposal in line with the Government’s promotion of localism, and in this case the scheme does not accord with these locally prepared policies. Furthermore, it does not meet the

vision of the plan as the proposed dwelling is not in an area agreed by local people, as promoted through the LDNDP.

- 6.8 The applicants are not contending that any of the criteria set out in CS policy RA3 apply to their proposal, but rather seek to rely on their personal circumstances to justify an exception being made to the adopted planning policy. On the basis of the principle of residential development, in this location, the CS and NDP policies are quite clear that it should be prevented, as it would not be a sustainable form of development.
- 6.9 Whilst the applicants' personal circumstances are appreciated, they are not unique nor so compelling such that they would outweigh the well established policy position to protect the countryside from unjustified residential development. No weight should be given to these circumstances as there is no legal mechanism to ensure that the dwelling proposed would ever be occupied by the applicants, even in the very short term, despite their intentions, if permission is granted. This is because a condition attempting to restrict occupation in such a manner would fail to meet the tests for the use of planning conditions set out in the NPPG. This states that *'A condition used to grant planning permission solely on grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building.'* It is understood that the applicants clear intention is to construct and live in the dwelling proposed, but circumstances could change such that this is not ever realised, or only in the short term.
- 6.10 The Council currently cannot demonstrate that it has a 5 year housing land supply. Although at the time of the CS's adoption in October 2015 a five year housing land supply was confirmed, recent appeal decisions have now determined that this is no longer the case. That said the supply figure has increased from the first appeal that established a shortfall, with the current supply standing at about 4.39 years. As a consequence of this current shortfall, the NPPF (paragraph 49) states that the CS policies relevant to the supply of housing must be considered as not being up to date. Whilst not being up to date, it does not automatically follow that the policies are redundant. The weight that can be afforded to the housing policies for the decision maker to determine and as set out in paragraph 215 of the NPPF the closer they are to the NPPF the greater the weight that can be afforded to them.
- 6.11 The NPPF promotes sustainable development and this is assessed under the three dimensions namely the social, economic and environmental roles. To assess this reference should be paid to the NPPF as a whole. In locational terms this seeks to restrict development in isolated locations (Paragraph 55) but acknowledges that in rural locations it may be the case that development in one village supports the services in another nearby. Carey was not identified as such a village in the CS. Whilst near to a modest number of other dwellings, the site is isolated from services and facilities needed for every day life. There are no services nearby other than a pub, which is some 750m by road or nearer via public rights of way, across agricultural land. Locationally the site is considered to be unsustainable, with occupiers heavily dependent upon the private car to access services. This is the same stance that was taken recently at appeal for the retention of log cabin to provide residential accommodation for a temporary period at Whitethorn Farm, Carey (Reference 143843/F), when the Inspector concluded that the site was unsustainably located. The applicants' connection with the local community is appreciated, but in terms of access to day to day living requirements and activities these would have to be facilitated by motorised travel, contrary to the thrust of sustainable transport which seeks to give people a real choice on how they travel. Furthermore, the provision of a new dwelling would not support the transition to a low carbon future, contrary to a core planning principle, as set out in the NPPF (paragraph 17). It is accepted that this is currently the situation for the applicants and indeed others living in such locations, however this is not a good reason to add to this reliance upon the private car. Again, it is vital to bear in mind that it would not be lawful to limit occupation of the permanent dwelling proposed to the applicants, and as such even their advocated social benefits cannot be secured. In economic terms the proposal would have a modest benefit during construction through the supply of goods and labour and the New Homes

Bonus. However, this would be limited for one dwelling and could just as easily be achieved in the case of a dwelling built in a sustainable location, in accordance with adopted policies. The applicants have stated that the proposal would allow them to fund their own independent care. Although this objective is clearly to be commended, again there is no mechanism to ensure that the grant of permission for a dwelling on the site would achieve this. Consequently, and without belittling these aims, they cannot be afforded weight in the planning balance when determining this application. Given the degree of consistency of CS policy RA3 with the NPPF, in terms of its avoidance of new isolated homes in the countryside unless it complies with certain circumstances, it is considered that moderate weight can be afforded to the CS policy.

- 6.12 In assessing the environmental role of sustainable development it should be noted that the site falls within the WVAONB. The conservation of AONBs should be afforded great weight as they have the highest status of protection, along with the Broads and National Parks, in relation to landscape and scenic beauty (NPPF paragraph 115). CS policy LD1 requires developments to conserve and enhance the natural, historic and scenic beauty of important landscapes. Firstly, it is considered that the provision of an unjustified dwelling, as per the principle objection in locational terms, would result in harm to the landscape by itself as a corollary. Another dwelling, along with its associated groundworks to provide levelled access, parking area and inevitable domestic paraphernalia would result in a further domestic incursion into the landscape, increasing the built form and obviously decreasing areas of open land. The proposed siting of the dwelling would be a significant incursion of development to the north of the existing development on both sides of the lane. In addition, as noted by the Landscape Officer the set back siting proposed would be in contrast with the existing pattern of the limited development in the locality and would be visually separate from the existing cluster on land. This is considered to represent a substantial change in character within this localised area. This would be visually prominent from the PROW, both from its current lawful and the proposed diverted route. Furthermore, the Landscape Officer raises objection to the proposed hedgerow to demark the northern boundary of the garden to serve the dwelling and provide a 'corridor' for the proposed diversion route. It is accepted that there would be some filtering of views from the east provided by the roadside hedgerow. However, there would be a variation of the degree of screening from the lane, due to the deciduous nature of the planting and in any event this is not the only vantage point of the site. The requested redirection of the PROW would pass along the northern boundary affording views of the dwelling, in close proximity. The presence of an unjustified dwelling, in a position that conflicts with the existing pattern of the limited local development, would significantly diminish the rural characteristics of the site, imposing a substantial dwelling, albeit of good design and quality materials, and this would unacceptably and unjustifiably undermine the scenic qualities of the area.

Other Matters:

- 6.13 CS policy MT1 states that proposals should incorporate certain, specified principles, including the protection of existing local and long distance footways, cycleways and bridleways unless an alternative route of at least equal utility value can be used. It is an essential part of the scheme that the existing public right of way is diverted, as the proposed siting is located directly on part of it, as it crosses the site. The scheme proposes its diversion along the northern site boundary, with a post and rail fence and hedgerow providing a boundary with it and the curtilage of the proposed dwelling. The Public Rights of Way Manager has confirmed receipt of an application to divert and in principle there is no objection to this. The Ramblers, although lodging an objection to the proposal, confirm they have no objection to the suggested diversion route. It is considered that the proposed route would provide an equal utility value, and would still link up with the Public Right of Way (BH8) on the opposite side of the lane.
- 6.14 The Ecologist originally noted that insufficient information had been provided with regards foul drainage to facilitate a screening under the Habitat Regulations, as the site is within catchment of the River Wye and non-mains drainage is proposed. Additional drainage information was subsequently submitted and the ecologist has confirmed that the proposed foul drainage is

acceptable. With regards biodiversity, other than hedgerow planting the scheme does not include any other provision for enhancement. Indeed the scheme includes some tree removal, which whilst not been objected to by the Tree Officer, does reduce habitat provision on site and no details of replacement tree planting have been provided. It is considered that this issue could be addressed through an appropriately worded condition in line with the Ecologist's and Tree Officer's suggestions, if the application were acceptable in all other respects.

Conclusion

- 6.15 The proposed development would be contrary to the relevant housing CS policies, being an unjustified dwelling in the countryside. Given that these policies must be considered to be not up to date, in the current housing land supply shortfall position, the proposal must be appraised under paragraph 14 of the NPPF, which CS policy SS1 re-enforces. These require that permission be granted for sustainable development unless material considerations indicate otherwise - taking into account whether:
- a) any adverse impacts doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies taken as a whole; or
 - b) specific elements of national policy indicate that development should be restricted.
- 6.16 Taking all of the above into account, it is considered that the proposal would not constitute sustainable development and as such the presumption to approve is not engaged. The development would be contrary to the key objectives and requirements of the NPPF in terms of sustainable development and protecting the landscape, along with the CS policies which seek to provide sustainable growth. The applicants' desire to remain in Carey is respected, however, this is not a material planning consideration, and no weight can be afforded to this wish because there is no essential need to do so and in any event occupation of the permanent dwelling proposed could not lawfully be limited to them.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The proposal represents unjustified and unsustainable new residential development in an open countryside location contrary to Herefordshire Local Plan Core Strategy Policies SSI, SS7, SD1, RA2 and RA3, Little Dewchurch Neighbourhood Development Plan policy LD SB1 and the relevant aims and objectives of the National Planning Policy Framework.**
- 2. The proposal by its very nature and siting, scale and design would result in material harm to the character and appearance of the protected landscape, designated as an Area of Outstanding Natural Beauty, as it represents an unacceptable encroachment into the open countryside, contrary to Herefordshire Local Plan Core Strategy Policies SS6 and LD1, Little Dewchurch Neighbourhood Development Plan policy LD ENV1 and the relevant aims and objectives of the National Planning Policy Framework.**

Informative:

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. The applicants were advised of these key policy issues during the pre-application advice stage. The issues are so fundamental to the proposal that it is not possible to negotiate a satisfactory way forward and due to**

the harms which have been clearly identified within the reasons for the refusal and the Officer's Report, approval is possible.

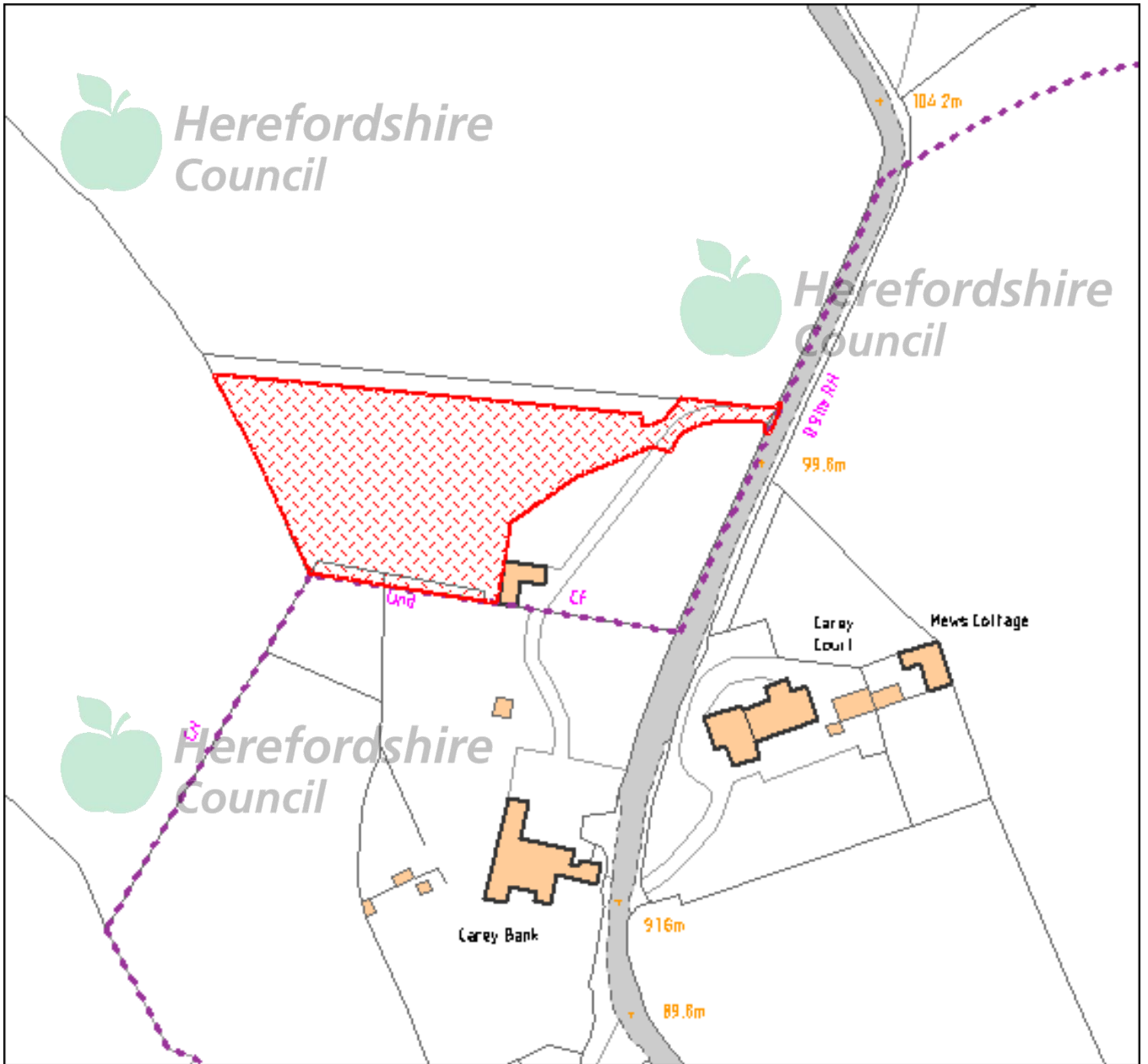
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 163797

SITE ADDRESS : CAREY BANK, KILFORGE ROAD, CAREY, HEREFORDSHIRE

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Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536



MEETING:	PLANNING COMMITTEE
DATE:	22 FEBRUARY 2017
TITLE OF REPORT:	162254 - PROPOSED DWELLING AT LAND ADJACENT TO LITTLE WEIR, MIDDLETON ROAD, KIMBOLTON. For: Mr & Mrs Patterson per Mr Roger Page, The Cottage, 16a High Street, Bromyard, Herefordshire, HR7 4AA
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162254&search=162254
Reason Application submitted to Committee - Redirection	

Date Received: 12 July 2016

**Ward: Leominster
North & Rural**

Grid Ref: 352737,262995

Expiry Date: 13 October 2016

Local Member: Councillor J Stone

1. Site Description and Proposal

- 1.1 The proposal site is to the south side of the C1049 road on a bend. To the opposite side of the road is the red brick faced dwelling known as Little Weir. There is a mature broadleaved tree in the south-western corner of the site adjoining an existing field gate access together with a mature tree just to the north-east and smaller trees on the eastern side of a site that inclines from the class III road. The land rises eastwards to the class III road behind a roadside boundary hedgerow. There is a pre-fabricated garage close to the southern boundary of the site that will be demolished as part of the proposed scheme. The site is 1.93 kilometres (1.2 miles) north of the Stockton Cross Public House and lies in open countryside.
- 1.2 This is an outline application for a new dwelling. It is only the principle of development and means of access to be determined at this stage. The proposed new access would lie to the northwest of the existing access. The plans submitted state that the existing hedgerow will be realigned to suit visibility splays.

2. Policies

2.1 Herefordshire Local Plan Core Strategy:

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for New Development
SS6	-	Environmental Quality and Local Distinctiveness
RA3	-	Herefordshire's Countryside
H2	-	Rural Exception Sites
LD1	-	Landscape and Townscape

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

- LD2 - Biodiversity and Geodiversity
- MT1 - Traffic Management and Highway Safety
- SD1 - Sustainable Design and Energy Efficiency
- SD4 - Waste Water Treatment and River Water Quality

2.2 National Planning Policy Framework

Chapter 6: Delivering a Wide Choice of High Quality Homes
 Chapter 7: Requiring Good Design
 Paragraph 14 (presumption in favour of sustainable development)
 Paragraph 49 (5 Year Housing Land Supply)
 Paragraph 55 (New Housing in the Countryside)

2.3 National Planning Practice Guidance

Design (ID26): Form, Scale, Details, Materials

2.4 Neighbourhood Plans

The Neighbourhood Plan for Kimbolton is presently being drafted. Whilst it is a material consideration it is not sufficiently advanced to attract weight for the purposes of determining planning applications.

2.5 The Core Strategy 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/core-strategy/adopted-core-strategy>

3. Planning History

3.1 None

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water

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.

However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

Internal Council Consultations

4.2 Transportation Manager: Objection

The application needs to be refused on grounds that the speed data is not available and without the visibility splays cannot be reduced with the proven 85th percentile speed.

4.3 Conservation Manager (Ecology)

I am happy that there is likely to be limited direct impact on the ecology of the area from a development as outlined in the application however there do appear to be several significant

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

trees on the site and existing important hedgerow boundaries that should be assessed in relation to the proposed development and a BS5837:2012 trees and construction survey should be carried out and supplied in support of a full application as a report with an arboricultural risk assessment, tree and hedgerow protection plan and any appropriate arboricultural working method statements.

- 4.4 Full details of the replacement 'mitigation' hedgerow along with any other landscaping and full details and locations of biodiversity enhancements (eg bird nesting and bat roosting opportunities build in to new build) should be supplied with a full application.
- 4.5 It is noted that the proposed foul water is managed by a package treatment plant but there are no details on capacities or how the final out fall will be managed. The planning authority has a responsibility to assess this with regard to 'The Conservation of Habitats and Species Regulations:2010' as the proposed development lies within the River Lugg/River Wye SAC catchment. Any direct discharge in to a watercourse is likely to impact both the immediate local hydrology and ecology and an impact downstream through the residual phosphate and suspended solids discharges. To mitigate this impact we would request that the outflow from the PTP is managed through a soakaway system hence managing the direct impact of phosphate levels and reducing the impact over time of the suspended solid settlement. Full details of the system and location of the soakaway system should be provided in support of any full application so a final HRA screening can be completed before determination of that full application.
- 4.6 In addition to the advice above on foul water management I would suggest the following conditions are included:

Nature Conservation – Enhancement

Prior to commencement of the development, a habitat enhancement scheme integrated with the detailed landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006

Informative:

The enhancement plan should include details and locations of any proposed Biodiversity/Habitat enhancements as referred to in NPPF and HC Core Strategy. At a minimum we would be looking for proposals to enhance bat roosting and bird nesting to be incorporated in to the new buildings as well as consideration for amphibian/reptile refugia, hedgehog houses and invertebrate/pollinator homes within the landscaping/boundary features. No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative.

Nature Conservation Protection

Before any work begins, or equipment or materials moved on to site, a survey of trees and hedgerows on the site to BS5837:2012 must be undertaken and the resulting report with arboricultural risk assessment, arboricultural working methods and recommended tree and hedgerow protection measures shall be supplied to the planning authority for written approval. All approved works and protection measures for trees and hedgerows must remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

5. Representations

- 5.1 Kimbolton Parish Council: No objection but recommends that the exterior is of a traditional style consistent with local vernacular.
- 5.2 Eight letters of support have been received raising the following points:
- Improving the local area
 - Provision of additional housing
 - Indirectly helps to support local services e.g school, shop, pub
 - Suitable plot
 - A local resident
 - Addresses housing need
 - Reduces overdevelopment in Kimbolton itself

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

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162254&search=162254>

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 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." This means that there is a presumption in favour of the development plan unless material considerations can be considered to outweigh it.

- 6.2 The Herefordshire Local Plan (HLP) is the development plan. The Core Strategy (CS) is a fundamental part of the HLP and sets the overall strategic planning framework for the county, shaping future development.
- 6.3 Paragraph 14 of the NPPF provides a presumption in favour of sustainable development. This is reflected in the strategic Policy SS1 of the CS which sets out a presumption in favour of sustainable development stating: *"Planning applications that accord with the Core Strategy (and where relevant with policies in other development plan documents and Neighbourhood Development Plans) will be approved unless material considerations indicate otherwise"*.
- 6.4 One such consideration is the NPPF which advises at paragraph 47 that Local Authorities maintain a robust five year supply of housing land. Failure to demonstrate an NPPF compliant housing land supply will render the housing supply policies of the CS unreliable. At present, the Council cannot demonstrate a 5-year supply of housing land and as such the policies of the CS cannot be inherently relied upon.

- 6.5 The delivery of sustainable housing development to meet objectively assessed needs is a central CS theme, reflecting the objectives of the NPPF. Policy SS2 'Delivering new homes' directs that Hereford and the market towns shall be the main focus for new housing. Housing development is also supported in or adjacent to those settlements identified exhaustively in Figures 4.14 and 4.15. Kimbolton is identified as a settlement of focus for proportionate housing development.
- 6.6 In terms of rural settlements, CS Policy RA2 requires firstly that proposals accord with the relevant Neighbourhood Development Plan ('NDP') or where there is no NDP with the Council prepared Rural Areas Site Allocation Development Plan Document, both of which will prescribe a 'settlement boundary'. The application site is within the Parish of Kimbolton, which at the time of writing, does not have an NDP (The plan is currently at the drafting stage). The location of the proposal site lies 1.2 miles from Stockton Cross Public House and cannot therefore be considered to be within or adjacent to an identified settlement. Consequently, the proposal is fundamentally contrary to Policy RA2.
- 6.7 New housing development is directed to Hereford City, Market Towns and settlements identified for proportionate growth. The proposal is located outside of such areas and is in open countryside where Policy RA3 is relevant in respect of new housing. The proposal does not meet any of the criteria (1-7) in that Policy that would allow for such development at this rural location namely:
- Meets an agricultural or forestry need or farm diversification enterprise;
 - Is for a rural enterprise;
 - Is a replacement dwelling;
 - Proposes a sustainable reuse of redundant or disused building in association with Policy RA5 [This proposal does not involve the re-use of an existing building];
 - Is rural exception housing (Policy H2);
 - Exceptional or innovative design;
 - Site for Needs of gypsies or travellers.
- 6.8 This proposal does not satisfy any of the criteria set out under RA3 and accordingly does not comply with this planning policy.
- 6.9 In addition, this proposal does not satisfy Policy H2 (rural exception sites) of the CS, which allows for affordable housing schemes where:
- This assists in meeting a proven local need;
 - Affordable housing is made available and retained in perpetuity for local people in need of affordable housing; and
 - The site respects the characteristics of its surroundings, demonstrates good design; and offers reasonable access to a range of services and facilities normally identified in a Policy RA2 settlement.
- 6.10 At the time of writing this report Herefordshire Council does not have a 5 year housing land supply, as per paragraph 49 of the NPPF. Consequently, this affects the weight that can be given to Policies SS2, SS3 and RA3 of the Local Plan in respect of new housing supply.
- 6.11 Appeal decisions at Leintwardine and Ledbury and a recent Court of Appeal judgment concluded that 'out of date' policies remain relevant where demonstrable housing land supply is under 5 years. Policies do not become irrelevant, it is simply that the weight is for the decision maker. The decision overall is one of planning judgment and balance, which includes the weight properly attributable to the NPPF, the housing shortfall and all other relevant policies and facts.

- 6.12 The NPPF at paragraph 6 states that the purpose of the planning system is to contribute to the achievement of sustainable development (with its three dimensions to sustainable development - economic, social and environmental aspects), as defined in paragraphs 18 to 219 of the NPPF.
- 6.13 This development is in a countryside location some 1.93 kilometres by road from Kimbolton centre with its services. On balance, the proposal cannot be considered to be in a sustainable location for a new private market house, irrespective of scale, height, design and material finish. It does not satisfy any exception in Policy RA3, as discussed above, which would allow for such development.
- 6.14 The supporting information provided by the agent refers to the current housing land supply shortfall in Herefordshire and argues that the location of the site, whilst not adjacent to the settlement of Kimbolton, is sustainable. The fact that the site lies in open countryside some 1.2 miles (1.93km) from the centre of Kimbolton means it fails to comply with Policy SS1 and the principles of sustainable development.

Bio-diversity

- 6.15 The advice received from the Conservation Manager (Ecology) requires that further survey work be carried out on site as regards the impact on existing trees and vegetation and that details for any foul drainage works be provided and that details for soakaways be provided given that the site lies within the River Lugg/River Wye SAC catchment area and finally that details for habitat enhancement be provided which shall include control of any external lighting.

Accessibility/Highway Safety

- 6.16 The proposed access does not comply with Policy MT1 of the Core Strategy by virtue of both the sustainability aspects as a consequence of the proposed location of the new dwelling and highway safety. The siting of the proposed new access is on a bend with limited visibility to both the northeast and southwest and even with the removal of a roadside tree the requisite visibility splays cannot be achieved given the configuration of the class III road.

Conclusion

- 6.17 As the Council has been found unable to demonstrate an NPPF compliant housing land supply at appeal, paragraph 49 of the NPPF requires that applications are considered for their ability to represent sustainable development rather than for their inherent conformity with the Local Plan. However, and for the reasons explained above, the Core Strategy is considered to accord with the aims and objectives of the NPPF in this instance. Therefore, Policies in the Core Strategy, particularly SS1, SS4, RA3 and MT1 are considered to retain significant weight.
- 6.18 The site is located in open countryside some distance from a sustainable settlement as identified in the Core Strategy. This will mean that occupancy of the dwelling will give rise to significant journeys to Kimbolton and more likely to Leominster, 4.1 miles (6.6km) away, for basic day to day shopping, other services and recreation which has overriding economic and environmental implications due to car use reliance. There is not a choice of modes of transport. As such, the location of the proposal is not considered to be sustainable and does not comply with either the NPPF or relevant policies contained in the Core Strategy.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The proposal is contrary to Policies SS1, SS4, RA3 and MT1 of the Herefordshire Local Plan: Core Strategy given the proposal site is outside the reasonable limits of Kimbolton in open countryside such that a choice of modes of transport and the requirement to**

achieve sustainable development in the National Planning Policy Framework (2012) cannot be achieved.

2. The proposed means of access does not have sufficient visibility splays, and accordingly the proposal would have an adverse impact on highway safety contrary to the provisions of Policy MT1 of the Herefordshire Local Plan-Core Strategy.

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 and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.

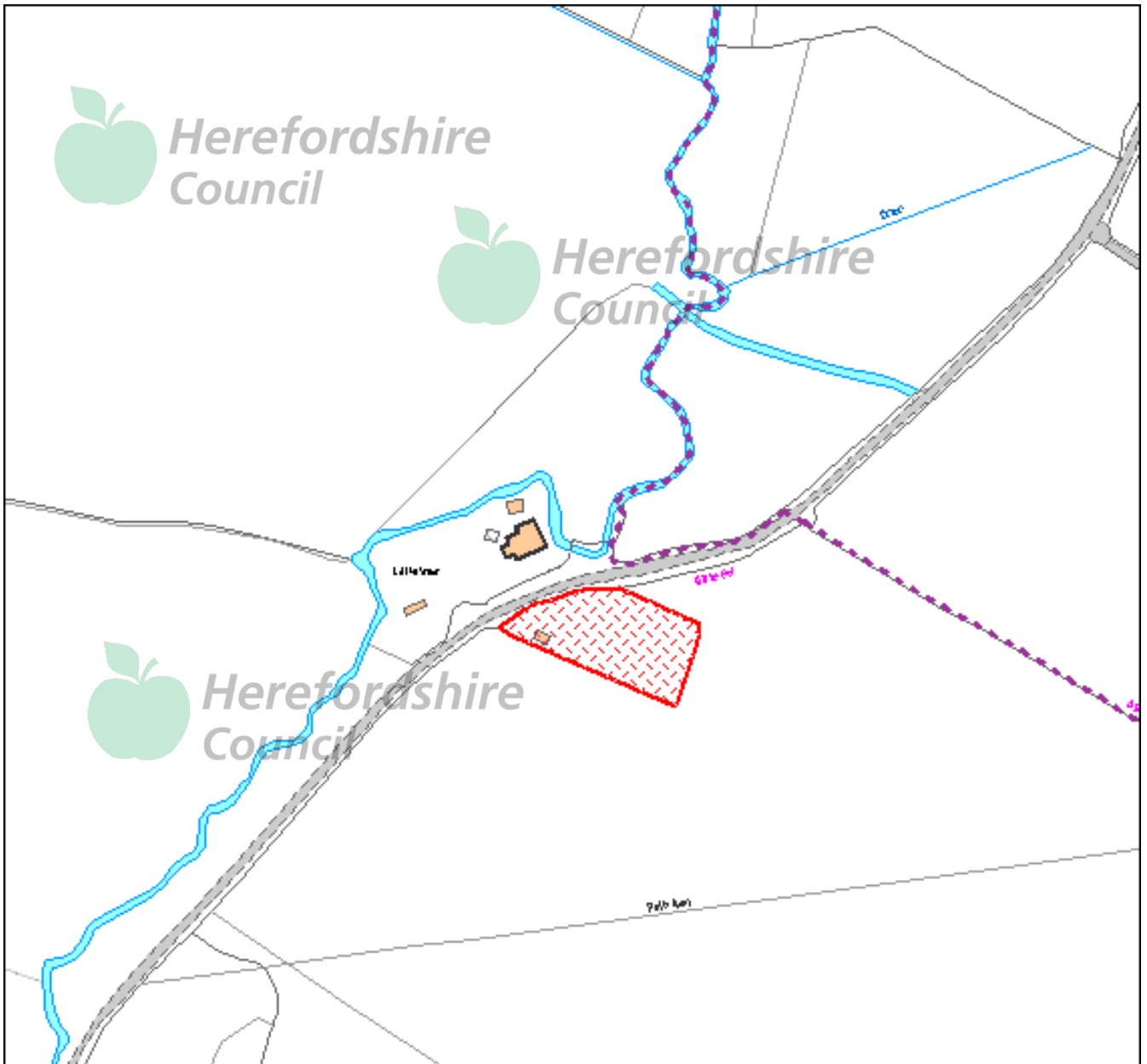
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 162254

SITE ADDRESS : LAND ADJACENT TO LITTLE WEIR, MIDDLETON ROAD, KIMBOLTON, HEREFORDSHIRE

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



MEETING:	PLANNING COMMITTEE
DATE:	22 FEBRUARY 2017
TITLE OF REPORT:	162824 - SITE FOR THE PROPOSED ERECTION OF 5 DWELLINGS AT LAND AT BALANCE FARM, EYWOOD LANE, TITLEY, KINGTON, HEREFORDSHIRE, HR5 3RU For: Mrs Vaughan per Mr Alan Poole, Green Cottage, Brierley, Leominster, Herefordshire HR6 0NT
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162824&search=162824
Reason Application submitted to Committee – Re-direction	

Date Received: 6 September 2016

Ward: Arrow

Grid Ref: 332863,259749

Expiry Date: 3 November 2016

Local Member: Councillor RJ Phillips

1. Site Description and Proposal

- 1.1 This outline application, with all matters reserved, relates to a site of approximately 0.24 hectares that is part of a larger concreted farmyard area. The adjoining part of the site upon which sits a large modern agricultural building, was recently the subject of a similar successful application for the erection of five 4 bed houses (160581). This application proposes three 3 bed houses and two 2 bed houses.
- 1.2 The site is accessed via the u/c 91602 road to the west of its junction with the main B4355 road through the village.
- 1.3 The site has a common boundary with a range of converted barns to the south east, and a tree-lined hedge along the north and north east boundary. The western boundary adjoins the previous application site. Close to the entrance to the site lies Balance Farm a grade II listed building. The boundary of Eywood Park a grade II Historic Park and Garden lies close by to the west.
- 1.4 Titley Pool Site of Special Scientific Interest (SSSI) lies just approximately 200m to the south west of the site.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy

- SS1 - Presumption in Favour of Sustainable Development
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape

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

- LD2 - Biodiversity and Geodiversity
- LD4 - Historic Environment and Heritage Assets
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- RA2 - Housing Settlements Outside Hereford and the Market Towns

2.2 National Planning Policy Framework (NPPF)

Chapter 1: Building a strong, competitive economy
 Chapter 6: Delivering a Wide Choice of High Quality Homes
 Chapter 7: Requiring Good Design
 Chapter 11: Conserving and Enhancing the natural environment
 Chapter 12: Conserving and enhancing the historic environment
 Paragraph 14 (presumption in favour of sustainable development)
 Paragraph 49 (5 Year Housing Land Supply)
 Paragraph 55 (New Housing in the Countryside)

2.3 Titley Group Neighbourhood Development Plan area was designated 14 July 2016. Regulation 14 stage has not been reached and therefore whilst a material consideration it has no weight in the decision making process.

2.4 The Core Strategy 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/core-strategy/adopted-core-strategy>

3. Planning History

3.1 Ref DCNW2007/3778 secure storage of caravans - refused 31/1/08 on grounds of landscape impact, unsustainable location and highway safety.

3.2 Ref 160581 - Five 4 bed dwellings on adjoining site outline permission - approved 27/7/16

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water - no objection subject to condition.

4.2 Hereford and Worcester Gardens Trust:

The HWGTrust wrote about this application last October. Clearly, we were very disappointed that outline permission was granted for 5 dwellings, even though they were tied for agricultural use. We now understand that the tie is to be removed and furthermore, additional dwellings are in the pipeline for an adjacent area, based upon an incredible Rural Housing Assessment (HLAA/153/002). This will create a new settlement on the edge of a Registered Grade II park, which is regarded as landscape created by 'Capability' Brown. In this year, when we are celebrating the 400th anniversary of his birth, this is an amazing piece of desecration and would not be countenanced by any responsible planning authority.

4.3 Albeit the development is just outside the boundary of the Registered Park, it would undoubtedly have an impact upon its setting. The character of the landscape close to the East Lodge (itself a building, which deserves listing) has already been damaged by miscellaneous and often, informal development and virtually all the tree cover in this corner of the park – visible of the 1890 6" OS plan – has been removed, together with many of the trees in a traditional orchard. Moreover the east drive at Eywood has the sinewy character of drives designed by

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

'Capability' Brown and as it rises up to the lodge, the new housing will be clearly visible to anyone using this approach. Moreover, the site for the housing is only a few hundred yards from Titley Court, where there is another listed building attached to an acknowledged but unregistered park (*A Survey of the Historic Parks and Gardens of Herefordshire* (2001), 379).

- 4.4 The applicants provide little assessment of the local impact of their development, which will be sited conspicuously on rising ground and is a blatant example of housing in the countryside, outside the settlement of Titley, which lies to the NE in a secluded valley around the church and school. This contravenes UDP section A7.

The Hereford and Worcester Gardens Trust urge the Council to dismiss this application.

Internal Council Consultations

- 4.5 Ecologist - No objection subject to conditions.
- 4.6 Transportation Manager – has requested a traffic speed survey to measure speeds on the B4355 to assess the adequacy of the visibility at the junction of the u/c 91602. In the absence of this survey, and consequently information to the contrary, it is considered that the increase in traffic arising from the development at the junction would be detrimental to the interests of highway safety.

As a consequence he recommends refusal as follows: the required visibility splays cannot be achieved at the current design speed of 60mph at the access as well as onto the B4355 road. Visibility required at the access according to Manual For Streets requires 2.4 x 63m this is not achievable in both directions nor within total ownership of the applicant. Consequently the proposal is considered to be detrimental to the interests of highway safety, contrary to policy MT1 of the Herefordshire Local Plan - Core strategy.

- 4.7 Conservation Manager (Historic Buildings) - The site to the east of the gate piers and lodge can be viewed as within the settlement boundary and therefore potentially suitable for development. Its position is set down below the roadside, is well screened and adjacent to barns which have already been converted for residential use. In this location I do not consider that further development would necessarily have a detrimental impact on the character of the village or on the nearby listed dwelling, Balance Farm.

5. **Representations**

- 5.1 Titley Parish Council - commented on three occasions:

1 November 2016

We would also like to comment on the way the two sets of applications have been engineered to avoid any contributions to the local infrastructure or the development of a proportion of affordable homes. These are two things that would diminish the impact of the proposal, yet the applicant has sought to avoid them by applying separately for two lots of five houses on the same site. This is making a mockery of the planning system and fools of us all.

Regarding the maintenance of the agricultural access to the North of the site, we would consider that there is no agricultural necessity for this as the fields can be accessed elsewhere from the public road system. Should the proposals be passed, it would not be advisable to encourage farm traffic through a housing estate.

Finally we would ask that this application be determined by Planning Committee rather than by the officers with delegated powers. The primary reason being the large level of opposition within

the community, but also the judgement by this Parish Council that the first application for four bedroom dwellings should not have been approved.

13 October 2016

5.2 The Titley Group Parish council held a extraordinary meeting to discuss Planning Application 162824 - Land at Balance Farm - Proposed erection of five 2/3 bedroom dwellings. Part of the meeting included a public session to which residents of Titley, the applicant and agent and Ward Councillor were invited. The following comments were made:

- The number of residents present at the meeting represents a considerable proportion of the overall population of Titley and so reflects the high level of concern the developments at the Balance are producing. The overwhelming views expressing a strong objection to the application.
- In considering this application in practical terms it is impossible to ignore the previous application for five four bedroom houses at the same site approved at the end of July 2016.
- The Parish Council have previously written expressing their dissatisfaction with this approval. At the meeting the Parish Council were made aware of the Herefordshire Strategic Housing Assessment of land with housing potential within Titley. The land highlighted included part of the historic parkland of Eywood, the listed Balance Farm House, the existing Barn Conversions, an arable field as well as the yard proposed for development. The potential housing capacity for this area was 20 with the whole site being described as 'brownfield'. Although we appreciate that the assessment is really to inform planning policy and not determine applications, the potential for this land for development is hugely overstated when large areas of it are quite obviously unsuitable for it. As the Parish Council had at no point been consulted on this assessment we are concerned with the propagation of this potentially misleading and alarming information. Why hadn't only the farm yard relating to the proposal been highlighted in the assessment?
- Titley is a village of less than 100 houses. Many of these in isolated parts of the parish with only approximately 50 per cent forming the centre of the village. This proposal in conjunction with the previously approved 5 four bedroom homes on the same site, would constitute the required proportionate growth for the next 15 years (in addition to this we have a 4 dwelling barn conversion at Titley Court about to start building). The Parish Council would consider that the effective development of a single 10 house estate within the village totally inappropriate and unsustainable. We do not feel that such a large proposal relative to the size of Titley would strengthen the community but would in all likelihood place too much stress on the already beleaguered services (by this we mean bus, GP and hospital, social care etc) and lead to fracturing rather than enhancement of the village. We are therefore unable to support this application.
- Titley Group Parish Council are in the early stages of developing a Neighbourhood Plan. We are certain that during the process of consultation with the community and from the views expressed at the public meeting, that a single 10 house estate at the Balance would not have been the preferred option to achieve our proportionate growth as an RA2 village. Although the proposed site would almost certainly be included the increase in scale of the proposal will reduce our ability in the future to apportion development for real local need.

4 October 2016

5.3 The Councillors discussed the residents views on this planning application for 5 houses, made up of three 3 bedroom houses and a semi detached property of two 2 bedroom houses. The Councillors were not satisfied with the planners decision on the application number 160581. The main objection is that the whole development is too big and would put too much stress on local

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

infrastructure and also the wider area. The development is out of proportion to the rest of the village. The Councillors agreed that the application should go to the planning committee for a decision.

- a. Chairman to write a comment on this application for Herefordshire Council Planning.
- b. Review of road works undertaken on roads B4355 and 91607

5.4 The Councillors discussed the road conditions following patching and resurfacing on the B4355 between Titley and Presteigne and the 91607 roads. The Councillors all agreed that there still remains large areas of poor road condition and not all the works had been carried out. The following locations were discussed:

- Clerk to discuss with Lara Edwards, Locality Stewart for Balfour Beatty at a meeting on 14 October 2016.
- B4355 – Going out of Titley between Burcher Court and 91607 junction going towards Presteigne. Road surface needs replacing especially road edges.
- 91607 - Broadford and for approximately 300m in an easterly direction from Stockley Cross west before you reach the tight bends.
- Road edge west of the above tight bends

5.5 We would further like to reiterate our concerns about the junction of Eywood Lane and the B4355 where all the traffic from the proposal would join the highway system. There is very poor visibility in the Kington direction and in icy conditions, because of the slope of the road, stopping can be difficult. It is the general feeling within the community, that 'it is an accident waiting to happen'.

5.6 With regard to the proposals impact on both foul and storm water drainage. The public sewerage system in Titley installed by Welsh Water, to which the development intends to connect, does not currently work. The sewerage plant has to be emptied twice a day by large tankers. This is far from an ideal situation and we would not like to see an increase in the burden on the system without first finding a remedy. During a recent heavy storm, flooding near the war memorial left large amounts of mud and water on the road and adjacent properties. This culvert is fed by the ditch into which the development proposes to drain. We feel that the faster water response time for the developed site will make this flooding problem worse and, again, a solution to this should be found before proceeding.

5.7 32 objections have been received from local residents, summarised as follows:

- Piecemeal approach, avoiding financial contributions.
- Not a sustainable location, the report on the previously approved site did not demonstrate that it was.
- 5 year housing land supply cannot justify bad decision making.
- Unbalance the settlement.
- Need affordable housing for young people and their families.
- Out of proportion with the size of the village of around 80/90 dwellings, this would be a 12-15% increase.
- Not justified on historical, aesthetic or ecological grounds.
- Spoil view from Balance barns to Eywood park grade II historic park (Capability Brown).

- Dangerous junction onto B4355.
- 3- 3 bed and 2 -2 bed houses attempt to offset previous 5-4 bed houses.
- Inadequate sewage system which has to be pumped out to tankers several times a week.
- Development not spread over 2011-2031 period.
- No amenities in village, Titley should not be an RA2 settlement.
- Impact on Titley Pool Nature Reserve/SSSI.
- Loss of view and privacy.
- Light pollution.
- Shlaa ref HLAA/153/02 application goes against that advice.
- Setting of Grade II listed buildings at balance farm.
- Should be detailed application not outline.

5.8 The request to carry out the speed survey has been declined.

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

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162824&search=162824>

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 states as follows:

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

6.2 In this instance the Development Plan for the area comprises the Herefordshire Local Plan - Core Strategy (CS). A range of CS policies, referred to at section 2.1, are relevant. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms that proposals that accord with the policies of the CS (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise. SS1 also imports an equivalent of the NPPF paragraph 14 'test' where relevant policies are out-of-date, stating that permission will be granted unless material considerations indicate otherwise – taking into account whether “any adverse impacts of granting permission would *significantly* and *demonstrably* outweigh the benefits when assessed against the policies in national policy taken as a whole or specific elements of national policy indicate that development should be restricted.

6.3 Having regard to the above, I consider the main issues are as follows:-

- Highway safety

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

- Ecology
- Historic heritage

- 6.4 The visibility for traffic joining the B4355 from the lane u/c 91602, is restricted in the direction of traffic approaching from the west (Kington direction). The Transportation Manager has requested a speed survey, which has been declined. In the absence of information that may have indicated to the contrary, the increase in traffic is considered to be detrimental to the interests of highway safety for the reasons set out at section 4.6.
- 6.5 The Ecologist has no objection subject to conditions.
- 6.6 The Conservation Manager does not consider that the redevelopment of the site will necessarily have a detrimental impact on the setting of the converted barns as Balance Farm. This is an outline application and as the statement in SHLAA/153/002 is a site with 'medium suitability' recognising there is scope for a sensitively designed scheme. This statement relates not just to the area of the site but includes adjoining fields to the west and north.
- 6.7 Titley is an RA2 settlement within the Kington housing area, where the indicative growth target is 12%. The number of dwellings within the parish group which includes Staunton-on-Arrow is 191, giving a minimum target of 23. During the period 2011- April 2015 four dwellings were complete with one other commitment. Five houses were approved in July, leaving a further 14 to reach the minimum target.
- 6.8 It is considered that this is a sustainable site, with a suitable mix of house sizes. The design considerations are to be addressed at reserved matters stage, but it is clear that given the setting proper consideration and justification in the design and access statement will need to be given to this aspect.
- 6.9 Amongst objections raised were the question of sewage capacity, Welsh Water have raised no objection and splitting the scheme to avoid S106 contributions. This scheme and the previously approved five, still do not breach the threshold of 11 for such contributions. The consideration of Titley as a sustainable location has already been considered as part of the Core Strategy process.
- 6.10 It therefore remains to be considered whether the presumption in favour of sustainable development is outweighed by other material considerations. On this occasion it is considered that the highway safety concerns do outweigh that presumption and the application is recommended for refusal.

RECOMMENDATION

That Outline planning permission be refused for the following reasons

1. **The required visibility splays cannot be achieved at the current design speed of 60mph at the access as well as onto the B4355 road. Visibility required at the access according to Manual For Streets requires 2.4 x 63m this is not achievable in both directions nor within total ownership of the applicant. Consequently the proposal is considered to be detrimental to the interests of highway safety, contrary to policy MT1 of the Herefordshire Local Plan - Core strategy.**

Informative

- 1 **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations by identifying matters of concern with the proposal and discussing those**

with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal – which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

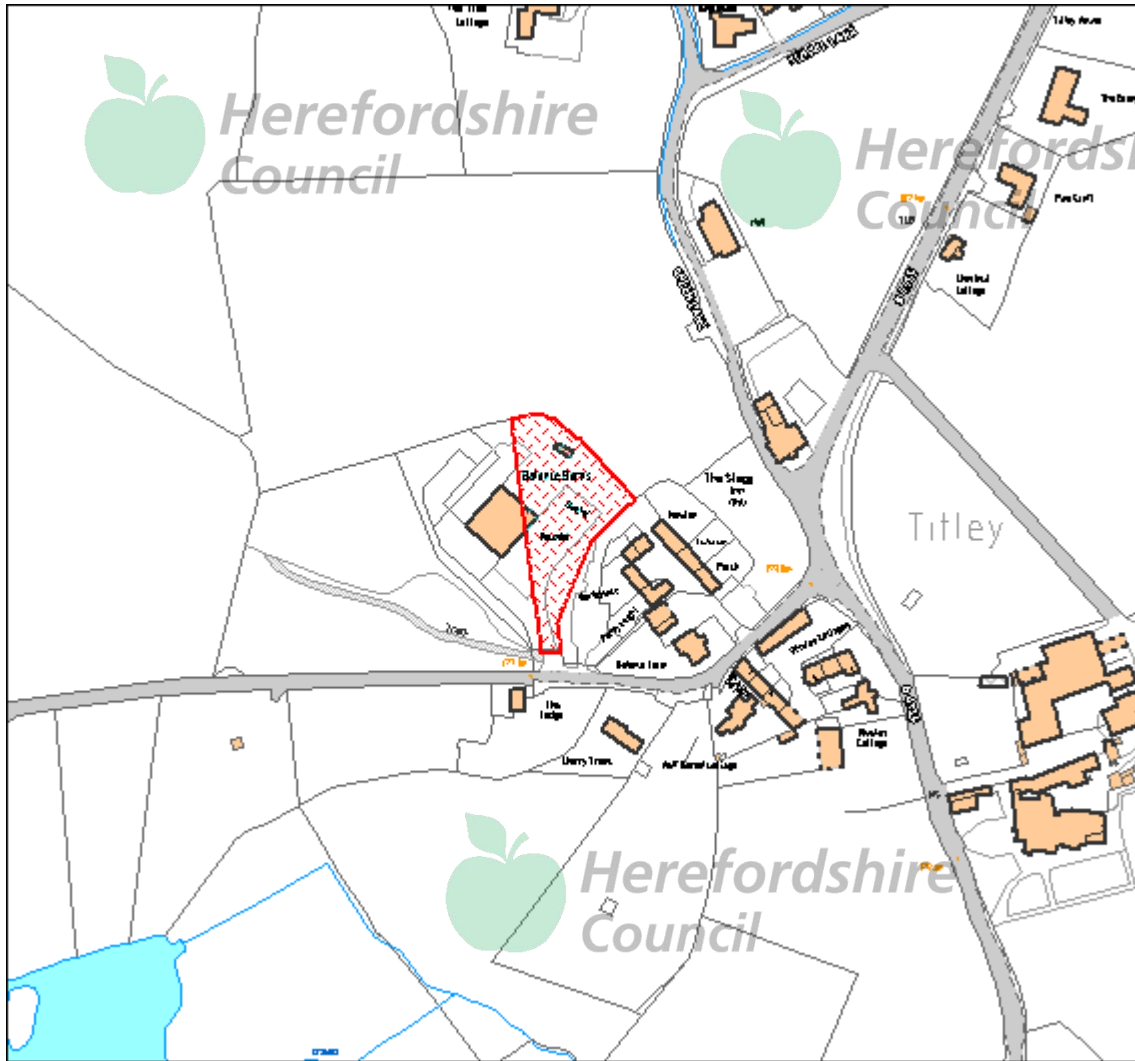
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 162824

SITE ADDRESS : LAND AT BALANCE FARM, EYWOOD LANE, TITLEY, KINGTON, HEREFORDSHIRE, HR5 3RU

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