

# AGENDA

## Planning Committee

Date: **Wednesday 18 January 2017**

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Time: **10.00 am**

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

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

For any further information please contact:

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

# Agenda for the meeting of the Planning Committee

## Membership

|                      |                                   |
|----------------------|-----------------------------------|
| <b>Chairman</b>      | <b>Councillor PGH Cutter</b>      |
| <b>Vice-Chairman</b> | <b>Councillor J Hardwick</b>      |
|                      | <b>Councillor BA Baker</b>        |
|                      | <b>Councillor CR Butler</b>       |
|                      | <b>Councillor PJ Edwards</b>      |
|                      | <b>Councillor DW Greenow</b>      |
|                      | <b>Councillor KS Guthrie</b>      |
|                      | <b>Councillor EL Holton</b>       |
|                      | <b>Councillor JA Hyde</b>         |
|                      | <b>Councillor TM James</b>        |
|                      | <b>Councillor FM Norman</b>       |
|                      | <b>Councillor AJW Powers</b>      |
|                      | <b>Councillor A Seldon</b>        |
|                      | <b>Councillor WC Skelton</b>      |
|                      | <b>Councillor D Summers</b>       |
|                      | <b>Councillor EJ Swinglehurst</b> |
|                      | <b>Councillor LC Tawn</b>         |

## AGENDA

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| 1.  | <p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>  |         |
| 2.  | <p><b>NAMED SUBSTITUTES (IF ANY)</b></p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>   |         |
| 3.  | <p><b>DECLARATIONS OF INTEREST</b></p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>   |         |
| 4.  | <p><b>MINUTES</b></p> <p>To approve and sign the Minutes of the meeting held on 7 December 2016.</p>  | 7 - 24  |
| 5.  | <p><b>CHAIRMAN'S ANNOUNCEMENTS</b></p> <p>To receive any announcements from the Chairman.</p>   |         |
| 6.  | <p><b>APPEALS</b></p> <p>To be noted.</p>   | 25 - 30 |
| 7.  | <p><b>162166 - LAND TO THE SOUTH OF MARTINDALE, KINGSLAND, HEREFORDSHIRE.</b></p> <p>Outline planning application for residential development and associated works.</p>   | 31 - 50 |
| 8.  | <p><b>130945 - LAND AT, TUMP LANE, MUCH BIRCH, HEREFORD, HR2 8HW</b></p> <p>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.</p>                           | 51 - 68 |
| 9.  | <p><b>160238 - LAND AT OAK TREE VIEW, BEGGARS ASH LANE, WELLINGTON HEATH, HEREFORDSHIRE, HR8 1LN</b></p> <p>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.</p> | 69 - 80 |
| 10. | <p><b>DATE OF NEXT MEETING</b></p> <p>Date of next site inspection – 31 January 2017<br/>Date of next meeting – 1 February 2017</p>   |         |



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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 7 December 2016 at 10.00 am**

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

Councillors: BA Baker, CR Butler, PJ Edwards, DW Greenow, EL Holton, TM James, FM Norman, GJ Powell, AJW Powers, A Seldon, NE Shaw, WC Skelton, D Summers, EJ Swinglehurst and LC Tawn

**In attendance:** Councillors WLS Bowen, MJK Cooper and BA Durkin

**79. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors KS Guthrie and JA Hyde.

**80. NAMED SUBSTITUTES**

Councillor GJ Powell substituted for Councillor JA Hyde and Councillor NE Shaw for Councillor KS Guthrie.

**81. DECLARATIONS OF INTEREST**

**Agenda item 9 – 161859 – Land West of Larksmead, Brampton Abbots, Ross-on-Wye**

Councillors PGH Cutter, BA Durkin, J Hardwick, and EJ Swinglehurst declared non-pecuniary interests as members of the Wye Valley AONB Joint Advisory Committee.

**82. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 2 November 2016 be approved as a correct record and signed by the Chairman.

**83. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman received the Committee's assent to variations to the order of the agenda.

*(The agenda items were discussed in the following order: 151983 – Rogers Farm, Bush Bank, Hereford; 161522 – Land at Yarpole, Leominster; 161627 – Plot 7 Land at Yarpole, Leominster; 151584 – land adjacent to Brick House, Luston; 161859 – land west of larksmead, Brampton Abbots; and 162283 – Records Office, Harold St, Hereford.)*

**84. APPEALS**

The Planning Committee noted the report.

Councillor DW Greenow requested that thanks to Mr E Thomas, Principal Planning Officer, should be recorded on behalf of himself as local ward member and Bartestree and Lugwardine Group Parish Council for Mr Thomas's work on a recent appeal.

**85. 151983 - ROGERS FARM, BUSH BANK, HEREFORD, HR4 8EP**

*(Proposed erection of two poultry buildings, new access and conversion of building to house biomass boiler.)*

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mrs A Pendleton, of Birley with Upper Hill Parish Council spoke in opposition to the Scheme. Mrs Pritchatt, a local resident neighbouring the development, spoke in objection. Mr G Clark, the applicant's agent, spoke in support.

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

He commented that there were a number of issues for the Committee to consider: the scale of the development, its proximity to a neighbouring development, drainage, access and odour. He welcomed the fact that a peer review of the odour assessment undertaken on behalf of the applicants had been carried out. He also observed that the applicant had done much to address issues that had been identified. He thanked the Parish Council and Mrs Pritchatt for their comments on the application.

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

**In support of the application**

- It was stated that the proposed development was close to an A road and to the processing plant. The proposal was to be cut into the hill and did not have an adverse landscape impact.

**In objection to the application**

- A number of concerns were expressed about the Environment Agency's capacity to ensure that the conditions in the Environmental Permit were adhered to. It was noted that paragraph 122 of the National Planning Policy Framework stated that local planning authorities should assume that pollution control regimes, such as the Agency, would operate effectively.
- A concern was expressed about highway safety. It was observed that the speed limit on that stretch of road was often ignored and, whilst classified as an A road, the character of the A4110 was more like a B road at several points. Large vehicles removing waste and water would present problems.
- Such developments did create noise, dust, pests, traffic and odour to the detriment of neighbours. The problems were intensified during the cleaning out process.
- Whilst manure from such developments might be considered a valuable crop fertiliser, it was also a major contributor to pollution of the county's water courses. Pollution levels were prohibiting housing development in some locations.
- It was asked whether the dust from the farming operation could be washed into river courses by rain.



- The impact on the amenity of Yew Tree Cottage and Micklegarth was of particular concern. The proposal appeared contrary to policy SS6 noting the reference to conserving and enhancing assets, local amenity, air quality and tranquillity
- The EA had stated that the application had no effect on the Special Area of Conservation. It was asked if they had done some baseline testing.

In response to questions officers replied as follows:

- The Principal Planning Officer (PPO) confirmed that paragraph 122 of the NPPF stated that local planning authorities should assume that pollution control regimes, such as the Agency, would operate effectively. The Agency had informed him that they had the power to revoke environmental permits in the event of non-compliance but the usual practice was to seek to solve the problem through discussion.
- In relation to the manure management plan and a concern as to whether this was sound given that manure would be disposed of on land outside the applicant's ownership, seemingly contravening the requirement at paragraph 4.6 of the report, the PPO noted that a permit had been granted.
- The report referred to an average crop cycle of 33-37 days. However, the farming press was now suggesting that a 19 day crop cycle would be feasible. This would have implications for the proposed development. In reply officers observed that the Committee had to consider the application before it. A condition could be added to regulate the crop cycles.
- In response to a suggestion that the 40mph speed limit be extended the PPO commented that this was not within the Committee's gift.
- It was not known whether the development would bring additional jobs.
- The Environmental Health Officer confirmed that the odour modelling had taken account of the clear out process. The Environment Agency's benchmark for moderately offensive odours was a 98<sup>th</sup> percentile hourly mean of 3.0ou<sub>E</sub>/m<sup>3</sup> over a one year period. This meant that there was the potential for that level to be exceeded for 2% of that period.
- Asked whether the possibility of locating the units further from the two dwellings nearby had been considered the PPO commented that the location had been assessed as part of the environmental impact assessment. It had been determined that locating the development with the existing farm complex minimised landscape impacts.
- It was not considered that the increase in traffic using a well-established access represented a ground for refusal.

The Lead Development Manager commented that the peer review of the applicant's odour assessment and the independent odour assessment had indicated odour levels would be lower than those stated in the applicant's own assessment. The Transportation Manager considered that the capacity of the road to take the additional traffic was acceptable. Many other issues raised in the debate were regulated by the Environment Agency. The NPPF stated that the Council must assume that their arrangements would operate effectively. A planning inspector, as in the recent application at Moreton-on-Lugg, would say that there was no case for refusal of the application.

The local ward member was given the opportunity to close the debate. He highlighted the need to give appropriate weight to concerns about odour and the impact on neighbouring property and requested that the application be considered on its own merits.

A motion that the application be approved with an additional condition regulating crop cycles was lost.

It was proposed that the application should be refused having regard to the following policies; SS1, SS5, SS6, SD1 and MT1, relevant NPPF paragraphs and related policies on waste management.

The Lead Development Manager commented that he required further reasoning and evidence to be advanced for refusal to enable the council to defend an appeal and the potential for costs to be awarded against the council.

*(The meeting adjourned between 11.35 and 11.56)*

The following principal reasons for refusal were advanced: ability to control the disposal of waste on land outside the applicant's ownership, the potential for odour levels to exceed the Environment Agency's benchmark levels for 2% of the time with consequential adverse effect on residential amenity and, in that context, concern about the potential for the frequency of the crop cycle to be increased.

The Lead Development Manager commented that he considered that the reasons would be difficult to defend at an appeal and there was a risk that costs would be awarded against the council.

**RESOLVED: That planning permission be refused and officers named in the Scheme of Delegation to Officers be authorised to finalise the drafting of the reasons for refusal for publication based on the Committee's concerns about the ability to control the disposal of waste on land outside the applicant's ownership, the potential for odour levels to exceed the Environment Agency's benchmark levels for 2% of the time with consequential adverse effect on residential amenity and, in that context, concern about the potential for the frequency of the crop cycle to be increased and the view that the proposal was therefore contrary to policies; SS1, SS5, SS6, SD1 and MT1, relevant NPPF paragraphs and related policies on waste management.**

**86. 162283 - RECORDS OFFICE, HAROLD STREET, HEREFORD, HEREFORDSHIRE, HR1 2QX**

*(Demolish existing building and construct a new boarding house to accommodate 49 pupils, nurse bedroom, houseparent accommodation, house tutors flat and overnight staff room.)*

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr T Taylor, of Bartonsham History Group, spoke in objection to the application. Mr P Smith, the Headmaster of Hereford Cathedral School, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor LC Tawn, spoke on the application. He commented that he recognised the significant contribution Hereford Cathedral School made to the County. However, he could not support the application. The pre-planning advice had been that the existing militia barracks should be retained, not demolished as proposed. The considerations were set

out fully in the report. There were several objections to the proposal including some from local history groups and these represented the concerns of a strong local community. He considered the application should be refused for the reasons set out in the report.

In the Committee's discussion of the application Members expressed support for the contribution made to the county by the school and its ambitions but considered that the existing building was of importance to the County and should be retained.

The local ward member was given the opportunity to close the debate. He agreed with comments expressed in opposition to the scheme.

**RESOLVED: That planning permission be refused for the following reasons:**

- 1. The development would result in the total loss of the former Hereford Militia Barracks; a non-designated heritage asset of significant local interest. Having regard to the balanced judgement set down at NPPF paragraph 135, which includes consideration of the scale of loss and significance of the asset, the Local Planning Authority concludes that proposal is contrary to Herefordshire Local Plan – Core Strategy Policies LD4 and SD1 and guidance set out in Chapter 12 of the NPPF. The development proposals would fail to fulfil the environmental and social roles of sustainable development and are not held, therefore, to represent sustainable development.**
  
- 2. The development would result in the construction of a 3-storey building of an appearance, scale and massing that would appear stark and discordant in the local context. The Local Planning Authority does not consider that the scheme demonstrates that the character of the surrounding townscape has positively influenced the design and scale of the development proposal. Accordingly the scheme is held contrary to Herefordshire Local Plan – Core Strategy Policies LD1 and SD1 and guidance set out in the NPPF; which confirms that poor design, which fails to take the opportunities available for improving the character and quality of an area, should be refused. The development proposal is not, therefore, considered to fulfil the social and environmental roles of sustainable development and does not, therefore, represent sustainable development.**

**Having regard to Reasons for Refusal 1 and 2, and the approach to decision-making prescribed by Herefordshire Local Plan – Core Strategy SS1 and NPPF paragraph 14, the harm arising in the environmental and social dimensions significantly and demonstrably outweighs the benefits of the scheme. The Local Planning Authority concludes that the proposed development is not sustainable development and should be refused accordingly.**

- 3 In the absence of full activity surveys, the presence or otherwise of European Protected Species cannot be determined at this stage. Accordingly, the Council cannot be satisfied that the scheme would protect nature conservation sites and habitats in the terms set out at Herefordshire Local Plan – Core Strategy LD2 and the NPPF at paragraph 118. European protected species are afforded the highest level of protection by the planning system and in the circumstances; the potential impacts mean that the scheme is not representative of sustainable development.**

## 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 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.**

### 87.     **161859 - LAND WEST OF LARKSMEAD, BRAMPTON ABBOTTS, ROSS-ON-WYE, HR9 7JE**

*(Proposed residential dwelling.)*

The Development Manager gave a presentation on the application. He highlighted that although there had been discussions about revising the siting of the proposed dwelling these had not led to any change and the application before the Committee was identical to the application it had refused in October 2015.

Since the publication of the report 2 further letters of support had been received.

A counsel's opinion had also been obtained by an objector. In summary this argued for the weight that should be given to the Committee's previous decision and the importance of consistency in decision making.

The Development Manager reminded the Committee of the grounds on which it had refused the previous, identical, application and that that decision was an important material consideration. However, he added that since that consideration there had been two material changes. The Council did not have a five year housing land supply as it had had at the time of the previous application. This meant that development proposals that accorded with the development plan should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits,

In addition the Wye Valley AONB Partnership Manager had this time submitted comments and had expressed no objection to the application.

In accordance with the criteria for public speaking, Mrs E Malcolm, Acting Clerk to Brampton Abbots and Foy Parish Council spoke in opposition to the Scheme. Mr D Teague, a local resident, spoke in objection. Ms V Simpson, the applicant's agent, spoke in support.

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

He made the following principal comments:

- The application was identical to the one refused by the Committee in October 2015. The applicant had not appealed against that decision. Consistency of decision making was important.
- The proposal had a ridge height of 6.5 metres, was on a plateau on a hill overlooking Ross-on-Wye. It was in the AONB and weight should be given to paragraph 115 of the National Planning Policy Framework.

- Development proposals in the Parish were sufficient to meet the indicative target for housing growth.
- The design was not of appropriate quality.
- He also expressed reservations about the redirection process and the fact that although the first application had been refused by the Committee it had originally been intended to approve the second, identical, application using delegated powers.

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

- The application was on an exposed site and represented inappropriate development within the AONB. It did not conserve and enhance the landscape as required by policy LD1.
- It was questioned what weight could be given to the contribution one dwelling made to the five year housing land supply balanced against the adverse impact on the AONB. A view was expressed that the adverse impact on the AONB outweighed the contribution to the five year housing land supply.
- In response to questions about the five year housing land supply the Lead Development Manager commented that the supply in October 2015 had been calculated at 5.01 years. The current calculation was 4.29 years. The calculation would be reviewed in April/May prior to the production of the annual monitoring report.

The Chairman undertook to establish whether more regular updates of the housing land supply figure could be supplied to the Committee.

- A number of members expressed the view that it should be easier to secure a redirection and had reservations about the possibility of an application refused by the Committee subsequently being granted approval under delegated powers. The Chairman explained the process under the current constitution. It was noted that Council was to consider the Constitution on 16 December 2016.

The Lead Development Manager commented that the Committee needed to weigh the harm to the AONB against the benefits of the development.

The local ward member was given the opportunity to close the debate. He reiterated his opposition to the scheme and that weight should be given to the adverse impact on the AONB.

**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, after consultation with the Chairman and local ward member, based on the Committee's grounds for refusing the previous application: that the proposal was contrary to policies LD1, SD1 and the National Planning Policy Framework**

*(The meeting adjourned between 14.35 and 14.45.)*

**88. 161522 - LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA**

*(Proposed 6 no. detached dwellings and 4 no. Garages.)*

Consideration of this application had been deferred by the Committee on 2 November.

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

He added that the Transportation Manager had reviewed a traffic speed survey commissioned by the Parish Council and had recommended refusal of the application on the grounds that the proposal would present significant harm to highway safety. Accordingly the Development Manager wished to change his recommendation to one of refusal on highway safety grounds having regard to policies MT1 and SS1.

In accordance with the criteria for public speaking, Mrs B Nurse, of Yarpole Group Parish Council spoke in opposition to the Scheme. Mr B Barnett, a local resident, also spoke in objection.

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

He commented that he remained of the view that the proposal had a number of aspects of concern, including emergency access in the event of flooding, Welsh Water's recent confirmation that the local wastewater treatment works could not accommodate any new development until improvements were carried out and that the proposal was outside the settlement boundary. However, the principal concern, that of highway safety had now been recognised and the application should be refused in accordance with the revised officer recommendation.

In response to questions as to whether anything could be done to mitigate the highway safety concerns and about the robustness of the evidence provided by the Parish Council the Lead Development Manager commented that the matter had been examined. Whilst the Inspector had concluded in an appeal on an earlier application that there was no evidence before her that the proposal would have had an unacceptable impact in terms of highway safety, the new evidence provided to the Committee demonstrated that there was a clear and severe highway safety issue.

In relation to sewerage, if the scheme were to be approved a Grampian condition could be applied so that any development could not proceed until such time as appropriate infrastructure had been provided. The Development Manager added that Welsh Water had always acknowledged that new development could not be accommodated without increased water treatment capacity and this was provided for in their plans.

The local ward member was given the opportunity to close the debate. He reiterated his opposition to the scheme.

**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 represented a significant and demonstrable harm to highway safety.**

**89. 161627 - PLOT 7 LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA**

*(Proposed dwelling and garage.)*

Consideration of this application had been deferred by the Committee on 2 November.

The Development Manager commented that as the site adjoined the site of application 161522 the subject of the previous agenda item, most of the same considerations applied. There was now an objection to the application on highway safety grounds. In addition, following the refusal of application 161522, the proposal now represented development in the open countryside and was contrary to policy RA3.

In accordance with the Council's Constitution, the local ward member, Councillor WLS Bowen spoke on the application. He confirmed his opposition to the scheme on highway safety grounds and that the application was now contrary to policy RA3.

**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 represented a significant and demonstrable harm to highway safety and was contrary to policy RA3.**

**90. 151584 - LAND ADJACENT TO BRICK HOUSE, LUSTON, HEREFORDSHIRE, HR6 0EB**

*(Proposed residential development for three detached and four semi-detached dwellings with modified vehicle access to B4361.)*

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr G Thompson of Luston Group Parish Council spoke in opposition to the Scheme. Mr D Baume, 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 expressed regret that the proposal represented backland development. The Parish Council had been proactive in identifying preferred development sites. It supported the development of the site in principle but considered that a development of up to a maximum of 5 houses would be acceptable. He also expressed concerns about surface water run off into the brook at Luston and the risk of flooding, suggesting that if the application were to be approved consideration should be given to an attenuation pond, and the inclusion of a Grampian condition to ensure that the sewerage system was adequate. In addition vehicles associated with the construction should be required to park on site.

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

- The principle of development was accepted by the Parish Council and the density a 17 per hectare was within the Council's parameters.
- The type of backland development proposed eroded the character of the village.
- Flooding of the brook at Luston was a serious issue and consideration should be given to rainwater harvesting and a wet drainage system.
- The development was urban style development in a rural village and a development of 7 houses was too big. A development of five houses of appropriate style would be more appropriate. The proposal would not conserve and enhance the character of the settlement, it would harm it.
- Developers should have regard to the views of Parish Councils. A development of five houses would be more appropriate.
- The proposal was in a conservation area, but the Conservation Manager (Historic buildings) had commented that the proposed development would have a neutral effect.
- It was questioned whether the proposal met the criteria of policy RA2.

The Lead Development Manager commented that officers had secured a reduction in the proposed development from the 14 dwellings originally proposed. He considered a development of 7 houses to be acceptable. Condition 18 required water conservation and efficiency measures and other conditions controlled surface water run off. The proposal represented organic growth and complied with policy RA2.

The local ward member was given the opportunity to close the debate. He reiterated his request for consideration to be given to an attenuation pond and his regret at the loss of green space.

**RESOLVED: That planning permission be granted subject to the following conditions and any other conditions recommended by officers:**

1. **A01 Time limit for commencement (full permission)**
- 2 **B02 Development in accordance with the approved plans**
- 3 **C01 Samples of external materials**
- 4 **F14 Removal of permitted development rights**
- 5 **F16 No new windows in specified elevations**
- 6 **G02 Retention of trees and hedgerows**
- 7 **G10 Landscaping scheme**
- 8 **G11 Landscaping scheme implementation**
- 9 **The recommendations set out in the ecologist's report from Worsfield and Bowen dated September 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

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

**Reasons:**

**To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policy LD2 of Herefordshire Local Plan – Core Strategy**

**To comply with Herefordshire Council's Policy LD2 of Herefordshire Local Plan – Core Strategy in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006**

- 10 **H03 Visibility splays**
- 11 **H11 Parking – estate development (more than one house)**
- 12 **H21 Wheel washing**



- 13 121 Scheme of surface water regulation
- 14 116 Restriction of hours during construction
- 15 L01 Foul/surface water drainage
- 16 L02 No surface water to connect to public system
- 17 L03 No drainage run-off to public system
- 18 Prior to the first occupation of any of the residential development hereby permitted written evidence / certification demonstrating that water conservation and efficiency measures to achieve the 'Housing – Optional Technical Standards – Water efficiency standards' (i.e. currently a maximum of 110 litres per person per day) for water consumption as a minimum have been installed / implemented shall be submitted to the Local Planning Authority for their written approval. The development shall not be first occupied until the Local Planning Authority have confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation. Thereafter those water conservation and efficiency measures shall be maintained for the lifetime of the development;

Reason: To ensure water conservation and efficiency measures are secured, in accordance with policy SD3 (6) of the Herefordshire Local Plan Core Strategy 2011-2031

#### **INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework
2. The applicant needs to provide the following information in relation to Condition 13 above :
  - A detailed surface water drainage design, including drainage layout drawings and demonstrating how discharges from the site are restricted to no greater than pre-developed rates.
  - A detailed foul water drainage design, showing the location of the connection into the mains sewer.
  - Evidence of groundwater levels a minimum of 1m below the base of any infiltration devices and/or unlined attenuation structures.
  - Details of provisions to protect the site against flooding during extreme events that may overwhelm the surface water drainage system and/or a result of blockage.
  - Details of any outfall structures to Luston Brook.
  - Confirmation of who will be responsible for the adoption and maintenance of the surface water drainage system.

#### **91. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**Appendix 1 - Schedule of Updates**

The meeting ended at 3.15 pm

**CHAIRMAN**

## **PLANNING COMMITTEE**

**Date: 7 December 2016**

### **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

**161859 - PROPOSED RESIDENTIAL DWELLING AT LAND WEST OF LARKSMEAD, BRAMPTON ABBOTTS, ROSS-ON-WYE, HR9 7JE**

**For: Mr Fraser per Mr David Kirk, 100 Chase Road, Ross-On-Wye, Herefordshire, HR9 5JH**

### ADDITIONAL REPRESENTATIONS

Three further letters of support, all from residents of Brampton Abbots, have been received. Comments are summarised as –

- agree with the recommendation of the Officer Report to grant permission
- The building is an excellent example of what can be achieved with forethought and sympathetic design
- The proposal can only benefit the village and its environs.

### NO CHANGE TO RECOMMENDATION

**161522 - PROPOSED 6 NO. DETACHED DWELLINGS AND 4 NO. GARAGES AT LAND AT YARPOLE, LEOMINSTER, HEREFORDSHIRE, HR6 0BA**

**For: Mr F Price per John Needham Associates, 22 Broad Street, Ludlow, Shropshire, SY8 1NG**

### ADDITIONAL REPRESENTATIONS

The Parish Council has submitted a traffic speed survey. An explanation/comment on this data received 5/12/16 is awaited from the Transportation Manager.

The following letter was also received from the Parish Council dated 5/12/16

I write with regard to John Needham's letter to you of 8th November, which is published on the planning portal for 161522 application site, Yarpole HR6.

This application will be decided upon at council on Wednesday 7th December. I would be very grateful if you would make the planning committee aware of our below comments regarding the points Mr Needham makes in his letter. I would also be grateful if you would publish this letter on the portal alongside Mr Needham's letter.

Mr Needham's comments:

1. Highway safety.

While it is the case that the inspector concludes there is no conflict with policy MT1 of the Core Strategy, it is also true that the inspector, having visited the site, does express some reservations as to safety issues and the thoroughness of speed survey reporting. It is on that basis that the PC has commissioned its own survey from Balfour Beatty, and will present its

findings to the council on Wednesday. The Parish Council therefore supports Councillor Bowen's comments to the council.

## 2. Foul drainage:

Welsh Water has raised an objection to future connection of new housing to the WwTW and connection to public sewage networks, although the inspector will not have seen it. This came to the Parish Council by way of response to our Reg 14 NDP consultation, on 20th July 2016, from Ryan Norman, Forward Plans Officer at Welsh Water:

*Dear Sir/Madam,*

*REGULATION 14 PUBLIC CONSULTATION ON YARPOLE GROUP PARISH NEIGHBOURHOOD DEVELOPMENT PLAN – JULY 2016 I refer to your email dated the 9th June 2016 regarding the above consultation.*

*Dŵr Cymru Welsh Water (DCWW) appreciates the opportunity to respond and we offer the following representation: Given that the Yarpole Group NDP has been prepared in accordance with the Adopted Herefordshire Local Plan Core Strategy (CS), DCWW are supportive of the aims, objectives and policies set out. We are pleased to note the reference towards the provision of sustainable drainage systems in new development under Policy YG15: Sustainable Design, and also welcome the inclusion of Policy YG13: Treatment of foul water in Yarpole. I can confirm that the Luston and Yarpole Wastewater Treatment Works (WwTW) is currently overloaded, and that until such a time that the improvement scheme is undertaken (it is programmed for completion by the end of our current Asset Management Plan 6 – 2015-2020) it cannot accommodate any new development. On completion of the improvements, there will be no issue in accommodating all of the growth proposed in Yarpole over the NDP period. With regard to providing a supply of clean water or connecting to the public sewerage network for the specific housing allocations YG9 (Croft Crescent) and YG10 (Brook House and adjacent land), as well as the dwellings to be delivered under Policy YG8 (small sites), there are no issues though some level of off-site water mains/public sewers may be required in order to connect to the existing networks. As you will be aware, DCWW do not provide public sewerage to the settlement of Bircher. With regard to Policy YG3 and Policy YG4, there are no issues in providing a supply of clean water though some level of offsite water mains may be required. We hope that the above information will assist as the NDP progresses. In the meantime, should you require any further information please do not hesitate to contact us at [Forward.Plans@dwcymru.com](mailto:Forward.Plans@dwcymru.com) or via telephone on 0800 917 2652.*

*Yours faithfully,*

## 3. Landscaping:

In the original application it is stated that there is no need to alter vegetation around the access, and the inspector states that this matter can be dealt with by condition. None of the existing significant planting on the site needs to be disturbed as a result of the proposal. This is fine with the Parish Council, but we do note that on 4th November 2016, two days after the decision was deferred and the planning committee decided to organise a site visit, the applicant went down to the site and removed trees and vegetation from around the proposed site access, without applying for relevant permissions.

## 4. Public Footpath:

As far as we can tell the inspector did not disagree with Cllr Bowen or the PC with regard to need to divert the current footpath. The footpath will need to be diverted. So far the applicant has simply relocated the footpath on his plans, there has been no formal application made to Herefordshire for a diversion, and this will need to be forthcoming. Indeed in the PDA it is stated that if planning permission is granted an application will be made. The inspector says (9):

*The planning application form suggests that there would be no interference with a public right of way. However, public footpath No YP6 passes diagonally across the appeal site, heading north-eastward from the western end of the road frontage, before turning north as it*

heads up to Pound House. Although the submitted layout allows for a route through the development proposed, the footpath would not be retained on the definitive alignment. Were the appeal to succeed, any permission could not be implemented unless and until a successful application for diversion of the footpath had been made. Should such an application be unsuccessful, that would have implications for implementation of the appeal scheme. I have, however, made my decision based only on the planning merits of the case.

#### 5. Design:

Mr Needham faults Cllr Bowen for stating that the inspector referred to the design of the scheme as suburban. But in her report the inspector states (25):

*Firstly, it is not clear what has informed the eastern site boundary, which appears to follow an arbitrary stepped line across the open field. That to one side, I consider the cul-de-sac layout proposed, with each pair of dwellings sitting side by side separated by detached garages or parking spaces to be suburban in nature. There is nothing of the more rural, organic feel to the layout that characterises the group of dwellings opposite, which has more of a feel of being arranged around a courtyard. In my view, the layout proposed would present an unexpected and uncharacteristic suburban edge to this rural village and would result in harm to the established rural character and appearance of the area. In this regard, there would be conflict with Core Strategy policies SS6 and SD1, which together and among other things seek to Appeal Decision APP/W1850/W/16/3141786 7 ensure that new development is well integrated, taking into account local context and site characteristics in order to promote local distinctiveness.*

#### 6. Neighbourhood Plan:

Mr Needham did meet with me (Parish Clerk) and two members of the NDP Steering Group. The meeting was to try to find common ground concerning two sites that were brought forward under the Parish Council's NDP 'Call for Sites' in spring 2015, to see if further consultation could affect any changes to the design & layout of both sites, to meet the NDP criteria and allow the PC to support the two applications. One of these sites is just north of the historic centre of the village, and the other is further up, on the far side of the mid 20th century bungalow development off Green Lane. Unfortunately it was made plain to the PC that there would be no further consultation. Both sites have since been granted planning permission. But the site being dealt with here, at the bottom of the village, was not discussed at all as it was not brought forward in the NDP Call for Sites. So Cllr Bowen is correct in saying that there was no willingness to consult with the parish on this application (or the others).

The Parish Council supports Councillor Bowen in his representations to council on 2nd November and thanks him for his support in questioning the suitability of this application. The Parish Council also questions Mr Needham's continued assertion that costs were awarded to his client on each specific point he raises. Our understanding is that the inspector awarded costs against planning process with regard to some of these points, rather than against the points themselves.

The Parish Council's objections to this application continue to be based on issues of design and layout, flooding & emergency access, mains water/drainage connection, and highways safety. We would not seek to criticise the inspector's decisions in the report, or the work of the council, planning department or individual lay parishioners or councillors, and rather object to the tone of this letter, which, rather than seeking to commend the applications own merits, sets out instead to undermine the considered thoughts and processes of all these bodies.

**OFFICER COMMENTS**

The revised comments of the Transportation Manager are awaited following review of the recent speed survey.

**CHANGE TO RECOMMENDATION**

No change at present





|                         |                           |
|-------------------------|---------------------------|
| <b>MEETING:</b>         | <b>PLANNING COMMITTEE</b> |
| <b>DATE:</b>            | <b>18 JANUARY 2017</b>    |
| <b>TITLE OF REPORT:</b> | <b>APPEALS</b>            |

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**CLASSIFICATION:** Open

## Wards Affected

Countywide

## Purpose

To note the progress in respect of the following appeals.

## Key Decision

This is not an executive decision

## Recommendation

That the report be noted.

## APPEALS RECEIVED

### Application 160305

- The appeal was received on 25 November 2016
- 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 Jon Tainton
- The site is located at Woods Transport Yard, Linley Green, Bringsty, Worcestershire
- The development proposed is Development of five 5-bed dwellings with double garages and associated change of use
- The appeal is to be heard by Hearing

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

### Application 160577

- The appeal was received on 29 November 2016
- 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 Peter Smith
- The site is located at Land at Dorefield House, Crossways, Peterchurch, Herefordshire
- The development proposed is Erection of one dwelling and garage.
- The appeal is to be heard by Written Representations

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

**Application 152122**

- The appeal was received on 30 November 2016
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Non determination
- The appeal is brought by Johnson Brothers & Co Ltd
- The site is located at Land adjacent to Wood House Farm, Edwyn Ralph, Hereford, Herefordshire
- The development proposed is Five dwellings and garages
- The appeal is to be heard by Written Representations

**Case Officer: Mr Andrew Prior on 01432 261932**

**Application 161388**

- The appeal was received on 5 December 2016
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission (Householder)
- The appeal is brought by Mr E Widgery
- The site is located at 23 Winchester Avenue, Hereford, Herefordshire, HR1 1QJ
- The development proposed is Proposed extension
- The appeal is to be heard by Householder Procedure

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

**Application 162611**

- The appeal was received on 8 December 2016
- 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 Richard Adams
- The site is located at Old Chapel Cottage, Upper Grove Common, Sellack, Herefordshire
- The development proposed is Application for erection of single dwelling, garage and access arrangements.
- The appeal is to be heard by Written Representations

**Case Officer: Miss Emily Reed on 01432 383894**

**Application 162111**

- The appeal was received on 8 December 2016
- 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 R Cross
- The site is located at Stone House, Bromyard Road, Cradley, Malvern, Herefordshire, WR13 5JN
- The development proposed is Proposed detached dwelling and vehicle access.
- The appeal is to be heard by Written Representations

**Case Officer: Mrs G Webster on 01432 260139**

**Application 160353**

- The appeal was received on 8 December 2016
- 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 N Phillips
- The site is located at Land adjacent to The Firs, Paradise Green, Marden, Herefordshire
- The development proposed is Site for five detached four bedroom houses with garages, new road access, turning head, footpath links and section of private roadway.
- The appeal is to be heard by Written Representations

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

**Application 160450**

- The appeal was received on 14 December 2016
- 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 Braemer Property Developments Ltd & Parkroy Ltd
- The site is located at Land to the East of Brook Lane, North of B4220, Bosbury, Hereford
- The development proposed is Proposed residential development for up to 21 dwellings (of which 8 will be affordable)
- The appeal is to be heard by Hearing

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

**Application 161909**

- The appeal was received on 8 December 2016
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Non determination
- The appeal is brought by M G & G J Morgan
- The site is located at Bage Court, Scotland Bank, Dorstone, Hereford, Herefordshire, HR3 5SU
- The development proposed is Erection of an agricultural building for free range egg production with associated feed bins and hardstanding areas
- The appeal is to be heard by Written Representations

**Case Officer: Mr Roland Close on 01432 261803**

**Application 162629**

- The appeal was received on 15 December 2016
- 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 Hereford Oak Buildings Ltd
- The site is located at Land adjoining Crossways, Shirl Heath, Kingsland, Leominster, Herefordshire, HR6 9RF
- The development proposed is Proposed 6 no dwellings and 4 no garages.
- The appeal is to be heard by Written Representations

**Case Officer: Mr Andrew Prior on 01432 261932**

**Application 143252**

- The appeal was received on 15 December 2016
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission

- The appeal is brought by Mr & Mrs Glynne Schenke
- The site is located at Land adjoining Kingsleane, Kingsland, Leominster, Herefordshire
- The development proposed is proposed development of 12 nos. dwellings, consisting of 5 nos. affordable and 7 nos. open market. Works to include new road and landscaping.
- The appeal is to be heard by Written Representations

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

#### **Application 162117**

- The appeal was received on 21 December 2016
- 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 location at Losito Stud, Whitchurch, HR9 6EG
- The appeal is to be heard by Written Representations

**Case Officer: Mrs Charlotte Atkins on 01432 260536**

## ***APPEALS DETERMINED***

#### **Application 152219**

- The appeal was received on 7 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 Mavis Dyke
- The site is located at Land to the rear of The Laurels, Kingsland, Leominster, Herefordshire, HR6 9QS
- The development proposed was Outline application for a proposed bungalow (approval sought for all matters except landscaping).
  
- The main issue was:- the effect of the proposed development on the character and appearance of the Kingsland Conservation Area (KCA) and the setting of Holgate Farmhouse

#### **Decision:**

- The application was Refused under Delegated Powers on 18 February 2016
- The appeal was Dismissed on 30 November 2016
- 

**Case Officer: Mr Nick Hall on 01432 261808**

#### **Application 153581**

- The appeal was received on 24 August 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Lawful Certificate
- The appeal was brought by Wyldecrest Parks
- The site is located at Saltmarsh Castle Caravan Park, Tedstone Wafre, Bromyard, Herefordshire, HR7 4PN
- The development proposed was Certificate of lawfulness for use as a residential caravan park

**Decision:**

- The application was Refused under Delegated Powers on 28 June 2016
- The appeal was Withdrawn on 5 December 2016

**Case Officer: Mr Andrew Prior on 01432 261932**

**Application 153591**

- The appeal was received on 19 September 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Planning Conditions
- The appeal was brought by Mr M Yarnold
- The site is located at 17 Tower Hill, Bromyard, Herefordshire, HR7 4DF
- The development proposed was Proposed variation of condition 2 of planning permission P141725/F (Erection of a new dwelling including demolition of garage and small outbuilding) 2 no. additional windows to West elevation, 1 no. additional dormer window to North elevation and modifications to porch
- The main issue is the effect of retaining the development on the character and appearance of the Bromyard Conservation Area (BCA) and the setting of 17 Tower Hill, a grade II listed building.

**Decision:**

- The application was Refused under Delegated Powers on 16 June 2016
- The appeal was Allowed on 16 December 2016

**Case Officer: Mr Andrew Prior on 01432 261932**

**Application 160025**

- The appeal was received on 10 October 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 Roderick Warner
- The site is located at New House Farm, Glewstone Road, Glewstone, Ross on Wye, Herefordshire, HR9 6BA
- The development proposed was Proposed removal of conditions 3, 5 & 6 of planning permission S121614/F (conversion of redundant barn to a two storey holiday let accommodation) to allow use as a residential dwelling house (Use Class C3)
- The main issues were:
  - The effect of the proposal on Herefordshire's tourism industry in respect of provision for tourist accommodation;
  - The effect of the proposed use as a permanent dwelling house on the living conditions of the occupiers of New House Farm with regard to privacy, and whether it would provide acceptable living conditions for future occupiers of the building concerned, with regard to privacy and, in respect of the adjacent equine use, noise and disturbance, odour and safety.

**Decision:**

- The application was Refused under Delegated Powers on 21 March 2016
- The appeal was Dismissed on 21 December 2016

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

**Application 153213**

- The appeal was received on 10 October 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 R Phillips
- The site is located at Land adjoining New Mills, Ledbury, Herefordshire
- The development proposed was Proposed 4 nos. new dwellings.
- The main issues are the effect of the proposed development on:
  - i) the character and appearance of the surrounding area;
  - ii) the living conditions of the occupiers of New Mills in respect of noise, disturbance and light pollution associated with the parking and turning area for plot 4; and in respect of the provision of amenity space, for external storage facilities, and for car parking.

**Decision:**

- The application was Refused under Delegated Powers on 23 March 2016
- The appeal was Dismissed on 22 December 2016

**Case Officer: Mr Andrew Prior on 01432 261932**

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



|   |   |
|---|---|
| <b>MEETING:</b>   | <b>PLANNING COMMITTEE</b>   |
| <b>DATE:</b>  | <b>18 JANUARY 2017</b>  |
| <b>TITLE OF REPORT:</b>   | <b>162166 - OUTLINE PLANNING APPLICATION FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORKS. AT LAND TO THE SOUTH OF MARTINDALE, KINGSLAND, HEREFORDSHIRE.</b><br><br><b>For: Mr Richards per Mr Barrie Davies, Unit 9, Oak Tree Court, Cardiff Gate Business Park, Ca, CF23 8RS</b>                      |
| <b>WEBSITE LINK:</b>  | <a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162166&amp;search=162166">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162166&amp;search=162166</a> |
| <b>Reason Application submitted to Committee – Re-direction</b> |   |

**Date Received: 8 July 2016**

**Ward: Bircher**

**Grid Ref: 343592,262069**

**Expiry Date: 12 October 2016**

Local Member: Councillor WLS Bowen

## 1. Site Description and Proposal

- 1.1 The site amounts to approximately 0.5 hectares of land to the north west of Kingsland. It lies on the northern side of the A4110, close to its junction with the B4360 (North Road), is flat and roughly rectangular in shape. It is bounded to the south east by the residential curtilage of Westcroft and partly to the north east by Martindale; the remainder bounding agricultural land. The north western boundary is shared with the drive to two residential properties - Martindale and The Leys, and is also used as an access to a commercial premises: The Horse Boutique, and the south west with the A4110.
- 1.2 The land contains the remnants of a traditional orchard. At the time of the site visit, six trees remained. The orchard is surrounded on three sides by hedgerows; the fourth boundary (north west) is comprised of a post and rail fence.
- 1.3 The site itself has no specific national or local landscape designation, although traditional orchards are Habitats of Principal Importance (HPI). The Kingsland conservation area bounds immediately to the south east and a Grade II listed building; the monument to the battle of Mortimers Cross, is located at the junction of the B4360 / A4110.
- 1.4 The aerial photograph below shows the context of the site. It lies at the edge of the village where development begins to become more sporadic, opposed to the linear and more concentrated form along North Road. Luctonians Rugby Club is directly opposite with its car park and club house clearly visible from the A4110.

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



**Figure 1: Aerial photo of the site and immediate environs**

1.5 The application is made in outline with all matters apart from access reserved for future consideration, and is for residential development. The submission is made on the basis that the scheme will provide up to 10 dwellings. Accordingly the application is not required to be supported by a Heads of Terms Agreement. The following documents are included:

- Design & Access Statement
- Planning Statement
- Heritage Impact Assessment
- Transport Assessment & Highway Technical Note
- Extended Phase 1 Habitat Survey
- Drainage Strategy & Soakaway Test Results
- Landscape & Visual Appraisal
- Tree Survey
- Archaeological Desk Based Assessment

## **2. Policies**

### **2.1 Herefordshire Local Plan – Core Strategy**

|     |   |  |
|-----|---|--|
| SS1 | - | Presumption in Favour of Sustainable Development             |
| SS2 | - | Delivering New Homes   |
| SS3 | - | Releasing Land For Residential Development                   |
| SS4 | - | Movement and Transportation                                  |
| SS6 | - | Environmental Quality and Local Distinctiveness              |
| RA1 | - | Rural Housing Distribution                                   |
| RA2 | - | Herefordshire's Villages                                     |
| RA3 | - | Herefordshire's Countryside                                  |
| H1  | - | Affordable Housing – Thresholds and Targets                  |
| H3  | - | Ensuring an Appropriate Range and Mix of Housing             |
| OS1 | - | Requirement for Open Space, Sports and Recreation Facilities |



|     |   |  |
|-----|---|--|
| OS2 | - | Meeting Open Space, Sports and Recreation Needs                |
| MT1 | - | Traffic Management, Highway Safety and Promoting Active Travel |
| LD1 | - | Landscape and Townscape  |
| LD2 | - | Biodiversity and Geodiversity                                  |
| LD3 | - | Green Infrastructure   |
| SD1 | - | Sustainable Design and Energy Efficiency                       |
| SD3 | - | Sustainable Water Management and Water Resources               |
| ID1 | - | Infrastructure Delivery  |

## 2.2 National Planning Policy Framework

The following sections are of particular relevance:

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

## 2.3 Historic England - The Setting of Heritage Assets

## 2.4 Supplementary Planning Guidance

Supplementary Planning Document: Planning Obligations

## 2.5 Kingsland Neighbourhood Development Plan is now at Reg16 awaiting the examiners report – There have been objections to the housing policies contained within the plan and, whilst it is a material consideration, it can only be afforded limited weight.

## 2.6 Kingsland Parish Plan

## 2.7 The Herefordshire Local Plan 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 Applications on site:

77/0924, 78/0232 and 79/0488 - All made in outline for the erection of six dwellings and all refused for reasons relating to matters of highway safety and that the site was in a rural area where there was a presumption against further development at that time.

### 3.2 Applications on adjoining land:

89/0111 – Site for the erection of a detached 4 bed house – Refused for matters relating to highway safety and that the site was in a rural area where there was a presumption against further development at that time.

143387 – Erection of two bungalows – Refused as the proposal was considered to represent an unsustainable form of development in the open countryside and due to the fact that insufficient information had been provided in respect of highway matters. A second application; 150576 for the erection of a single dwelling on the same site, was refused for the same reasons.

## 4. Consultation Summary

### Statutory Consultations

- 4.1 Historic England - The application site lies adjacent to the Kingsland Conservation Area at the north-western edge of the settlement and within the setting of the Grade II listed monument at the road junction. This location is a key part of the route into and out of the conservation area, greatly characterised by elongated development addressing the roadside. If the principle of development here is accepted by the local authority then careful attention should be given to the density, scale, massing and design of any additions to this important historic setting and its subsequent contribution to the character and appearance of the conservation area.
- 4.2 Severn Trent – No objection subject to the imposition of conditions as follows:
1. The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority.
  2. The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

We advise that there may be a public sewer located within the application site and encourage the applicant to investigate this. Please note that public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. If there are sewers which will come into close proximity of the works, the applicant is advised to contact Severn Trent Water to discuss the proposals and we will seek to assist with obtaining a solution which protects both the public sewer and the building.

- 4.3 Welsh Water - We have reviewed the information submitted as part of this application with particular focus on the Drainage Strategy Report reference 16181 Rev 1 and the Soakaway Rest Results ref ADB/13754 dated 08/07/2016. Both of which demonstrate that surface water can be disposed via onsite infiltration.

### **Condition**

1. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

### Internal Council Consultations

- 4.4 Transportation Manager – Qualified comments recommending conditions

In relation to the original submission, comments as follows:

I visited site and am very much of the same opinion as the two previously rejected planning applications you refer to below.

- The proposed site ingress/egress does not meet the required visibility splays for the proposed visibility splays 2.4 x 120 ( referred to in the Design access statement/we would recommend 100m based on DMRB SSD) are not achievable with the layout supplied in this

application. complete removal of the hedge would be need to instigate and this is not shown in the application.

- There is also a verge height difference to road side level of approximately 0.5 m up to 0.9 m in places that isn't referred to in the application, further complicating the visibility.
- Drainage also appears to be a substantial issue.

In summary Highways would not support this application as it stands.

Following a site visit and discussions between the applicant's highway consultant and Council's highway engineer, further information has been submitted. Additional comments from the Transportation Manager are as follows:

A revised visibility splay drawing has been submitted and has allayed Highways concerns in relation to the Required SSD's under Manual for Streets. A footpath to the front of the site is another welcome addition and counteracts connectivity issues.

Highway capacity:- No issues foreseen on the network.

Accessibility by other modes of transport:- Connectivity to the village and public transport has been achieved by including a footpath in the proposal to the front of the proposed site.

Safety:- Available Accident Data indicates 2 serious and 1 slight accident in the vicinity over last 5 years. 1 serious 2015, 1 serious and 1 slight 2016, contradicting the transport statement supplied by the applicant dated July 2016, but not believed to impact on this proposal with the sites proposed visibility splays.

Speed limit:- 40mph

Required visibility splays in both directions 2.4m X120m in both directions

Design:- The resubmitted application with revised visibility splays and the inclusion of a footpath is welcomed by highways addressing our earlier comments

4.5 Conservation Manager (Archaeology) - No objection subject to condition. Comments as follows:

I note the submitted archaeological desk based assessment, provided by Border Archaeology.

As is indicated by this assessment, although there are no recorded heritage assets within the application site specifically, there are a number of assets closely adjacent that may be of relevance. The conservation area of Kingsland borders the south eastern perimeter of the site, and the site is close to or within the broad zone of the recorded medieval battlefield of Mortimer's Cross (1461 AD).

As is also indicated by the assessment, to the east of the site is an area of high potential for [below ground] prehistoric finds. There is no good evidence that this area extends into the application site, and the recent agricultural history of the application site is likely to have compromised any surviving remains of this period. Nevertheless, there is likely still to be some moderate interest here.

As regards the likely implications of the proximity of the recorded battlefield zone, such zones are intrinsically difficult to define, and *in situ* remains of substance from them unlikely. I am not of the view therefore that it represents a particular constraint in this case.

In summary, **I have no objections**, although I do think it appropriate in this case to require some limited archaeological recording under condition as mitigation. This would be in accordance with NPPF Para 141 and Policy LD4 of the Core Strategy.

4.6 Conservation Manager (Ecology) – No objection subject to condition. Comments as follows:

The revised layout R051.1.3.03 Rev F dated 26/10/2016 includes an area of mitigation orchard planting. These trees should be on vigorous rootstocks and of locally traditional heritage fruit varieties (Marcher Apple Network – [www.marcherapple.net](http://www.marcherapple.net) would be a good source of information on varieties). The ground flora should be seeded as traditional meadow grass wildflower mix and not maintained as ‘lawn’ – this is to provide maximum benefit to pollinating insects and other wildlife. The orchard heritage of the site could further be mitigated and enhanced (and provide an opportunity for healthy eating) by using further fruit trees on vigorous rootstocks as the other proposed “garden” trees. A further opportunity to help restore the orchard character of the site would be by planting some fruit trees within the hedgerow boundaries as they are managed/gapped-up/replanted – varieties of Damson (on vigorous rootstock such as ‘Brompton’) would be typical of fruit trees in hedgerows in the county – again being good for wildlife and an opportunity for healthy eating by local residents.

Subject to the above I believe this site would offer appropriate enhancement and habitat restoration to be shown as true ‘betterment’ and I would have **no objection** to this application.

To support this I would suggest that a detailed planting and management plan with full details of varieties and rootstocks as well as planting and protection specifications and a 5 year failure replacement/establishment and maintenance plan is submitted for final approval.

4.7 Conservation Manager (Landscape) – No objection subject to condition. Comments as follows:

- Viewed in plan form the site appears a logical extension to the village lying as it does adjacent to the identified settlement boundary, with built form on both sides and continuing the linear pattern of the settlement. However the junction of the A4110 and North Road which runs through the village does mark a distinct change in character and the potential impact of the proposal on its surroundings does necessitate further consideration at this gateway to the village.
- The landscape character type covering the site and its surroundings is Principal Settled Farmlands; defined by hedgerows marking field boundaries, sparse hedgerow tree planting, mixed farming use; pasture land and orchards with a dispersed wayside settlement pattern outside of the villages and hamlets. The site and its locality is representative of many of those features however the tranquillity of the site is eroded by the A4110 road as well as the adjacent land use to the south, the sensitivity of the site in landscape terms is therefore reduced. This in turn does not suggest that the landscape should be subject to further inconsistencies to its character type but it does suggest in my view, that there is potential scope for good quality development upon the site.
- The site is noted as a traditional orchard however on visiting the site it is clear that little in the way of the orchard planting is still in evidence today. Given its condition I would be unlikely to object from a landscape perspective, however I believe there is scope to incorporate some of the remaining fruit trees into an area of public open space which would in turn enhance the setting of the development.
- I also note within the landscape appraisal it states in paragraph 5.5: “The retained hedgerow and additional planting along the south western boundary will result in little of the housing being visible to passing traffic on the A4110.”

- Whilst in paragraph 5.7 it states: “A length of hedgerow – to meet highways visibility splay requirements - and a number of small trees within the site, are to be removed as part of the development.” Clearly having viewed the visibility splay layout within the Transport Statement, along with the Transport Managers comments, there are concerns regarding the extent of hedgerow removal required in order to facilitate the access. I would recommend clarification being sought on this issue before commenting further in respect to landscape.
- A final note in respect to this application is, given that the success of the scheme is reliant upon the detail of the proposed layout of dwellings, open space and access, it may be more appropriate to have this information now rather than at the reserved matters stage.

4.8 Conservation Manager (Historic Buildings) – Objects to the application. Comments as follows:

The application site is located to the north-west of the village of Kingsland. It is proposed to develop the agricultural field for housing, though the application is only for Outline permission with all matters reserved apart from access.

NPPF paragraph 128 requires that the application describe the significance of heritage assets and their settings so that the impact of a proposal can be properly assessed and understood. An archaeological desk-based assessment has been submitted. This report records the heritage assets in the vicinity but only assesses the archaeological potential, not the impact of the proposal on built-heritage and the associated settings. The application should have contained a full assessment of the built heritage in the vicinity, either within the DBA or as a separate Heritage Statement/Assessment.

There are no built heritage assets within the application site, nor would any built heritage assets be directly impacted by the proposal, however the settings of two heritage assets in particular would be affected. These two assets are the Kingsland Conservation Area and the Mortimer’s Cross Monument, which is grade II listed.

The Kingsland Conservation Area borders the application site to the south-east. This boundary is effectively the north-west extent of the village of Kingsland and forms the Settlement Boundary within the Kingsland Neighbourhood Plan. Further to the north-west are a few sporadic dwellings and their associated outbuildings. To the south-west is the Luctonians Sports Club with its sports pitches and to the north-east are agricultural fields. The current extent of the village is visually clear and contained.

Policy LD4 of the Core Strategy, which has not been mentioned within the application documentation, requires that “development proposals affecting heritage assets and the wider historic environment should protect, conserve and, where possible enhance heritage assets and their settings”. The application site forms part of the setting of the conservation area and therefore should be assessed in that context. The linear character of the conservation area is reinforced by the dwellings facing onto the road, or occasionally being side-on to the road.

As the application is in Outline the layout provided is only indicative but it does show that the intention would be to position dwellings with their rear elevations facing the road. This is contrary to the character set up by the conservation area and may have a detrimental impact on views into and out of the conservation area, contrary to Policy LD4.

As this site would be an extension to the village, rather than an infill plot, it is considered that more attention would need to be given to reflecting the existing local character. However this does not overcome the fact that the site is outside the Settlement Boundary as defined in the draft Neighbourhood Plan and is therefore contrary to the policies within that Plan.

The other heritage asset in the immediate vicinity of the site is the Mortimer’s Cross Monument which lies to the south-south-east. This grade II listed building is prominently situated between

the A4110 and the B4360 village road. It acts as a gateway to the village and the conservation area in its positioning, but it reputedly located on the site of the commemorated battle, thus giving its setting more significance. Since development on the application site would effectively extend the village northwards, this would diminish the gateway position of the monument. This would be considered a detrimental impact on the heritage asset and therefore contrary to Core Strategy Policy LD4.

The two identified potential areas of harm would bring into consideration NPPF Paragraph 134 where the level of harm is “less than substantial”. The conservation of the heritage assets must be given considerable weight when assessing a development. It is therefore considered that the proposal cannot be supported in heritage terms.

#### 4.9 Neighbourhood Planning Manager – Comments as follows:

The Kingsland NDP completed its submission publication period on the 22 August. A number of representations were received and a Decision Document has been issued regarding the plans progression to examination.

It has been determined that the Kingsland NDP should progress to examination, however there are still a number of outstanding concerns regarding Policy KNDP14 –KNP16 and their ability to facilitate proportional growth in line within the Core Strategy. It will be an issue explored further at the examination in line within the need for the plan to meet the Basic Conditions.

With this and para 216 of the NPPF in mind, the material weight of the Kingsland NDP will need to be considered accordingly:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given); The plan has reached examination stage therefore weight can be applied
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- There are a number of unresolved objections to Policy KNDP14 to KNP16 with regards to the ability of the policies and the settlement boundary to deliver the growth stated within the NDP.

The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Representation has been made by the Strategic Planning team, with regards to the concerns about conformity between Policy RA1 and RA2 of the Core Strategy and policy KNDP14 to 16 of the NDP.

Therefore at this stage the housing policies KNDP14-16 will have limited material weight in relation to para 216 of the NPPF

An examiner has been appointed to the NDP and it is anticipated that an examination will take place in March 2017.

## 5. Representations

### 5.1 Kingsland Parish Council - objects to the planning application on the following grounds:

The site lies outside the settlement boundary in the neighbourhood development plan which is at the stage of Regulation 16 consultation and as such now carries weight in planning decisions; highway safety as the proposed access is onto a dangerous stretch of the A4110 with a history of serious collisions; and over-development of the site.

The parish council asks the planning authority to note the serious collision which required emergency services and closure of the A4110 approximately one month ago, which is contrary to the Transport Report submitted (clause 2.4.1), and the history of planning applications to develop the site which have been refused.

In respect of the amended plans and additional information the parish council comments as follows:

The meeting agreed that the comment provided on 29 July 2016 remains the view of the parish council, and respectfully asks that planning services notes the Kingsland neighbourhood development plan is now at the stage of independent examination.

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

- Concerns about highway safety, in particular:
  1. Poor visibility at the existing access into the Horse Boutique. The proposed site access will suffer the same poor levels of visibility, especially in a northerly direction.
  2. Heavy traffic along the A4110, much of which travels in excess of the 40mph speed limit.
  3. There have been numerous accidents along this stretch of the A4110, including one recently which caused the road to be closed for over five hours.
  4. The submitted information takes no account of additional traffic associated with match days at Luctonians rugby ground.
  5. No parking provision is made for visitors.
  6. The development is disconnected from the rest of the village. No provision is made for pedestrians or cyclists.
  
- The proposal would extend ribbon development into the open countryside.
- There is no need for additional development. The current rate of development across the parish will deliver housing well in excess of the 14% increase required up to 2031.
- The proposal represents disproportionate and unsustainable growth.
- Development would destroy the remains of the orchard which is a priority woodland bird species buffer zone on Defra's database. It will therefore have a negative effect on biodiversity.
- Poor design. A cul-de-sac in the open countryside is out of character.
- The design is also unsympathetic to the adjoining conservation area.
- There is limited capacity in the mains sewage network, particularly with regard to phosphate pollution in the River Wye.
- The proposal will be detrimental to the historic value of the site. It may well be part of the site of the battle of Mortimers Cross. Encroachment into it will spoil the enjoyment of such ancient history and its legacy.
- Services such as the doctor's surgery and local primary school are at capacity.

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

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

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

## 6. Officer's Appraisal

### The Principle of Development

- 6.1 In accordance with the National Planning Policy Framework (the NPPF), the delivery of sustainable housing development to meet objectively assessed need is a central theme of the Core Strategy. Policy SS2 'Delivering new homes' confirms that Hereford, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable "where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community."
- 6.2 It is also clear that a failure to maintain a supply of housing land will render the housing supply policies of the Core Strategy as being non compliant with the NPPF and therefore out-of-date. Policy SS3 'Ensuring sufficient housing land delivery' thus imposes requirements on the Council in the event that completion rates fall below the trajectory set out in Appendix 4 of the Core Strategy.
- 6.3 Despite the adoption of the Core Strategy, a housing land supply deficit persists. The Examination Inspector concluded that there was a marginal but realistic five-year housing land supply on the basis of the projected delivery of the strategic sites outlined by the Core Strategy. The supply was assessed at 5.24 years.
- 6.4 However, subsequent appeal decisions have shown that delivery targets for the strategic sites were unduly optimistic. In the Council's most recent appeal decision at Clehonger, the Inspector concluded that a 4.38 years supply could be demonstrated.
- 6.5 The Core Strategy sets out a number of policies in chapters 3, 4 and 5 for the supply of housing which are relevant to the present application. As a consequence of the housing land supply position, the policies in the Core Strategy relating to the supply of housing are out of date by reason of paragraph 49 of the NPPF. Although these policies are out of date, the weight that they should receive is a matter of planning judgment for the decision-maker. This is a matter that has been reinforced in recent case law, Suffolk Coast / Hopkins Homes.
- 6.6 Policy SS2 of the Core Strategy makes an overall provision for the delivery of a minimum 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. Of these, just over two thirds are directed to Hereford and the market towns, with a distribution of a minimum 5,300 homes (32%) to rural settlements. Here, new housing development will be acceptable where it helps to meet housing needs and requirements, supports the rural economy, local services and facilities, and is responsive to community needs.
- 6.7 Policy SS3 sets out a range of measures to be undertaken should a material shortfall in the rate of housing delivery be identified through the annual monitoring process. The policy addresses the relationship between the delivery of strategic housing sites and key elements of infrastructure.
- 6.8 Policy RA1 explains that the minimum 5,300 new dwellings will be distributed across seven Housing Market Areas (HMAs). This recognises that different parts of the County have differing housing needs and requirements. Kingsland lies within the rural part of the Leominster HMA,



which is tasked with an indicative housing growth target of 14%. This equates to 65 dwellings for Kingsland.

- 6.9 The policy explains that the indicative target is to be used as a basis for the production of Neighbourhood Development Plans (NDPs). The growth target figure is set for the HMA as a whole, rather than for constituent Neighbourhood Areas, where local evidence and environmental factors will determine the appropriate scale of development. The Inspector's Report on the Core Strategy Examination makes clear that a flexible and responsive approach is necessary to deliver the level of development sought, whilst recognising and respecting the rural landscape. The Modification proposed, and now incorporated within the adopted Core Strategy, leaves flexibility for NDPs to identify the most suitable housing sites.
- 6.10 Policy RA2 identifies the rural settlements which are to be the main focus of proportionate housing development in the rural areas (fig. 4.14) and other settlements where proportionate housing is considered appropriate (Fig. 4.15). In these locations, housing growth will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the communities concerned. Policy RA2 seeks to support housing growth in or adjacent to these settlements and confirms that the indicative targets established in policy RA1 will be used to inform the level of development in the identified settlements. The expectation of this policy is that NDPs will define appropriate settlement boundaries or reasonable alternatives or will allocate land for new housing or otherwise demonstrate delivery by indicating levels of suitable and available capacity.

#### Kingsland Neighbourhood Plan

- 6.11 The site lies within the Parish of Kingsland, and within its designated Neighbourhood Area, but outside of the settlement boundary as proposed by the emerging Neighbourhood Plan.
- 6.12 Kingsland NDP acknowledges in its objectives, the need to promote a level of housing growth to meet the indicative housing target for Herefordshire that is proportionate to the size of Kingsland Parish and its settlements so that the parish retains its essentially rural character. The Kingsland NDP is to progress to examination, but the outcome of this is unlikely to be known until early Spring 2017. The plan does identify a settlement boundary for the village and it is clear that the application site falls outside of this. However, comments from the Neighbourhood Planning Manager confirm that there are still a number of outstanding concerns regarding Policy KNDP14 – KNP16 and their ability to facilitate proportionate growth in line within the Core Strategy.
- 6.13 The Neighbourhood Plan does not allocate specific housing sites, rather it relies on meeting its minimum proportionate growth targets through windfalls within its settlement boundaries and criteria based policies. There is a current shortfall of 25 dwellings from the minimum proportionate growth requirement.
- 6.14 Paragraph 216 of the NPPF highlights that the extent to which there are unresolved objections to relevant policies should also be taken into account when determining the weight to be attributed emerging plans. It specifically says:

*From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- *The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given*

- 6.15 The issue of housing delivery is, in the view of the case officer, a significant matter. This is clear from the NPPF which places sustainable development at the forefront of its stated objectives. As the unresolved objections relate specifically to housing delivery, it is officer's

opinion that only limited weight can be attributed to the Kingsland NDP in the decision making process at this stage.

### Impact on Heritage Assets

- 6.16 Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting:
- “to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*
- 6.17 With particular regard to Conservation Areas, Section 72 of the Act goes on to say:
- “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*
- 6.18 Appeal decisions have subsequently informed the precise meaning of “preserving” in that it means doing no harm.
- 6.19 It follows that the duties in section 66 do not allow a local planning authority to treat the desirability of preserving the setting of listed buildings merely as material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm “considerable importance and weight”.
- 6.20 Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.
- 6.21 Other appeal decisions (particularly the Barnwell Manor Court of Appeal decision) confirm that a finding of harm to the setting of a listed building or a conservation area give rise to a strong presumption against planning permission being granted. On the basis of S66, the presumption is a statutory one, even if the harm caused is deemed to be ‘less than substantial’.
- 6.22 The NPPF offers further guidance about heritage assets, recognising that they are irreplaceable resources that should be conserved; ‘...in a manner appropriate to their significance.’ Paragraphs 129 to 134 offer particular clarity about the assessment to be made of the significance of heritage assets. Paragraph 131 outlines three criteria to be taken account of in the determination of planning applications. These are as follows:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.23 Paragraph 132 reiterates the presumption of great weight being afforded to the preservation of heritage assets and is clear that: ‘The more important the asset, the greater the weight should be.’

6.24 It is also clear that significance can be harmed or lost through alteration or destruction of a heritage asset, and that proposals that require this should be fully justified and wholly exceptional.

6.25 Paragraph 133 is clear that;

*‘Where a proposed development will lead to substantial harm to or loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss...’*

6.26 Paragraph 134 has been confirmed through case law to be a restrictive policy and deals with development that would lead to less than substantial harm. It has two limbs, stating that harm should be weighed against the public benefits of the proposal. The same case law confirms that the second limb; the public benefits, should go first, and that the test is effectively different to paragraph 133 – the identification of harm does not immediately direct one to refuse planning permission.

6.27 In this case the recognised heritage assets that are potentially affected by the proposal are the Grade II listed monument which is located approximately 35 metres to the south east of the application site, the conservation area which extends along North Road and whose boundary abuts the application site and potential archaeological interest relating to the site of the Battle of Mortimers Cross.

6.28 With regard to the Grade II listed monument, the following photographs show the context in which it is located. Figure 2 shows the monument in the foreground of what was a public house but is now a private dwelling.



**Figure 2: Grade II listed monument looking up North Road, towards conservation area**



**Figure 3: South eastern approach to the site. Luctonians RFC car park (left) and monument in foreground**

- 6.29 The Council’s Historic Buildings Officer has objected to the application and considers that the introduction of further development on the application site would diminish the prominence of the monument and its significance as a gateway to the main village. A similar contention is made about the development’s impact upon the setting of Kingsland Conservation Area. The comments conclude that the levels of harm would be ‘less than substantial’ and that the application should not be supported. No assessment is made of the harm within this ‘less than substantial’ range.
- 6.30 The Heritage Impact Assessment that supports the application provides a more detailed critique of the impacts of the development on the setting of the listed monument and conservation area. It acknowledges that the significance of both heritage assets is high and concurs with the view of the Council’s Historic Buildings Officer that both form a gateway to the village. The report also considers the impact of development in terms of archaeology, given that the area is the likely location of the Battle of Mortimers Cross. It concludes that the land has been disturbed by agriculture over many years and therefore the probability of finds is low. The Council’s Conservation Manager (Archaeology) concurs with this and raises no objection to the proposal.
- 6.31 In terms of the overall impact on the conservation area, the assessment concludes that it will be in the low to moderate range. In reaching this conclusion the assessment notes that; whilst the site does abut the conservation area boundary, it is situated a considerable distance from the historic core of the settlement. This is correct. The historic core is located approximately 1km south east. The conservation area incorporates a wide area which includes the linear C20th development along North Road, all the way to the junction of the A4110. In my view this does not form an obvious gateway to the conservation area. It does not provide the transition to a more historic part of the village, but does reinforce the linear character. Although the application is only made in outline, the dimensions of the site are such that it will provide a continuation of this linear form, rather than a development in depth. Whilst there is inevitably an impact, I would concur with the conclusion that this will be low to moderate.
- 6.32 With regard to the Grade II listed monument, the assessment concludes that the magnitude of impact of the proposed development on the setting of the monument is low to moderate. It takes account of the proximity of the heritage asset to the site while acknowledging that the proposed design will not directly obscure established views of the monument. The removal of the site’s roadside hedgerow may have some impact on the setting of the monument, particularly its part in forming the gateway to the village, but this can be mitigated through new

planting and/or translocation. Like the setting of the conservation area, there will be an impact on the Grade II monument, but this is low to moderate.

- 6.33 The Mortimers Cross Monument will be partially inter-visible with the proposed development. The applicants Heritage Assessment considers that this impact can be significantly reduced by appropriate enhancement of the hedge boundary defining the south east boundary of the development. The photographs above show the monument in context. It sits in the foreground of an unlisted and architecturally unremarkable building, on an A class road and opposite a large tarmacked car park. Road users may see the monument in the context of the proposed development as they travel in a northerly direction along the A4110, but this will be the briefest glimpse. Any further impacts on its setting are, in the view of the case officer, likely to be low.
- 6.34 It is concluded that any impacts on heritage assets will be less than substantial and towards the low/low to moderate range. In accordance with paragraph 134 of the NPPF, this harm should be weighed against the public benefits of the proposal.

#### Highway Safety

- 6.35 Policy MT1 of the Core Strategy and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 30 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 32 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.'(NPPF para. 32).
- 6.36 The application originally contained insufficient information in respect of highway matters and accordingly the Transportation Manager was not supportive of the scheme. This was entirely consistent with the position taken with two other applications on an adjacent parcel of land which were refused for, amongst other reasons, the lack of sufficient information to determine whether an adequate means of access could be provided. It should not be taken to mean that there is a fundamental concern with the provision of a suitable means of access to the site.
- 6.37 Following a meeting between the Council's highway engineer and the applicant's highway consultant, additional information has been submitted which includes the completion of a seven day speed survey on the A4110 within the vicinity of the proposed site access junction. In turn, the results have been used to inform the requisite visibility splays in accordance with Manual for Streets 2 (MfS2). The results of the surveys are summarised in the table below:

|            | Average Speed | 85 <sup>th</sup> Percentile |
|------------|---------------|-----------------------------|
| Northbound | 36.4 mph      | 42.5 mph                    |
| Southbound | 38.5 mph      | 45.4 mph                    |

- 6.38 On the basis of these findings, and in accordance with MfS2, the requirement is to provide 120 metre visibility splays in either direction. These can be achieved, albeit that it will require the removal and re-planting of the roadside hedge.
- 6.39 The updated transport work also takes account of a recent road traffic accident not originally referred to in the first Transport Statement, something which a number of objectors have highlighted. The accident data provided reveals that the collision occurred as a consequence of driver error rather than as a result of an inherent problem with the road itself. The interrogation of the details of the accident records within the locality does not lead officers to conclude that the road conditions or traffic speeds are a contributory factor to the accidents that have

occurred and they do not give rise to concerns that the proposal is unacceptable on highway safety grounds.

- 6.40 The revised access arrangements also include the provision of a footpath along the site frontage from the vehicular access back towards Kingsland. The intention is to provide a safe refuge for pedestrians along the A4110 so that they can then walk along North Road to the village centre. The plans also indicate a textured pedestrian crossing point over the A4110.
- 6.41 In conclusion, officers are satisfied that the proposed development can be accommodated by the existing road network. The additional work completed by the applicant's agent following the concerns originally raised by the Council's Transportation Manager have demonstrated that an access that complies with MfS2 can be provided. The inclusion of a footpath will provide a safe link for pedestrians and it is considered that, in its amended form, the proposal is compliant with Policy MT1 of the Core Strategy and the NPPF.

#### Drainage Matters

- 6.42 Technical matters in respect of drainage have been considered. Neither Welsh Water nor Severn Trent have objected to the application in terms of water supply or the capacity of the sewerage network. Subject to the imposition of conditions the proposal is considered to accord with Policies SD3 and SD4 of the Core Strategy.

#### Ecology

- 6.43 It is acknowledged that the site is a former orchard and as such is part of the Biodiversity Action Plan (BAP), where there is a presumption that priority areas will be protected. However, it is evident from the photograph below that only a small number of orchard trees remain and that none of them are in good condition. As such it is not considered that the orchard offers a significant benefit in its current condition in terms of biodiversity value.
- 6.44 The amended indicative layout includes an area to be planted with orchard trees. The Council's Ecologist acknowledges that this offers appropriate enhancement and habitat restoration and, subject to the imposition of an appropriately worded condition to reflect this does not object to the application. On this basis the proposal is considered to be compliant with Policy LD2 of the Core Strategy.



**Figure 4: View of remaining orchard trees on the site**

## Summary and Conclusions

- 6.45 Kingsland is acknowledged as a sustainable settlement where there is a presumption in favour of proportionate growth. Whilst some permissions have been achieved recently, the village has not reached its minimum growth target. The site is outside of the settlement boundary as defined by the Kingsland Neighbourhood Development Plan but, in light of the objections raised to its settlement policies relating to concerns over the ability of the plan to deliver the requisite housing growth, the Plan can only be afforded limited weight. Although the site lies outside of the NDP settlement boundary, officers consider the site to be sustainable in locational terms. Moreover, as the NDP does not allocate sites for housing, once made it would not benefit from the 'protection' offered by the recent ministerial letter that serves to clarify the weight to go to made NDP's in the context of a housing land supply deficit.
- 6.46 Although an objection has been raised by the Council's Conservation Officer in terms of the impact of the development on the setting of heritage assets, the case officer is, in this instance, inclined towards the conclusions of the applicants heritage consultant. The proposal will have a less than substantial impact on the setting of the Grade II listed monument and a similar impact on the setting of the conservation area. Even within the less than substantial spectrum the impacts are considered to be low to moderate. The proposal continues the linear form of the village and it is not considered that a reason for refusal. In accordance with paragraph 134 of the NPPF, this harm should be weighed against the public benefits of the proposal.
- 6.47 The acknowledged shortfall in deliverable housing sites represents a material consideration of significant weight in favour of the scheme. The scheme would boost the supply of housing within the parish. This is acknowledged as a social benefit to the public. In terms of the economic dimension of sustainable development, the scheme would introduce investment in jobs and construction in the area. The scheme also offers environmental benefits in terms of the biodiversity enhancement through the re-planting of orchard trees as part of a landscaping scheme for the site.
- 6.48 Initial concerns about highway safety have been addressed through the completion of additional survey work and the provision of amended plans to demonstrate that an access can be provided in accordance with MfS2 and the Council's Highway Design Guide. The Council's Transportation Manager has confirmed that the scheme is acceptable subject to the imposition of conditions.
- 6.49 All other matters have been considered and there is nothing of such material weight to presume against a development that is deemed to be sustainable in all other respects. The proposal accords with the Core Strategy and the National Planning Policy Framework and therefore the application is recommended for approval.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions and any other conditions considered necessary by officers in accordance with the scheme of delegation:**

- 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**

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

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**

**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**

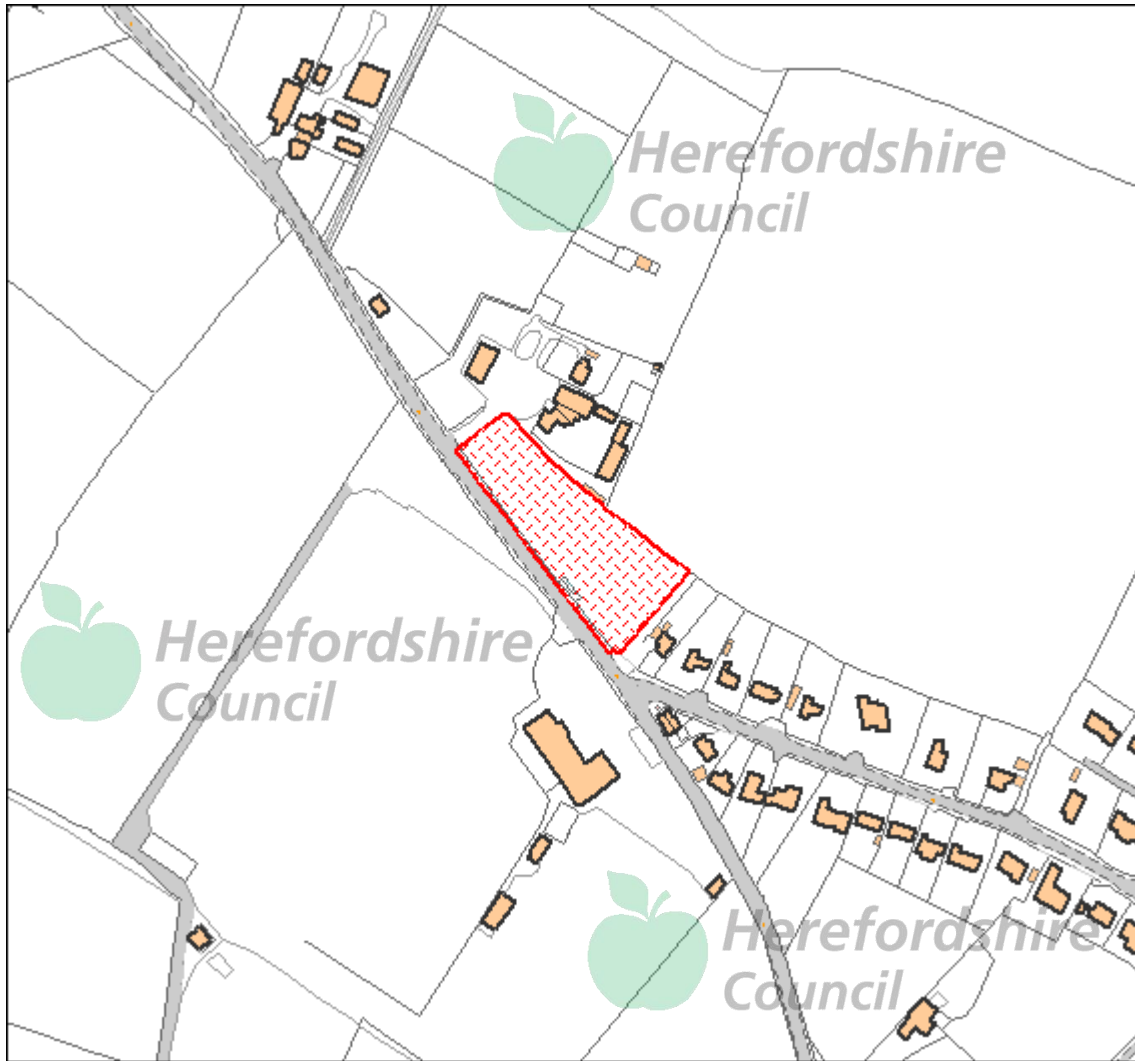
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 162166

**SITE ADDRESS :** LAND TO THE SOUTH OF MARTINDALE, KINGSLAND, HEREFORDSHIRE

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|   |  |
|---|--|
| <b>MEETING:</b>   | <b>PLANNING COMMITTEE</b>  |
| <b>DATE:</b>  | <b>18 JANUARY 2017</b>   |
| <b>TITLE OF REPORT:</b>   | <p><b>130945 - 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 AT LAND AT, TUMP LANE, MUCH BIRCH, HEREFORD, HR2 8HW</b></p> <p><b>For: LARKRISE CO-HOUSING AND HEREFORDSHIRE HOUSING LTD per Mr John Renshaw, 86 Constitution Street, Leith, Edinburgh, EH6 6RP</b></p> |
| <b>WEBSITE LINK:</b>  | <a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=130945&amp;search=130945">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=130945&amp;search=130945</a>  |
| <b>Reason Application submitted to Committee - Re-direction</b> |  |

**Date Received: 4 April 2013**

**Ward: Birch**

**Grid Ref: 349699,230575**

**Expiry Date: 2 September 2013**

Local Member: Councillor DG Harlow

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

- 1.1 The site is accessed off the northern side of Tump Lane, a class III road (C1264) that links the A466 road and Wormelow to the south-west and the A49 (T) upslope and to the north-east. The proposed access route will be via an existing cul-de-sac of 14 dwellings, which comprises part of a much larger block of predominantly late twentieth century housing on this side of Tump Lane. The sloping site fringed by hedgerows is for grazing horses. There is a stable block on the northern end of the paddock.
- 1.2 This is an outline application with only the principle and means of access to be determined at this stage, the remaining matters will be determined at the reserved matters stage. The proposal is for 10 open market dwellings and 10 affordable dwellings that will be allocated for social rent or affordable ownership and managed by Herefordshire Housing/Larkrise in perpetuity.
- 1.3 The site comprises a sloping paddock fringed by native species hedgerow and trees on the northern, western and southern boundaries. It is open on the eastern side where it adjoins 7 existing dwellings and an informal play area and block of garages. The access route will pass between two blocks of garages. The northern block will remain, however five garages will need to be demolished on the southern side from a block of 8 garages. The original plan submitted detailed 4 garages would be demolished; this was revised following on-going discussion with the Transportation Manager.

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

- 1.4 An indicative layout details three blocks of buildings bisected by a spine road. A new eastern boundary hedgerow boundary will be provided close to the line of a water mains. This indicative layout has been amended such that an area of the paddock provides an extension to the existing play area, off-site that is to the rear of an existing 10 block of 10 garages. This is in lieu of play area removed for 8 parking spaces for existing residents.
- 1.5 Five parking spaces for existing residents are proposed to replace the five garages to be demolished.
- 1.6 The application was accompanied by an Outline Landscape and Visual Assessment, Ecological appraisal, Flood risk Assessment, and Transport Assessment. The latter was updated in 2016 with details of a Safety Audit and speed survey.

## 2. Policies

### 2.1 The Herefordshire Local Plan - Core Strategy

|     |   |  |
|-----|---|--|
| SS1 | - | Presumption in Favour of Sustainable Development               |
| SS2 | - | Delivering New Homes   |
| SS3 | - | Releasing Land for Residential Development                     |
| SS4 | - | Movement and Transportation                                    |
| SS6 | - | Addressing Climate Change                                      |
| RA1 | - | Rural Housing Strategy   |
| RA2 | - | Herefordshire's Villages                                       |
| H1  | - | Affordable Housing – Thresholds and Targets                    |
| H3  | - | Ensuring an Appropriate Range and Mix of Housing               |
| 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                   |

### 2.2 NPPF

The following chapters are of particular relevance to this proposal:

- Introduction -
- Section 4 - Promoting sustainable communities
- 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
- Section 12 - Conserving and enhancing the historic environment

### 2.3 Neighbourhood Planning

The Neighbourhood Plan area for Much Birch was designated on 4 September 2013. The plan has reached Regulation 14 stage and whilst it is a material consideration it is not sufficiently advanced to attract weight for the purposes of determining planning applications.

- 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 None

### **4. Consultation Summary**

#### Statutory Consultations

- 4.1 Welsh Water states that there are no issues as regards water supply or capacity at the treatment works subject to conditions and with particular regard to a water main that runs along the length of the eastern boundary

#### Internal Council Consultations

- 4.2 Transportation Manager: The applicant has persevered and developed a proposal that in principle is acceptable though more work is needed including a weight, speed, and parking restriction (TRO). Conditional support subject to conditions relating to Section 278 works and for a Travel Plan.
- 4.3 Conservation Manager (Landscape) states that there will be a minor localised change to the wider landscape, the new development will be viewed as an extension of the existing. Conditions recommended for habitat enhancement and softening in particular western boundary.
- 4.4 Conservation Manager (Ecology) recommends that a condition be attached in relation to habitat enhancement particularly relating to existing hedgerows
- 4.5 Conservation Manager (Parks and Countryside) recommends that contributions be made and that an equal area be provided for play space given that it is to be removed for existing residents parking This advice was revised following a revised plan detailing an open space area on the application site that would adjoin the existing one on the housing estate. It is recommended that any contributions made, under the Planning Obligation relate to this combined area.
- 4.6 Land Drainage Manager recommends that the submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development is included within any reserved matters associated with the permission.

### **5. Representations**

- 5.1 Much Birch Parish Council object:

The Much Birch Parish Council objects to the planning application on the grounds of access and highway safety, paying particular regard to the access point into the Tump Lane Estate and the potential for increased traffic generation on Tump Lane. It also objects on the grounds of the impact to the existing community by way of the overbearing nature of the proposal in that existing residents are being required to make imposed sacrifices to facilitate the application.

It is therefore the wish of this Parish Council that the Planning Application be rejected.

If however the Planning Committee are minded to approve the application then the Much Birch Parish Council would be seeking the imposition of three specific conditions to safeguard residents and road users :-

- 1) The reduction in speed limit for the entire length of the road known as Tump Lane from 40mph to 30 mph
- 2) The imposition of a vehicular maximum weight limit of 17.5 tonnes
- 3) The installation of a pavement to enable safe pedestrian use of the road for its entire length

Much Birch Parish Council object (following the receipt of further plans and details)

The Much Birch Parish Council has considered the application and the amendments and has heard representation from the parish residents, concerning the application, and is minded to continue to **OBJECT** to the proposals.

The reasons for this are as previously conveyed and additionally, whilst the Parish Council acknowledges the attempts that have been made to try to make changes to the priorities of the traffic coming up towards the A49 along Tump Lane and arrangements for passing places and single file traffic, these are not believed to adequately address the issues likely to be experienced in the Lane. It is believed that the proposed arrangements will make life more difficult for the existing residents in Tump Lane, above the Estate, in terms of being able to gain access to their properties and to receive deliveries to their homes. For example near to the property known as "The Slinget", where a passing place is to be located, and a large delivery vehicle will block the passing place and so cause traffic to tail back in both directions. The Parish Council are concerned that the proposals will lead to the possible incidence of conflict between vehicular traffic and pedestrians and there are serious concerns for the safety and welfare of any wheelchair, or pushchair, users who may be forced out into a single track road and into the path of the traffic. The Parish Council are dissatisfied with the proposals relating to pedestrian safety overall.

- 5.3 34 letters of objection, together with two separate petitions appended by 21 signatures and 167 signatures and 34 letters of support have been received making the following main points:-

#### Objection

- Dangerous access onto Tump Lane, not capable of taking additional traffic (40 Cars?)
- Existing 14 dwellings part of development of 54 dwellings.
- A lot of lorries/tractors using Tump Lane have been accidents including pets killed.
- Spill over parked vehicles at top of Tump Lane associated with school
- Accident on A49 (12 October) at school crossing
- Conflict when my property is serviced as on proposed footpath
- Vehicles will cross painted lines of footpath proposed-accidents will happen
- Hedgerows /trees will grow out over new footpath.
- Loss of garaging
- Loss of play area ;conflict between parking proposed and children playing area
- Told when 51-54 Tump Lane built would be no more development
- Area used by range of animals including bats and birds
- Loss of view-Black Mountains
- Commune created; 'us and them' . Misuse of public funds
- Co -housing only worked in Totnes, no evidence will work here in smaller community
- Schools full and GP surgery also

## Support

- Community enhancement, will provide services and facilities to community will follow success of Kingstone project
- Mixture of housing tenures, including much needed affordable housing
- Accords with national and local policies
- Rat run of Tump Lane addressed by traffic calming measures
- New improved play area

5.4 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=130945&search=130945>

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**

### **Policy Context**

6.1 Section 38 (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 is the Herefordshire Local Plan - Core Strategy (CS). A range of CS policies, referred to at section 2.1, are relevant to development of this nature. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms proposals that accord with the policies of the Core Strategy (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

6.3 As per the NPPF, the delivery of sustainable housing development to meet objectively assessed needs is a central Core Strategy theme. Policy SS2 'Delivering new homes' confirms that Hereford, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable *"where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community."*

6.4 The local authority is currently failing to provide a 5 year Housing Land Supply, plus a 20% buffer, which must be met by all local authorities in accordance with paragraph 47 of the NPPF. Paragraph 49 of the NPPF states that *'relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'*.

6.5 Irrespective of the weight to be ascribed to the Core Strategy housing supply policies, it is useful to review the application in context. Much Birch is identified as one of the rural settlements within the Ross-on-Wye Market Area (HMA). These settlements are to be the main focus of proportionate housing development in the rural areas. The strategy set out at Core Strategy Policy RA1 is to ascribe an indicative housing growth target for the settlements listed within each rural HMA. Within the Ross-on-Wye HMA the indicative minimum housing growth is 14%. The minimum indicative growth target for Much Birch Parish between 2011 and 2031 is 57

dwellings. To date there have been 6 completions and 30 commitments. Therefore, this leaves a minimum number of 21 dwellings.

6.6 The preamble to RA2 – Housing in settlements outside Hereford and the market towns states:

*“Within these [figure 4.14] settlements carefully considered development which is proportionate to the size of the community and its needs will be permitted.”* The proactive approach to neighbourhood planning in Herefordshire is also noted and that when adopted, Neighbourhood Development Plans (NDPs) will be the principal mechanism by which new rural housing will be identified, allocated and managed. Much Birch Parish Council has not progressed the NDP. Accordingly, the Neighbourhood Plan is not presently sufficiently advanced to be attributed weight for the purposes of decision-taking and planning applications cannot, in these circumstances, be refused because they are potentially prejudicial to the neighbourhood plan.

6.7 However, and particularly until NDPs are adopted, RA2 is positively expressed insofar as housing proposals will be permitted where the four criteria of the policy are met. Moreover, the Inspector’s Main Modification 038 confirms that in the period leading up to the definition of appropriate settlement boundaries i.e. until such time as NDPs define a settlement boundary, the Council will *“assess any applications for residential developments in Figure 4.14 and 4.15 against their relationship to the main built up form of the settlement.”* Thus with the NDP not yet attracting weight, policy RA2 is key to assessment of planning applications that deliver housing in the rural settlements.

6.8 Policy RA2 states that housing proposals will be permitted where the following criteria are met:

- *Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified in fig 4.15, proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement; and/or result in development that contributes to or is essential to the social well-being of the settlement concerned.*
- *Their locations make the best and full use of suitable brownfield sites wherever possible.*
- *They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting.*
- *They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in the particular settlement, reflecting local demand.*

6.9 This proposal needs to be assessed against Policy RA2 as regards the context of the site, whether or not it is a sustainable location and makes a positive contribution to the settlement.

6.10 This application also needs to be determined in accordance with policies relating to the impact in the landscape, the biodiversity of the site, the means of access from Tump Lane, the provision of a footpath linking the site to facilities to the north and the impact on the amenity of residents living in the vicinity of the site.

6.11 The site is centrally located in the settlement of Much Birch and is, having regard to the NPPF and CS, a sustainable location as confirmed by its listing within RA2.

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

## **Transport**

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



- 6.13 It is stated in representations received that the existing means of access is not satisfactory. However, the proposed means of access onto Tump Lane has good visibility in both directions. Also, Tump Lane is capable of absorbing the additional traffic generated by this proposal without having an adverse impact on highway safety. The main issue though is the provision of improved pedestrian access, which will require pedestrian refuge further north on Tump lane to link existing footpaths that eventually lead up to a school crossing on the A49(T) and further on footpaths along the class I road that provide access to the medical centre and community hall. Tump Lane is already used by residents who walk to the school and medical centre and the measures proposed which have been the subject of protracted negotiation will on balance provide an improved choice of modes of transportation. This was one of the central issues with an earlier proposal, for 12 affordable dwellings, on Tump Lane. It was refused by Committee in March 2014 and subsequently dismissed at appeal on grounds of poor connectivity together with landscape impact.
- 6.14 It is stated in representations received that the parking of service vehicles on Tump Lane will be on the line of the new footpath contrary to highway safety for pedestrians. This is though already occurring and such intermittent activity needs to be viewed in the context of peak periods for traffic between 8 am and 9 am and 3pm and 4pm and does not constitute a ground for resisting development, given the significant benefits that would accrue by improving connectivity for residents seeking to reach the school and other facilities in Much Birch.
- 6.15 This proposal will provide for increased parking provision across this part of the estate, together with the option for specific on-site parking provision for 5 residences. The works proposed to Tump Lane fall within the highway verge and will therefore need to be the subject of a planning condition and Section 278 Agreement including a traffic regulation order to reduce the speed limit to 30 mph, weight restrictions, new kerbing, surfacing and line demarcation before occupation of any dwelling on the site. This factor provides a good degree of certainty in respect of the necessary off-site works needing to be completed. Therefore, whilst further details will be required, particularly at the reserved matters or detailed stage a safe access will be provided to Tump Lane and in addition significantly improved pedestrian access to the A49, as required by the provisions of Policy MT1 of the Core Strategy.

### **Ecology**

- 6.16 The main issue raised by the Council's Ecologist relates to the need for enhancement of bio-diversity as recommended in the appraisal supporting the proposal. Therefore, subject to further enhancement being carried out as recommended in a condition this proposal accords with Policy LD2 of Core Strategy.

### **S106 contributions**

- 6.17 The S106 Draft Heads of Terms are appended to the report, are CIL Regulation compliant, have been negotiated and are summarised as follows:
- 'Education Contribution' - 10 dwellings will attract this contribution. The amount due cannot be specified as the bedroom numbers are not known
  - 'Sustainable Transport Contribution' – 10 dwellings will attract this contribution. The amount due cannot be specified as the bedroom numbers are not known
  - 'Off site play' - . This contribution would be directed to the enlarged play area created.
  - At least 7 houses shall be for social rent with the remainder for intermediate tenure
  - 'Waste & Recycling' - is £80 per unit to cover the cost of the bins and will relate to all dwellings.
- 6.18 The S106 will also include provisions to ensure 50% of the development meets the definition of affordable housing, together with requisite standards and eligibility criteria.

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

## **Impact on Residential Amenity**

- 6.19 Representations have been received in relation to the perceived impact on residential amenity. This is with regard primarily to loss of distant views through the site. Whilst, it is acknowledged that there will be an impact on the amenity currently enjoyed, the development, notwithstanding it is only submitted in outline form, is not one that will have a direct adverse impact such as overlooking or overshadowing on existing properties given the relationship of the site to dwellings in Tump Lane and accordingly this proposal accords with the requirements of Policy SD1 of the Core Strategy

## **Recreational Area**

- 6.20 This is an issue that has been raised in both representations received and by the Conservation Manager (Parks and Countryside), with regard to the removal of existing recreational area on the estate to provide parking spaces for existing residents in the locality. This has been addressed by the applicant with the provision of a larger area, by including part of the development site. Therefore, the proposal accords with policies OS1, OS2 and OS3 of Core Strategy.

## **Foul Water Drainage and Proximity to Water Mains**

- 6.21 This is an issue that has been raised in representations received. However Welsh Water has confirmed that there is capacity for the additional foul water generated, but that foul and surface water will need to be separated and, in addition, care will be required given the proximity to an existing water mains that runs along the eastern boundary of the site. The latter can be addressed by an informative and the former by standard planning conditions.

## **Other Matters**

- 6.22 There is scepticism in respect of the type of proposed housing. This needs though to be set aside against the fact that 10 affordable housing units, predominantly for rent will be provided in a sustainable location and subject to the control of a Section 106/Planning Obligation, together with a mix of market housing.

## **Summary and Conclusions**

- 6.23 The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles. This is carried on in the provisions of the Core Strategy objectives which translate into policies encouraging social progress, economic prosperity and controlling environmental quality.
- 6.24 When considering the three indivisible dimensions of sustainable development as set out in the paragraph 14 of the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. The site is within the settlement of Much Birch. Also, there is not a 5 year housing land supply at the present time. It is concluded that, as Much Birch has been identified as a settlement for growth in Policy RA2 of the Core Strategy, this proposal is not only environmentally acceptable in relation to this part of the settlement but it will also provide a significant contribution to that supply, including much needed affordable housing. It is considered to be a sustainable location with very good access to a wide variety of services and facilities particularly in Much Birch including the school and medical centre. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel) and choice of modes of transport.

- 6.25 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role of sustainability.
- 6.26 The proposal site is well contained within existing hedgerows, which can be enhanced, this factor will together with the established built form assist in settling the development into this sloping site.
- 6.27 Additional traffic will join the B4361 however the road is capable of taking the increased traffic volumes without having an adverse impact on highway safety as confirmed by the Council's Transportation Manager.
- 6.28 Acceptable foul and surface water drainage can be provided. There is sufficient land available for the treatment of foul drainage and surface water drainage. The latter will require careful consideration and will be the subject of the prior approval of the planning authority.
- 6.29 Ecological issues can be addressed by submission of further details for the enhancement of bio-diversity around the development site.
- 6.30 The residential amenity of residents living in the vicinity of the site will not be adversely impacted, given the separation between existing residences and the proposal site and that the orientation of the new dwellings and window placement will be addressed at the reserved matters stage.
- 6.31 Officers conclude that there are no overriding landscape, highways, drainage, amenity and ecological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits in accordance with the provisions of the NPPF. It is therefore recommended that planning permission be granted subject to the completion of Section 106 Agreement/Planning Obligation together with appropriate conditions.

## **RECOMMENDATION**

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

- 1. A02 Time limit for submission of reserved matters (outline permission)**
- 2. A03 Time limit for commencement (outline permission)**
- 3. A04 Approval of reserved matters**
- 4. A05 Plans and particulars of reserved matters**
- 5. B02 Development in accordance with the approved plans**
- 6. C01 Samples of external materials**
- 7. F14 Removal of permitted development rights**
- 8. G02 Retention of trees and hedgerows**
- 9. G10 Landscaping scheme**

10. **G11 Landscaping scheme implementation**
11. **The recommendations set out in the ecologist's report dated 7<sup>th</sup> February 2013 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

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

**Reasons:**

**To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policy LD2 of Herefordshire Local Plan – Core Strategy.**

**To comply with Herefordshire Council's Policy LD2 of Herefordshire Local Plan – Core Strategy in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006.**

12. **H21 Wheel washing**
13. **I16 Restriction of hours during construction**
14. **L01 Foul/surface water drainage**
15. **L02 No surface water to connect to public system**
16. **L03 No drainage run-off to public system**
17. **LO4 Comprehensive and Integrating draining of site**
18. **The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 3 metres either side of the centreline of the public sewer.**

**Reason: To protect the integrity of the public sewer and avoid damage thereto.**

19. **H30 Travel Plans**
20. **H29 Covered and secure cycle storage**
21. **H17 Junction improvement/off site works.**

**INFORMATIVES:**

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

development, as set out within the National Planning Policy Framework

**2. HN07 – Section 278 Agreement**

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

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

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

Welsh Government introduced the Welsh Ministers Standards on the 1st October 2012 and we would welcome your support in informing applicants who wish to communicate with the public sewerage system to engage with us at the earliest opportunity. Further information on the Welsh Ministers Standards is available for viewing on our Developer Services Section of our website - [www.dwrcymru.com](http://www.dwrcymru.com).

- 4** The development of the site with our water main located as shown on the attached plan will involve certain conditions which must be strictly adhered to. These are:-

- 1.** No structure is to be sited within a minimum distance of 4 metres from the centre line of the pipe. The pipeline must therefore be located and marked up accurately at an early stage so that the Developer or others understand clearly the limits to which they are confined with respect to the Company's apparatus. Arrangements can be made for Company staff to trace and peg out such water mains on request of the Developer.
- 2.** Adequate precautions are to be taken to ensure the protection of the water main during the course of site development.
- 3.** If heavy earthmoving machinery is to be employed, then the routes to be used in moving plant around the site should be clearly indicated. Suitable ramps or other protection will need to be provided to protect the water main from heavy plant.
- 4.** The water main is to be kept free from all temporary buildings, building material and spoil heaps etc.
- 5.** The existing ground cover on the water main should not be increased or decreased.
- 6.** All chambers, covers, marker posts etc. are to be preserved in their present position.
- 7.** Access to the Company's apparatus must be maintained at all times for inspection and maintenance purposes and must not be restricted in any way as a result of the development.

**No work is to be carried out before this Company has approved the final plans and sections.**

**These are general conditions only and where appropriate, will be applied in conjunction with specific terms and conditions provided with our quotation and other associated documentation relating to this development.**

**(The plan referred to will be attached to the decision notice together with the above informatives in the event that planning approval is granted)**

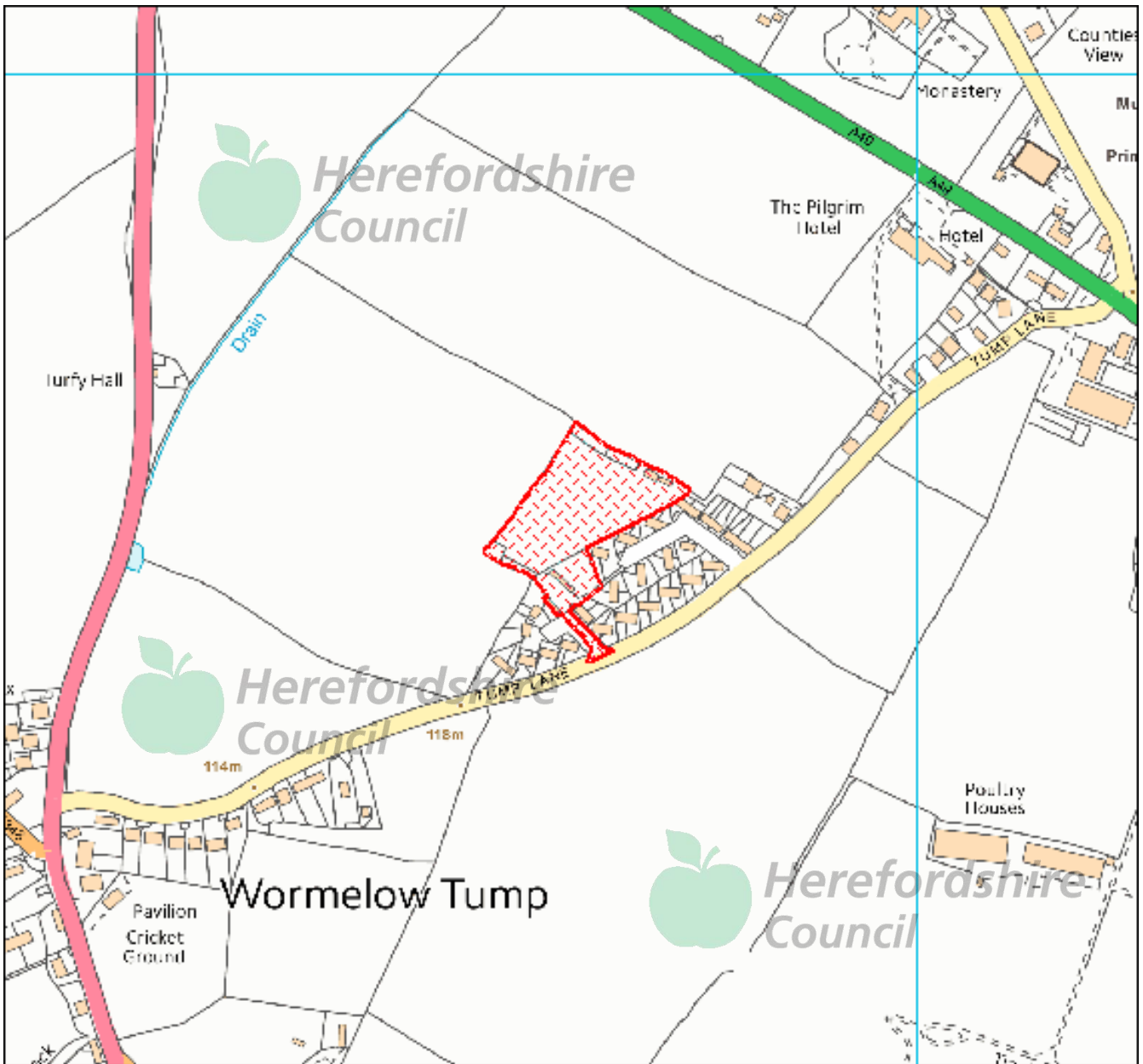
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 130945

**SITE ADDRESS :** LAND AT, TUMP LANE, MUCH BIRCH, HEREFORD, HEREFORDSHIRE, HR2 8HW

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





# DRAFT HEADS OF TERMS

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

Planning Application: 130945/O

**Site address:**

Land at Tump Lane, Much Birch, Hereford, HR2 8HW

**Planning application for:**

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

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

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

- £ 1,084.00 (index linked) for a 2 bedroom open market unit
- £ 1,899.00 (index linked) for a 3 bedroom open market unit
- £ 3,111.00 (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced educational infrastructure at Much Birch Primary School. The sum shall be paid on or before first occupation of the 1<sup>st</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.

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

- £ 1,966.00 (index linked) for a 2 bedroom open market unit
- £ 2,949.00 (index linked) for a 3 bedroom open market unit
- £ 3,932.00 (index linked) for a 4+ bedroom open market unit

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

*A section 278 agreement will be required for the delivery of a new footway from the site, along Tump Lane to the A49.*

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£80.00** (index linked) per dwelling. The contribution will be used to provide 1x waste and 1x recycling bin for each open market property. The sum shall be paid on or before the commencement of the development

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:
  - £ 965.00 (index linked) for a 2 bedroom open market unit
  - £ 1,640.00 (index linked) for a 3 bedroom open market unit
  - £ 2,219.00 (index linked) for a 4+ bedroom open market unit

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

5. The developer covenants with Herefordshire Council to provide on-site Public Open Space. For a development of 20 dwellings as proposed the on-site provision should equate to:
  - POS: 0.018 ha (180sq m) @ 0.4 ha per 10000 population

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

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

7. The developer covenants with Herefordshire Council that 35% of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H1 of the Herefordshire Core Strategy 2011 - 2031 or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
8. Of those Affordable Housing units, at least 7 shall be made available for social rent with the remainder 3 being available for intermediate tenure.
9. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
10. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
  - 10.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 10.2 satisfy the requirements of paragraph 12 of this schedule
11. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-
  - 11.1 a local connection with the parish of Much Birch.

- 11.2 In the event there being no person with a local connection to any of the above parish any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 11.3 above
12. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
- 12.1 is or in the past was normally resident there; or
  - 12.2 is employed there; or
  - 12.3 has a family association there; or
  - 12.4 a proven need to give support to or receive support from family members; or
  - 12.5 because of special circumstances
13. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3 and 4 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
14. The sums referred to in paragraphs 1, 2, 3, and 4 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
15. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
16. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Yvonne Coleman  
Planning Obligations Manager





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|--|---|
| <b>MEETING:</b>  | <b>PLANNING COMMITTEE</b>   |
| <b>DATE:</b>   | <b>18 JANUARY 2017</b>  |
| <b>TITLE OF REPORT:</b>  | <p><b>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</b></p> <p><b>For: Mr Tony Holland, 21 Hardinge Close, Holme Lacy, Hereford, Herefordshire HR2 6JY</b></p> |
| <b>WEBSITE LINK:</b>   | <a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160238&amp;search=160238">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160238&amp;search=160238</a>   |
| <b>Reason Application submitted to Committee – Redirection</b> |   |

**Date Received: 26 January 2016      Ward: Ledbury North      Grid Ref: 370950,239686**

**Expiry Date: 1 April 2016**

Local Member: Councillor EPJ Harvey

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

- 1.1 The site comprises a small road-side field on lower ground to the adjacent C1172 (Ledbury to Wellington Heath) road (known as Beggars Ash Lane) at its point into the entry of Wellington Heath Parish, on the southern (lower side) of Wellington Heath.
- 1.2 The River Leadon runs along the western side of the site (on lower ground again), and this side of the site is tree lined. There is a hedgerow along the roadside boundary, and it is possible to see into the site and beyond from the C1172 road.
- 1.3 The proposal is for a change of use of the land for use as a traveller site occupied by Mr and Mrs Tony Holland (applicant) and daughter, and Mr and Mrs Holland (senior).
- 1.4 The planning application is accompanied by a supporting statement setting out the applicant's Romany Gypsy status, their local connection to the Ledbury/Wellington Heath area and testimonials of Mr Holland's character from 12 contributors. This includes:-
  - a new roadside access (at a point lower and to the south of an existing field entrance);
  - landscape planting to the southern tip of the site;
  - two static caravans;

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Further information on the subject of this report is available from Mr Fernando Barber-Martinez on 01432 383674

- two touring caravans;
- grassed amenity area;
- hard surfaced area;
- two wooden shed at the back of the site (adjacent to stream);
- old gate into site closed (near to the Wellington Heath sign).

The site is identified as potentially contaminated land (this is a grass field).

- 1.5 Malvern Hills Area of Outstanding Natural Beauty western boundary lies to the east on the opposite side of the road. A Special Wildlife site also lies to the east on the opposite side of C1172 road. The landscape characterisation at this location is Timbered Farmland Plateau.
- 1.6 The applicant's personal circumstances are described as such in their supporting statement:
- "The Applicants have roots in the local area and have been tenants of the land for roughly 25 years having used it for grazing horses. They are therefore well known, and well respected in the area, as is indicated by the number of supportive letters accompanying the Application.*
- 1.7 *The family is of Romany Gypsy extraction which originated in the Ledbury area and have lived in Herefordshire all their lives. The Holland family has strong local connections. Mr. Holland's grandfather was well known in the Ledbury, Leddington area, with his horse drawn 'waggins', working on farms in the area, Fair Tree farm outside Ledbury, Hill Farm Putley etc. The prospective residents of the site are Mr and Mrs. Holland and their daughter and Mr. Holland's parents.*
- 1.8 *For many years they had a nomadic habit of life, however in recent years this became more difficult because of the combined effect of a sharp reduction in seasonal work opportunities, pressure on stopping places applied by the Local Authority (without providing transit site alternatives) and the rising expectations for children's education and their own health care needs. So the amount of travelling they were able to do has reduced. About 12 years ago Mr. and Mrs. Holland started to live, (unhappily), in a house at Holme Lacy while Mr. and Mrs. Holland senior have lived for many years on the Local Authority Traveller site in Lower Builingham.*
- 1.9 *Both families have good reasons for wishing to return to their traditional way of living in caravans in close family groups, and travelling at various times of the year. Mr. and Mrs. Holland have had great difficulty settling into the house and they believe their mental health has suffered as a consequence to the extent that they have at times felt suicidal. They have both been on anti-depressants and feel they are just not suited to bricks and mortar living. In addition Mrs. Holland suffers from fibro myalgia which means she cannot manage stairs. Their frustration has been compounded by the restriction on keeping a caravan at their house. imposed by the Housing Association, of just two months in the year. During this time they maintained a caravan but they had to keep it in other people's yards. Letters are supplied in the application to this effect.*
- 1.10 *Mr. and Mrs. Holland (senior) are in their late 70's and are finding it difficult to manage on the Orchard Park site, especially in the winter and at night As they have to get across the yard to use the facilities They have asked for their caravan to be plumbed in to the system but this not possible. As they get older they feel they need additional family support especially Mrs. Holland who does not drive.*
- 1.11 *It has been a long held dream to own a piece of land where they could set up a family site of their own. On 1<sup>st</sup> April 1978, the family moved their caravan from where it was parked on the Edgar Street car park in Hereford, into the centre of High Town, where it had Local Authority Planning permission for the day. This was to draw attention to the fact that it was 8 years since*

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Further information on the subject of this report is available from Mr Fernando Barber-Martinez on 01432 383674

*the passing of the Caravan Sites Act requiring Local Authorities to make provision for Travellers and still there had been no indication of when these sites would emerge. (The first one opened more than 10 years later in November 1988). A picture of the family outside their caravan appeared in that week's Hereford Time and is included with this application"*

- 1.12 A brief road traffic survey was undertaken by the applicant, and revised drawings were also received on 7 June 2016 in respect of access arrangements (clarification of gradients/ splays/ site layout).
- 1.13 The traffic survey indicates daily traffic towards Ledbury of 427 vehicles, and 441 towards Wellington Heath. Speed at the 85%tile towards Ledbury is indicated at 41.1 mph. Speed at the 85%tile towards Wellington Heath is indicated as 44 mph. Traffic volume is indicated at 60 cars every hour.

## **2. Policies**

- 2.1
- SS1 - Presumption in Favour of Sustainable Development
  - SS2 - Delivering New Homes
  - SS4 - Movement and Transportation
  - SS6 - Environmental Quality and Local Distinctiveness
  - RA3 - Herefordshire's countryside
  - H4 - Travellers Sites
  - MT1 - Traffic Management, Highway Safety and Promoting Active Travel
  - LD1 - Landscape and Townscape
  - LD2 - Biodiversity and Geodiversity
  - SD1 - Sustainable Design and Energy Efficiency)
  - SD4 - Waste Water Treatment and River Water Quality

### 2.2 Neighbourhood Plan

Ledbury Neighbourhood Plan Area was designated on 12/11/12. Work has commenced on drafting the plan and whilst a material consideration it has not reached a stage where it can be given weight in the decision making process.

### 2.3 National Planning Policy Framework 2012 (NPPF)

Paragraph 6 and 14 (Presumption in Favour of Sustainable Development);  
Section 3: Supporting a prosperous rural economy;  
Section 4: Promoting Sustainable Transport;  
Section 7: Requiring Good Design;  
Section 8: Promoting Healthy Communities;  
Section 11: Conserving and Enhancing the Natural Environment.

- 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>

### 2.5 Other Material Considerations:

Planning Policy for Traveller Sites (PPTS) (August 2015)

Manual for Streets 2.

This Council consulted on the Herefordshire Local Plan Travellers' Site Document: Preferred Options (July 2016) - to which the application site is not specifically allocated. This document identifies the need to provide (at least) 48 residential pitches by 2031.

2.6 Appeal Decision 141687 (APP/W1850/W/15/3007927) in respect of site at Oakley Cottage, Mid Summer Orchard, Ridge Hill, Hereford in respect of a single family traveller site. Appeal dismissed (Decision date 23<sup>rd</sup> March 2016). The key issues in that case for the Inspector were:

1. Whether the appellant and proposed occupiers of the site fall within the PPTS definition of gypsies and travellers for planning purposes,
2. The effects of the proposed development on the character and appearance of the surrounding area;
3. The implications of the proposal for objectives of sustainable development; and
4. Whether any harm arising from the above issues is outweighed by other considerations, including the need for gypsy and traveller sites, personal circumstances and Human Rights considerations.

### **3. Planning History**

3.1 None to site.

### **4. Consultation Summary**

#### Statutory Consultations

4.1 Hereford Nature Trust: No response.

#### Internal Council Consultations

4.2 Transportation Manager: No objection to point of access following receipt of traffic survey information.

4.3 EHO: No adverse comments.

4.4 Waste Officer: No response.

4.5 Licensing and Gypsy Traveller Team: No objections. For your information, I can confirm that Mr John Holland and his wife Kathleen Holland have been residents of the council owned traveller site known as Orchard Park, Watery Lane, Lower Bullingham, Hereford since the site opened in around 1992. It should be noted that eligibility to apply for a Pitch on a council-owned Traveller site is restricted to gypsy travellers.

Local Plan Team: The Council is preparing a Travellers' Sites Development Plan Document (DPD) which will address the accommodation requirements of Gypsies and Travellers in the County up to 2031. As part of this process a Gypsy and Traveller Accommodation Needs Assessment has been prepared to form part of the evidence base for the emerging DPD. The final version of the assessment was published in November 2015 and will be subject of examination when the DPD reaches that stage. The assessment evidences an overall requirement for the period 2014/15 to 2030/31 for:

- 48 Gypsy and Traveller pitches (with 19 of these being required in the period between 2014/15 to 2018/19).
- 9 Travelling Show person plots; and
- 3 transit pitches over the period 2014/15 to 2018/19.



In addition to these requirements the study suggests an additional 18 pitches may be required for those households currently in bricks and mortar over the five years 2014/15 to 2018/19.

A copy of the assessment can be found at: <https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/travellers-sites-document>

Records indicate that one pitch has received planning permission to date in 2014/2015 and two pitches in March 2016. therefore there is not a five year supply of deliverable sites available. Should this application be granted planning permission it will contribute to the need identified in the assessment.”

## 5. Representations

### 5.1 Ledbury Town Council: Objection because of the following concerns:

- access and egress,
- risk of pollution;
- adequacy of water treatment plant;
- not in SHLAA;
- in open countryside;
- change of use; sight line.

### 5.2 Wellington Heath Parish Council (immediate adjacent parish):

Objection (summarised) on the following points:

- Contrary to policies SS6, LD1 and SD1;
- Not in SHLAA;
- Main gateway into village;
- Application silent on AONB;
- Wrong landscape description in application;
- Smoke and bonfires;
- Stream rises in heavy rain;
- The need for a site in Wellington Heath is questionable;
- The applicant and family are not homeless having lived in Holme Lacy for 12 years;

If permission is granted we would wish to see:

- Improved tree screening;
- Strict controls on use and pollution;
- No kerbs;
- Design of caravans to be agreed;
- Development not permanent and limited to the applicant and father.

### 5.3 To date 36 letters of representation have been received of which 32 object, 2 indicate general support and 4 with mixed comments. These raise the following points (summarised):

- Applicant is no longer a Traveller;
- Contrary to Policy SS6 (environmental quality and local distinctiveness);
- Flooding potential on site from stream;
- Not in Keeping;
- Access is Dangerous;
- Overcrowded site;
- Accuracy of Drawings Questioned;

- Impact on Area of Outstanding Natural Beauty;
- Lighting in Countryside at Night;
- Site short on daylight and boggy;
- Loss of greenspace;
- Loss of hedgerow/ habitats;
- Static caravans are out of character;
- Time extension should be given to carefully consider proposal;
- Concern that stream will be polluted by the on site sewage treatment unit and other activities.

5.4 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=160238&search=160238>

5.5 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

### General Principles

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 Here, 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 The strategic Policy SS1 sets out a presumption in favour of sustainable development as required by the NPPF and directs that proposals which accord with the policies of the CS shall be approved, unless material considerations indicate otherwise. 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 engages Paragraphs 47, 49 and 14 of the NPPF . At present, the Council cannot demonstrate a 5-year supply of housing land. This is presently 4.38 years of housing land supply.

6.4 Wellington Heath is the closest CS identified settlement to the site, this being found immediately to the north (where the edge of that parish boundary is found), with the dispersed south-western edge of Wellington Heath at that point

6.5 The site therefore is in proximity to a sustainable settlement identified for proportionate growth which has some community facilities such as a village hall, public house and bus service to Ledbury.

6.6 In addition a recent Court of Appeal judgment amongst other points came to the view that 'out of date' policies (because of the housing land supply being under 5 years) do not become irrelevant, it is simply that the weight to be given to them is for the decision maker to decide. The decision overall is one of planning judgment and balance, which includes the weight properly attributable to the NPPF and the shortfall and all other relevant policies and facts.

- 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 in Herefordshire's countryside, where Policy RA3 is relevant in respect of new housing.
- 6.8 This proposal accords with Policy RA3 of the CS (in that it is a site for the needs of gypsies or travellers). Policy H4 (traveller sites) of the CS also has the following criteria which need to be met for such a proposal namely:
1. Sites afford reasonable access to services and facilities, including health and schools;
  2. Appropriate screening and landscaping is included within the proposal to protect local amenity and the environment;
  3. They promote peaceful and integrated co-existence between the site and the local community;
  4. They enable mixed business and residential accommodation (providing for the live-work lifestyle of travellers);
  5. They avoid undue pressure on local infrastructure and services;
  6. In rural areas, the size of the site does not dominate nearby settled communities and they are capable of accommodating on-site facilities that meet best practice for modern traveller site requirements, including play areas, storage, and provision for recycling and waste management.
- 6.9 The proposal is small scale near to Wellington Heath with Ledbury the nearest town. Additional natural screening is being proposed, and no business activity is indicated on the site. Local infrastructure will not be adversely impacted upon. The size of the site will not dominate nearby settled communities.

#### Need for Sites

- 6.10 A material consideration within the DCLG Planning Policy for Travellers Sites (August 2015) is Paragraph 24 regarding Decision Taking namely:
- Local Planning Authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
- (a) the existing level of local provision and need for sites;
  - (b) the availability (or lack of) alternative accommodation for the applicants;
  - (c) other personal circumstances of the applicant;
  - (d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitched/ plots should be used to assess applications that may come forward on unallocated sites;
  - (e) that they should determine applications for sites from any travellers and not just those with local connections.
- 6.11 It has been confirmed independently and by the Licensing and Gypsy Traveller Team that Mr and Mrs Holland (senior) have lived on the Council's Traveller site at Lower Bullingham since it

opened in 1992. Health implications have been mentioned in the applicants' supporting statement. This proposal is being considered against the general need for such sites, with personal consideration being taken into account. There is an evidenced need from the Local Plan Team in that there is not a 5 year supply of sites at present.

6.12 Annex One: Glossary PPTS Paragraph 1 and 2 states:

“For the purposes of this planning policy “gypsies and travellers” means:

*Persons of a nomadic habit of life whatever their race or religion, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.*

In determining whether persons are 'gypsies and travellers' for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- (a) whether they have led a nomadic habit of life;
- (b) the reasons for ceasing their nomadic habit of life;
- (c) whether there is an intention of living a nomadic habit of life in the future, and if so how soon and in what circumstance.

The applicant's supporting statement in principle addresses the above matters (a-c).

#### Landscape

- 6.13 Some screening is proposed on the southern tip of the site, although the centre of the site (and the roofs of the static and touring caravans) would be visible from the roadside when travelling in and out of Wellington Heath. The site lies just outside of the AONB boundary (to the east) and is a visually partly screened site enclosed due to boundary roadside hedge planting, and being on lower ground than the adjoining road. This will have no adverse visual impact on the adjacent AONB at this location, although will be a noticeable visual element along Beggars Ash Lane (when travelling between Wellington Heath and Ledbury) due to the incongruous appearance of the static and touring caravans.

#### Amenity

- 6.14 The proposed low impact use of the site is unlikely to give rise to any appreciable immediate neighbouring amenity concerns at this location given the absence of near neighbours.

#### Highways

- 6.15 The Highway Engineer raises no objection to the proposed access point. The new access into the site (set back from the roadside verge) is safe and subject to a planning condition requiring visibility splays to be provided this accords with the aims of Policy MT1 of the Local Plan.

#### Waste Water

- 6.16 Waste water arising from the use of the caravans can be dealt with by way of a package sewage treatment unit. This accords with Policy SD4 of the Local Plan. Its proximity to a watercourse is not problematic as treated water from the sewage treatment unit then discharges into underground soakaway pipes. There is a sewage pumping station on the opposite side of the road to the application site.

## Ecology

- 6.17 A landscaping condition requiring supplemental tree and hedge planting can be agreed by way of a planning condition in order to enhance biodiversity on the site.

## Conclusion

- 6.18 On balance the proposal accords with with planning policy within the Core Strategy, and there is an evidenced need to provide for new gypsy and traveller sites within Herefordshire.
- 6.19 While it is acknowledged that Mr and Mrs Holland are not without permanent accommodation at the moment, and that Mr and Mrs Holland (senior) are on an established site at Lower Bullingham, there is an overriding need to provide for such sites at policy compliant locations within the County. While a separate recent appeal decision queried the gypsy/ traveller status of the applicant in that case in respect of recent planning policy guidance (PPTS), it is considered that the applicant and proposed occupants of the site are of gypsy/ traveller heritage, this being confirmed for Mr Holland (senior) by this Council's Licensing and Gypsy Traveller Team.
- 6.20 In determining whether persons are 'gypsies and travellers' for the purposes of the PPTS , consideration should be given to the following issues amongst other relevant matters:
- (a) a whether they have led a nomadic habit of life;
  - (b) the reasons for ceasing their nomadic habit of life;
  - (c) whether there is an intention of living a nodic habit of life in the future, and if so how soon and in what circumstance.
- 6.21 It is considered that points (a) (b) and (c) are satisfied in the applicants supporting statement.
- 6.22 The imposition of planning conditions will ensure the effective long term control over the use of the site in accordance with the above identified interests.

## **RECOMMENDATION**

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

1. **C01 (Three Year Implementation Date).**
2. **C06 Drawings Received 28 January namely :“Proposed Sheds”, Location Plan, Block Plan, New Access Cross-Section as amended by Drawings Received 7<sup>th</sup> June 2016.**
3. **The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites (August 2015).**  
  
**Reason: To accord with the requirements of Policies RA3 and H4 of the Herefordshire Local Plan – Core Strategy and the Planning Policy for Traveller Sites (DCLG – August 2015).**
4. **CA09 Single Access/ No Footway “Set Back 2.4 Metres”.**
5. **CBM (Foul Drainage).**
6. **C96 (landscaping condition).**
7. **C97 (landscaping implementation).**

8. **No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 2 shall be a static caravan) shall be stationed on the site at any time.**

**Reason:** To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 9 **Any material change to the position of the static caravan, or its replacement by another caravan in a different location, shall only take place in accordance with details submitted to and approved in writing by the local planning authority.**

**Reason:** To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 10 **No commercial activities shall take place on the land, including the storage of materials.**

**Reason:** In order to safeguard the character and amenity of the area, and the living conditions of neighbouring properties, in accordance with policy SD1 of the Herefordshire Local Plan – Core Strategy and the requirements of the National Planning Policy Framework.

- 11 **Details of any external lighting proposed shall be submitted to and approved in writing by the local planning authority before the use hereby permitted commences. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.**

**Reason:** To safeguard local amenities and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

#### **INFORMATIVES:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **The development may mean that non mains drinking water is necessary for the scheme. All new non-mains water supplies must be wholesome and comply with the standards set out in the Private Water Supplies Regulations 2009. Shared and commercial private water supplies must be risk assessed and sampled by the Environmental Health and Trading Standards Division in accordance with the Regulations.**
3. **The proposed caravan site may require a site licence issued by the Licensing section of the Council’s Environmental Health and Trading Standards Division.**

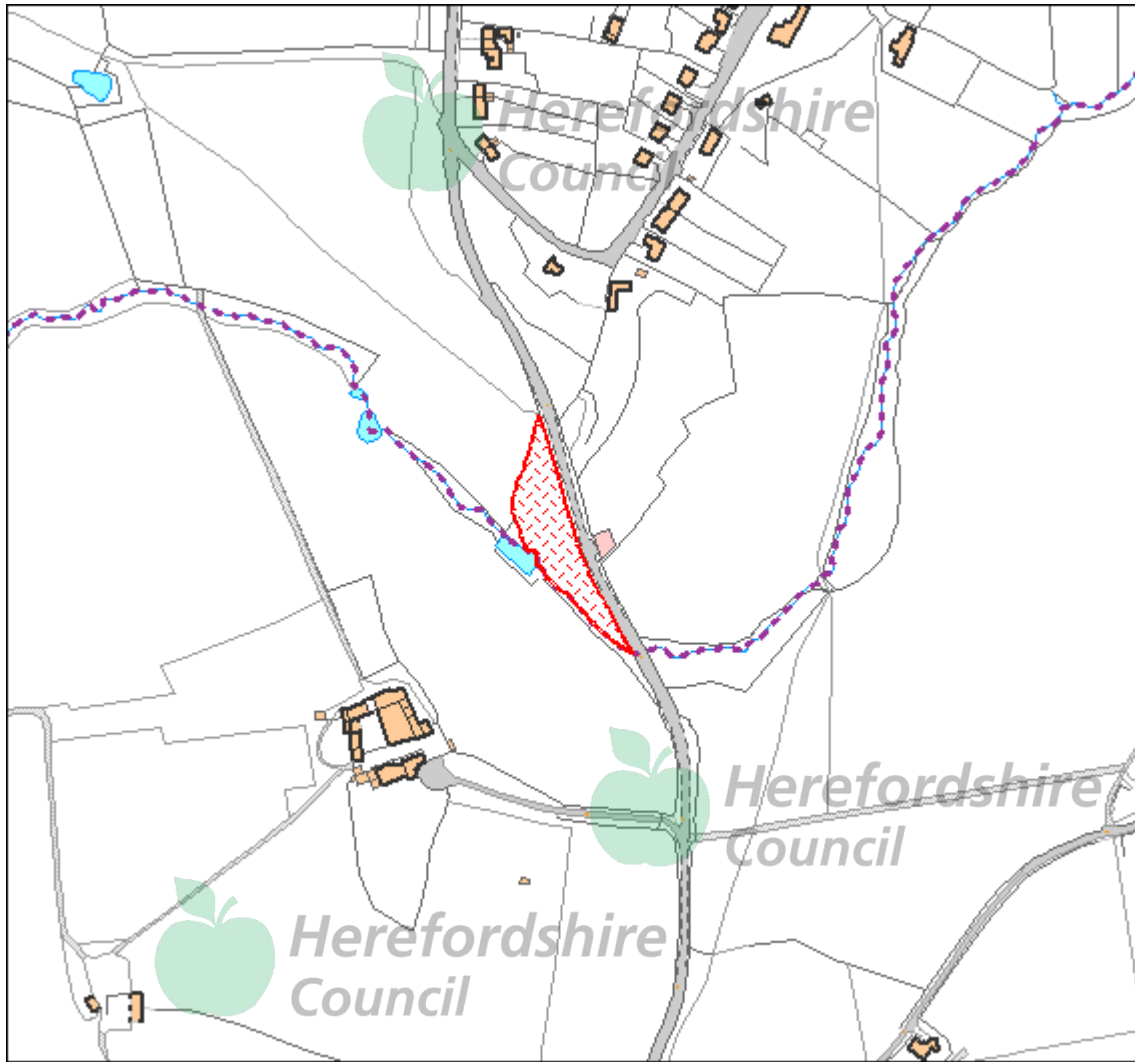
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 160238

**SITE ADDRESS :** LAND AT OAK TREE VIEW, BEGGARS ASH LANE, WELLINGTON HEATH,  
HEREFORDSHIRE, HR8 1LN

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