

Agenda

Planning and regulatory committee

Date: **Wednesday 6 December 2017**

Time: **10.00 am**

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

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

For any further information please contact:

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Agenda for the meeting of the Planning and regulatory committee

Membership

Chairman	Councillor PGH Cutter
Vice-Chairman	Councillor J Hardwick
	Councillor BA Baker
	Councillor CR Butler
	Councillor PJ Edwards
	Councillor DW Greenow
	Councillor KS Guthrie
	Councillor EL Holton
	Councillor TM James
	Councillor JLV Kenyon
	Councillor FM Norman
	Councillor AJW Powers
	Councillor A Seldon
	Councillor WC Skelton
	Councillor EJ Swinglehurst

Agenda

	Pages
GUIDE TO THE COMMITTEE	
1. APOLOGIES FOR ABSENCE	
To receive apologies for absence.	
2. NAMED SUBSTITUTES (IF ANY)	
To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
3. DECLARATIONS OF INTEREST	
To receive any declarations of interest by Members in respect of items on the Agenda.	
4. MINUTES	9 - 22
To approve and sign the Minutes of the meetings held on the morning and afternoon of 15 November 2017. <i>(Afternoon minutes to follow.)</i>	
5. CHAIRMAN'S ANNOUNCEMENTS	
To receive any announcements from the Chairman.	
6. APPEALS	23 - 26
To be noted.	
7. 172552 - ASHGROVE CROFT, MARDEN, HEREFORD, HR1 3HA	27 - 68
Proposed two additional mobile homes, two touring caravans and the construction of a day room, associated hard standing drainage and re-aligned access track.	
8. 172704 - LAND AT MIDDLE COMMON PIGGERY, LOWER MAESCOED, HEREFORDSHIRE	69 - 80
Proposed demolition of existing agricultural buildings and replacement with six dwellings with associated work space. Conversion of existing workshop to form single dwelling and associated works.	
9. 173692 - LAND ADJACENT TO VILLAGE HALL, AYMESTREY, LEOMINSTER.	81 - 94
Proposed 5 no. Dwellings with garages and treatment plant.	
10. DATE OF NEXT MEETING	
Date of next site inspection – 16 January 2018	
Date of next meeting – 17 January 2018	

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- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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The Chairman or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.

Guide to Planning and Regulatory Committee

The Planning and Regulatory Committee consists of 15 Councillors. The membership reflects the balance of political groups on the council.

Councillor PGH Cutter (Chairman)	Conservative
Councillor J Hardwick (Vice-Chairman)	Herefordshire Independents
Councillor BA Baker	Conservative
Councillor CR Butler	Conservative
Councillor PJ Edwards	Herefordshire Independents
Councillor DW Greenow	Conservative
Councillor KS Guthrie	Conservative
Councillor EL Holton	Conservative
Councillor TM James	Liberal Democrat
Councillor JLV Kenyon	It's Our County
Councillor FM Norman	Green
Councillor AJW Powers	It's Our County
Councillor A Seldon	It's Our County
Councillor WC Skelton	Conservative
Councillor EJ Swinglehurst	Conservative

The Committee determines applications for planning permission and listed building consent in those cases where:

- (a) the application has been called in for committee determination by the relevant ward member in accordance with the redirection procedure
- (b) the application is submitted by the council, by others on council land or by or on behalf of an organisation or other partnership of which the council is a member or has a material interest, and where objections on material planning considerations have been received, or where the proposal is contrary to adopted planning policy
- (c) the application is submitted by a council member or a close family member such that a council member has a material interest in the application
- (d) the application is submitted by a council officer who is employed in the planning service or works closely with it, or is a senior manager as defined in the council's pay policy statement, or by a close family member such that the council officer has a material interest in the application
- (e) the application, in the view of the assistant director environment and place, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- (f) the application, in the reasonable opinion of the assistant director environment and place, raises issues of a significant and/or strategic nature that a planning committee determination of the matter would represent the most appropriate course of action, or
- (g) in any other circumstances where the assistant director environment and place believes the application is such that it requires a decision by the planning and regulatory committee.

The regulatory functions of the authority as a licensing authority are undertaken by the Committee's licensing sub-committee.

Who attends planning and regulatory committee meetings?

Coloured nameplates are used which indicate the role of those attending the committee:

Pale pink	Members of the committee, including the chairman and vice chairman.
Orange	Officers of the council – attend to present reports and give technical advice to the committee
White	Ward members – The Constitution provides that the ward member will have the right to start and close the member debate on an application. In attendance - Other councillors may also attend as observers but are only entitled to speak at the discretion of the chairman.

Public Speaking

The public will be permitted to speak at meetings of the Committee when the following criteria are met:

- a) the application on which they wish to speak is for decision at the planning and regulatory committee
- b) the person wishing to speak has already submitted written representations within the time allowed for comment
- c) once an item is on an agenda for planning and regulatory committee all those who have submitted representations will be notified and any person wishing to speak must then register that intention with the monitoring officer at least 48 hours before the meeting of the planning and regulatory committee
- d) if consideration of the application is deferred at the meeting, only those who registered to speak at the meeting will be permitted to do so when the deferred item is considered at a subsequent or later meeting
- e) at the meeting a maximum of three minutes (at the chairman's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes will be allowed for public speaking
- f) speakers may not distribute any written or other material of any kind at the meeting
- g) speakers' comments must be restricted to the application under consideration and must relate to planning issues
- h) on completion of public speaking, councillors will proceed to determine the application
- i) the chairman will in exceptional circumstances allow additional speakers and/or time for public speaking for major applications and may hold special meetings at local venues if appropriate.

Minutes of the meeting of Planning and regulatory committee held at The Council Chamber - The Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Wednesday 15 November 2017 at 10.00 am

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

Councillors: PA Andrews, BA Baker, PJ Edwards, EL Holton, JA Hyde, JLV Kenyon, FM Norman, RJ Phillips, AJW Powers, A Seldon, EJ Swinglehurst and SD Williams

In attendance: Councillors

Officers:

79. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Butler, Greenow, Guthrie, James and Skelton.

80. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.170 of the Council's Constitution, Councillors Hyde, Phillips, Andrews and Williams attended the meeting as substitute members for Councillors Butler, Greenow, James and Skelton respectively.

81. DECLARATIONS OF INTEREST

Councillor PJ Edwards declared a non-pecuniary interest in agenda item no. 6, application 164103, Claston Farm, Dormington; Councillor Edwards knew the applicant.

82. MINUTES

RESOLVED: That the Minutes of the meetings held on 4 October and 1 November 2017 be approved as correct records and signed by the Chairman.

83. CHAIRMAN'S ANNOUNCEMENTS

None.

84. 164103 - CLASTON FARM, DORMINGTON, HEREFORD, HR1 4EA

(Proposed erection of 2 No. additional broiler units on existing poultry site along with associated infrastructure)

(Councillor J Hardwick was fulfilling the local ward member role and accordingly had no vote on this application)

The Acting Development Manager (ADM) gave a presentation on the officer report relating to the application and the update sheet including an additional representation and a further condition concerning the use of external lighting, as attached to these minutes.

In accordance with the criteria for public speaking Mr I Morley, local resident, spoke in opposition to the application and Mr E Thomas, the applicant, spoke in support.

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

Councillor Hardwick made the following principal points:

- Applications concerning poultry units were emotive;
- Environmental issues had been addressed in the completion of the application. The peer review conducted on the application had found that the impacts of the site would be within acceptable limits;
- The landscaping proposed on the development would soften the impact of the structure on the surrounding countryside;
- The attenuation pond would cope with runoff from the site and assist in the alleviation of local flooding issues;
- The odour caused by the production cycle was usual in rural areas and the operation proposed on the site was consistent with a rural county.

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

- The condition of the farm yard was referred to which was felt to be well-maintained. In response the ADM confirmed that maintenance of the farmyard was not a material planning consideration and no weight should be attached to its condition during decision-making;
- It was felt that the technical issues in the report had been addressed by the consultants employed to peer review the application. The technical reports commissioned and the lack of objection from statutory consultees limited the grounds on which the application could be refused;
- Sympathy was expressed for local residents who would be affected by smells from the site. Concern was expressed regarding the potential impact of the site upon the respiratory health of local residents caused by ammonia emissions.
- The prevailing wind from the south west would carry the odour of the site away from Dormington and local residential areas. The inconsistency in the outcomes of the odour modelling, which claimed a slight impact on local residents, and the representations from the local community, which stated a severe impact was raised.
- A query was raised regarding the length of time required for the planting scheme proposed in the landscaping scheme to reach maturity;
- The proposed colour of the roof was queried and whether a shade to match the colour of the crops surrounding the development would be more appropriate. The ADM confirmed that the applicant was required to promote a scheme that the local planning authority would approve;

- The right of way across the farm yard was raised and the need to safeguard the footpath. The ADM confirmed that the applicant would be asked to explain how the right of way would be protected.
- Concerns were expressed regarding the number of poultry units in the county. It was questioned whether it was reasonable to give planning permission to further poultry developments.
- Concern was expressed that there was not adequate planning guidance relating to poultry units in the Core Strategy. Previously such guidance had formed part of the local planning policy framework but currently this was not included in the Core Strategy. It was requested that the Cabinet Member look into the need to establish relevant guidance in the core strategy. However it was noted that similar developments had been constructed when a policy had been contained in the Core Strategy. The ADM confirmed that previously there had been a policy for intensive livestock but this may not have been of relevance in relation to the current application.
- The lack of specific policy was not felt to deprive the committee of all grounds for refusal. It was noted that the development would be constructed on grade 1 and 2 agricultural land which was inconsistent with the NPPF and the potential impact of bio aerosol particulates on health was still subject to scientific enquiry. However it was noted that Herefordshire had a very high level of grade 1 and 2 agricultural land and house building was undertaken on such land. The ADM confirmed that the issue of bio aerosol was the pertinent issue but enough information had been provided to enable a decision.
- The impact upon tourism in the county caused by odours and pollution arising from the site was a concern which would affect a local site of special scientific interest. The economic benefit of the site had been assessed and the advantage to the applicant was understood but the detrimental impact of the site upon tourism in the county also required consideration. The ADM confirmed that there would be an economic benefit to the farmer, as the applicant, but also residents of the county involved in activities associated with the processing of poultry meat.
- The positioning of the development on an area within a flood zone was queried and whether it could have been located elsewhere on the farm on land less susceptible to flooding. The ADM confirmed that if the applicant had located the development on land outside of flood zone 2/3 this would be closer to residential properties;
- The manure management arrangements proposed in the report were queried and where the manure would be spread. The ADM confirmed that the applicant would spread manure on land leased to tenant farmers but might be sold as a resource if surplus to requirements. Given the regulatory regime within which manure spreading takes place the ADM advised this was not a material planning consideration in this instance.
- The strength of the condition regulating the number of cropping cycles annually was queried and if this could be challenged effectively in the future on the basis of restriction of trade. The Lead Development Manager confirmed that there was no intention to increase the crop cycle and the condition serves to ensure that any shortening of the crop cycle with associated increase in the number of crop cycles per year would require a formal application for planning permission in the future.

The local ward member was given the opportunity to close the debate.

Councillor Hardwick thanked members for a fair and balanced debate.

Councillor BA Baker proposed and Councillor PJ Edwards seconded a motion to approve the application in accordance with the printed recommendation and the

additional condition set out in the update sheet. The motion was carried 11 votes in favour, 2 against and no abstentions.

RESOLVED: That planning permission is granted subject to the following conditions and any other conditions considered necessary by officers named in the scheme of delegation to officers:

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **With the exception of any site clearance and groundwork (excluding any works to retained features), no further development shall commence on site until a landscape design has been submitted to and approved in writing by the Local Planning Authority. The details submitted should include:**

Soft landscaping

- a) A plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, species and canopy spread, together with an indication of which are to be retained and which are to be removed;
- b) A plan(s) at a scale of 1:200 or 1:500 showing the layout of proposed tree, hedge and shrub planting and grass areas;
- c) A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and grass establishment.

Hard landscaping

- a) Existing and proposed finished levels or contours
- b) The position, design and materials of all site enclosure (e.g. fences, walls)
- c) Car parking layout and other vehicular and pedestrian areas, to include measures to waymark the public footpath DR1
- d) Hard surfacing materials

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. **The soft landscaping scheme approved under condition 3 shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 10 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 10-year maintenance period. The hard landscaping shall be completed prior to the first use of the development hereby permitted**

Reason: In order to maintain the visual amenities of the area and to

conform to Policy LD1 of the Herefordshire Local Plan – Core Strategy.

5. There shall be no more than eight cropping cycles in any one calendar year and no more than 220,000 birds in total shall be housed at any one time within the poultry units hereby approved and those existing poultry units approved via application 133305 (dated 3rd March 2014).

Reason: So that the environmental impact of any intensification of production / use can be fully assessed against the provisions of the Development Plan and any other material planning considerations.

6. No development shall commence on site until a habitat enhancement scheme which contains proposals to enhance the habitat on site for wildlife and biodiversity has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

Reason: The proper consideration of potential impacts on protected species and biodiversity assets is a necessary initial requirement before any demolition and/or groundworks are undertaken in order to ensure that diversity is conserved and enhanced in accordance with the requirements of the NERC Act 2006 and Policy LD2 of the Herefordshire Local Plan – Core Strategy.

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

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

8. Prior to commencement of the development hereby permitted a Construction and Environmental Management Plan (CEMP) shall be submitted to the Local Planning authority for their written approval.

The CEMP shall include detailed methodologies to cover the possible presence of bats, nesting birds, Great Crested Newts and other wildlife as relevant at the time of the construction as well as habitat protection. Consideration should be given on how to minimise and mitigate during the complete construction process: noise and vibration, air quality (including dust management), sustainable waste management, traffic management and flows, water management (surface and groundwater), management and protection of ecological resources including all wildlife and features such as trees and hedgerows, management of any contaminated land and managing spills and accidental discharges during operations. The CEMP should detail the appointed site manager who will oversee implementation and briefing of all contractors, monitor and record all aspects of the CEMP, take all relevant action and

liaison as may be needed.

The development shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in full accordance with the approved detail and thereafter maintained as such.

Reason: To safeguard the River Frome from any disturbance, disruption or accidental pollution during the construction phase, to safeguard existing habitats and protected species and to safeguard the wider environment in accordance with policies SS6 and LD2 of the Herefordshire Local Plan Core Strategy 2011-2031.

- 9. Finished floor levels shall be set no lower than 53.00mAOD in line with the FRA produced by Hydro-Logic Services (Ref: K0739/1 Rev 3 dated September 2017) which is 600mm above the estimated 1% plus climate change flood level unless otherwise agreed in writing by the LPA.**

Reason: To protect the proposed development from flood risk for the lifetime of the development so as to comply with Policy SD3 of the Herefordshire Local Plan - Core Strategy 2011-2031.

- 10. Prior to the first use of the poultry units hereby permitted, the flood storage compensation shall be implemented in full in accordance with a scheme that shall first be submitted to and agreed in writing by the local planning authority.**

Reason: To minimise flood risk so as to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy 2011-2031.

- 11. Notwithstanding the approved plans, prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:**

- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;**
- Evidence that the development is providing sufficient storage and appropriate flow controls to manage additional runoff volume from the development, demonstrated for the 1 in 100 year event (6 hour storm) with an appropriate increase in rainfall intensity to allow for the effects of future climate change;**
- A detailed dirty water drainage strategy showing how dirty water from the development will be disposed of;**
- Demonstration that appropriate pollution control measures are in place prior to discharge;**
- Details of any proposed outfall structures;**
- Details of how surface water runoff from surrounding land will be conveyed around the development without increasing flood risk to people or property.**

The development shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in full accordance with the approved details and

thereafter maintained as such.

Reason: To ensure satisfactory drainage arrangements in accordance with policies SS6, SD3 and SD4 of the Herefordshire Local Plan Core Strategy 2011-2031.

12. **With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls and roofs have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy.

13. **No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts of nocturnal wildlife. The development shall be carried out in accordance with the approved details and maintained thereafter as such.**

Reason: To safeguard the character and amenities of the area 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. **HN10 No drainage to discharge to highway**
3. **HN05 Works within the highway**
4. **N19 Avoidance of doubt - Approved Plans**
5. **Ordinary Watercourse Consent will be required from Herefordshire Council for the proposed watercourse culverting works; an intermediate manhole will be required.**

The committee adjourned at 11.04 a.m. and reconvened at 11.18 a.m.

85. **171777 - LAND BETWEEN GARBROOK AND LITTLE TARRINGTON COMMON ROAD, LITTLE TARRINGTON, HEREFORD HR1 4JA**

(Proposed mixed use development comprising 15 dwellings including 5 affordable, 2 live work units and associated roads and footpaths, junction improvements, sustainable drainage, informal public open space, hedgerow and tree planting)

(Councillor J Hardwick was fulfilling the local ward member role and accordingly had no vote on this application)

The Acting Development Manager (ADM) gave a presentation on the officer report, as attached to these minutes, relating to the application.

In accordance with the criteria for public speaking Mr R Pryce, applicant's agent and Mr R Price, local resident, spoke in support to the application.

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

Councillor Hardwick made the following principal points:

- The application had undergone significant revisions and the current proposal represented the best solution for the site;
- There was an intention to include the site for development in the neighbourhood plan which was at an early stage of drafting;
- The site did not merge the areas of Tarrington and Little Tarrington;
- A TRO process for a 30 mph limit on the A438 close to the site had been commenced and an improvement to the junction onto the road would benefit the local area; and
- The proposed footway on the site would improve pedestrian safety for people walking between Tarrington and Little Tarrington.

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

- The development was felt to be sympathetic to the surrounding area. The layout of the site was commended and it was stated that the plan could be an exemplar for other developers. The inclusion of bungalows on the site was particularly welcomed.
- The applicant had taken account of the concerns and issues of local residents in the production of the application. This was evident through the low density nature of the site and the proposed improvements to the nearby road junction;
- A query was raised regarding the size of gullies and the capacity of the drainage system to cope with run-off from the site. Responsibility for the maintenance of the drainage system was raised and why this was not stated in the conditions. The ADM confirmed that, in an addition to the legal agreement, a management company would be established to maintain the drainage system;
- A query was raised regarding the Traffic Regulation Order (TRO) relating to the 30 mph speed limit and why this was not included in the conditions. The ADM confirmed that a contribution of £15,000 was included in the heads of terms and would be secured via a legal agreement;
- It was important that the site made provision for wildlife and the work undertaken to ensure the site was wildlife-friendly following consultations was welcomed. The ADM confirmed that condition 12 made provision for habitat enhancement including provision for swift and bat nesting;
- A concern was raised regarding consistency with planning policy and the potential to set a precedent for bad development in similar areas. A query was

raised regarding the 18% growth target in the core strategy and if this was realistic for Tarrington. The ADM confirmed: that the growth target was a minimum, indicative target that parish councils should work towards during production of neighbourhood development plans (NDPs); that there is no duty to co-operate between parishes working on NDPs; and that there is no evidence that other parishes would be willing to make up an 'shortfall' in housing delivery in Tarrington parish .

- It was queried how the live work units would be protected from conversion to fully residential housing. The ADM confirmed that under condition 20 the work spaces could not be converted to residential use as they were classed for B1 purposes.

The local ward member was given the opportunity to close the debate.

Councillor Hardwick explained that the issues had been covered and if approved the parish council would be encouraged to continue with its neighbourhood development plan.

Councillor RJ Phillips proposed and Councillor PJ Edwards seconded a motion to approve the application in accordance with the printed recommendation with the additional condition set out in the update sheet. The motion was carried unanimously.

Resolved that - 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 planning permission, subject to the conditions below and any other further conditions considered necessary:

1. **A01 Time limit for commencement (full permission)**
2. **H03 Visibility splays**
3. **H06 Vehicular access construction**
4. **H13 Access, turning area and parking**
5. **H17 Junction improvement/off site works (works to U66205 shown on Drawing LT-PA-2697-08A)**
6. **H16 Parking/unloading provision - submission of details**
7. **H20 Road completion in 2 years**
8. **H21 Wheel washing**
9. **H27 Parking for site operatives**
10. **Construction Traffic Management Plan**
11. **Before any work begins, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) shall be supplied to the planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.**

Reason: To ensure that all species are protected and habitats

enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

12. Prior to commencement of the development, a detailed habitat enhancement scheme based on the recommendations in the Ecology Report by Ecology Services dated May 2017 should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

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

13. 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,

14. Prior to the occupation of properties the flood alleviation channel proposed in Section 4.2 of Hydro-Logic's FRA (Ref: K0790 Rep. 2 Rev 2 dated September 2017) must be in place with detailed design to be agreed and approved by the Lead Local Flood Authority.

Reason: To reduce flood risk to the site. In summary, the updated FRA with the additional modelling of blockage scenarios has addressed the issues we have raised previously and responded to local concerns. We therefore feel the FRA is now satisfactory and is in line with national planning policy.

15. C01 Samples of external materials

16. G09 Details of Boundary treatments

17. All planting detailed upon the Amended Landscaping Proposals – Drawing number

LT-PA-2697-07b dated 26th September 2017 - shall be carried out in the first planting season following completion of the development or first occupation of the development (whichever is the sooner). Any trees or plants that within a period of ten years of their planting die are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory appearance to the development in the landscape, in accordance with policies SS6, LD1, RA6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-2031.

18. B03 Development to be in accordance with amended plans

19. **Construction Environmental Management Plan**
20. **The work space within the live-work units hereby approved (plots 16 and 17 on the approved site layout drawing LT-PA-2697-03b) shall be used solely for purposes falling within Class B1 of the Use Classes Order 1987 (As amended).**

Reason: To control the use of the workspace areas in order to ensure that they remain compatible with the adjoining residential properties so as to comply with policies SD1 and RA6 of the Herefordshire Local Plan Core Strategy 2011-2031 .

21. **Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 shall be submitted to and approved in writing by the local planning authority and implemented as approved.**

Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy

22. **Notwithstanding the approved plans, details of the following shall be submitted to and approved in writing by the local planning authority.**

- **Nature and size of the standard pipe network proposed to convey onsite runoff.**
- **Details of the pipe network proposed to convey clean roof runoff to the ornamental pond.**
- **How the system will deal with surcharge and blockages. Including how overland flows would be conveyed to the ornamental pond and attenuation basin.**
- **Full specifications of the Hydro-brake Optimum**
- **Confirmation that Ordinary Watercourse Consent has been granted by Herefordshire Council for the outfalls from the attenuation basin.**

Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy

23. **Finished floor levels should be set at least 600mm above the upstream 1 in 100 year plus 35% modelled flood level of 69.60m AOD, confirmed in Hydro-Logic's FRA (Ref: K0790 Rep. 2 Rev 2 dated September 2017 Table 4.2) as 70.20m AOD.**

Reason: To protect the development from flooding including the impacts of climate change.

INFORMATIVES:

1. **HN10 No drainage to discharge to highway**
2. **HN08 Section 38 Agreement & Drainage details**

3. **HN07 Section 278 Agreement**
4. **HN28 Highways Design Guide and Specification**
5. **HN05 Works within the highway**
6. **N02 Section 106 Obligation**
7. **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.**

Councillor Harwick took his seat on the committee at 12.03 p.m.

86. 164024 - FORMER COUNCIL OFFICES, 39 BATH STREET, HEREFORD HR1 2HQ

(To complete a section 111 agreement in respect of application 164024, former council offices at 39 Bath Street)

The Senior Planning, Highways and Regeneration Lawyer introduced the report as attached to these minutes. It was explained that following the decision of the committee regarding application 164024 a change to the resolution was required to authorise the local planning authority to enter into a section 111 agreement with Herefordshire Housing.

A motion was proposed by Councillor PJ Edwards and seconded by Councillor EJ Swinglehurst to agree the officer recommendation. The motion was carried unanimously.

Resolved – that subject to the completion of a Section 111 Local Government Act 1972 agreement, binding both parties into the unconditional completion of the Section 106 Town and Country Planning Act 1990 agreement and transfer of the land to Herefordshire Housing Limited, officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions set out and attached to the original officer report to committee on 13 September 2017.

The meeting ended at 12.08 p.m.

Chairman

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Appendix - schedule of updates

The meeting ended at 12.08 pm

Chairman

PLANNING COMMITTEE

Date: 15 November 2015

Schedule of Committee Updates/Additional Representations

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

SCHEDULE OF COMMITTEE UPDATES

164103 - ERECTION OF 2 NO. ADDITIONAL BROILER UNITS ON EXISTING POULTRY SITE ALONG WITH ASSOCIATED INFRASTRUCTURE AT CLASTON FARM, DORMINGTON, HEREFORD, HR1 4EA

For: Mr Thomas per Mr James Whilding MRICS FBIC, Addlepool Business Centre, Woodbury Road, Clyst St George, Exeter, Devon EX3 0NR

ADDITIONAL REPRESENTATIONS

One additional letter of objection has been received from Mr A Skinner, 7 The Maltings, Dormington. It raises concerns already covered at 5.3 of the Officer Report.

OFFICER COMMENTS

A further condition is recommended to govern the use of external lighting:-

No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details and maintained thereafter as such.

Reason: To safeguard the character and amenities of the area and to comply with Policy SD1 of the Herefordshire Local Plan- Core Strategy and the National Planning Policy Framework.

CHANGE TO RECOMMENDATION

That Members note the addition of the above-proposed condition.

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	6 DECEMBER 2017
TITLE OF REPORT:	APPEALS

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the progress in respect of the following appeals.

Key Decision

This is not an executive decision

Recommendation

That the report be noted.

APPEALS RECEIVED

Application 160238

- The appeal was received on 17 October 2017
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr Tony Holland
- The site is located at Land at Oak Tree View, Beggars Ash Lane, Wellington Heath, Herefordshire
- The development proposed is Change of use of land from agricultural to a one family traveller site including stationing of two mobile homes, 2 touring caravans, treatment plant, sheds and associated parking/turning/hardstanding and new access.
- The appeal is to be heard by Hearing

Case Officer: Mr Fernando Barber-Martinez on 01432 383674

Application 170191

- The appeal was received on 30 October 2017
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Lawful Certificate
- The appeal is brought by Ms B Eakins
- The site is located at Plot 1 Mobile Home at Redwood Orchard, Redwood Lane, St Michaels, Tenbury Wells, WR15 8TL
- The development proposed is Application for a Lawful Development Certificate for a proposed use of the land for the siting of a caravan for the purpose of human habitation throughout the year as person's sole or main place of residence.
- The appeal is to be heard by Written Representations

Case Officer: Mr M Tansley on 01432 261815

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

Enforcement Notice 173279

- The appeal was received on 18 October 2017
 - The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
 - The appeal is brought by Mrs K V Smolas
 - The site is located at Glamping Site, Drovers Cottage, Dorstone, Hereford, Herefordshire, HR3 6AG
 - The breach of planning control alleged in this notice is:
 - Without planning permission the erection of safari tents in the approximate positions marked with a cross on the attached plan.
 - The requirements of the notice are:
 1. The safari tents shall only be occupied for either holiday's purposes or in connection with the training/corporate event business operated in accordance with the planning permission reference no. 132192/F dated 8/5/15.
 2. The safari tents shall be removed from the site by 1st November each year and not re-erected until 28th February of the following year.
 3. In the event of the holiday use ceasing, the safari tents including their bases and all associated infrastructure shall be removed within 3 months of the written notice from the Council to do so.
 4. Within 1 month of the date that this notice becomes effective a landscaping scheme shall be submitted to the Local Planning Authority for approval. Thereafter the approved scheme shall be implemented before 28th February 2018. This shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year maintenance period.
 - The appeal is to be heard by Written Representations
- Case Officer: Mr M Tansley on 01432 261815**

Enforcement Notice 173963

- The appeal was received on 18 October 2017
 - The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
 - The appeal is brought by Mr P A Smolas
 - The site is located at Glamping Site, Drovers Cottage, Dorstone, Hereford, Herefordshire, HR3 6AG
 - The breach of planning control alleged in this notice is:
 - Without planning permission the erection of safari tents in the approximate positions marked with a cross on the attached plan.
 - The requirements of the notice are:
 1. The safari tents shall only be occupied for either holiday's purposes or in connection with the training/corporate event business operated in accordance with the planning permission reference no. 132192/F dated 8/5/15.
 2. The safari tents shall be removed from the site by 1st November each year and not re-erected until 28th February of the following year.
 3. In the event of the holiday use ceasing, the safari tents including their bases and all associated infrastructure shall be removed within 3 months of the written notice from the Council to do so.
 4. Within 1 month of the date that this notice becomes effective a landscaping scheme shall be submitted to the Local Planning Authority for approval. Thereafter the approved scheme shall be implemented before 28th February 2018. This shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year maintenance period.
 - The appeal is to be heard by Written Representations
- Case Officer: Mr M Tansley on 01432 261815**

Application 171538

- The appeal was received on 13 November 2017
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr O'Connor
- The site is located at Oaklands Caravan Site, C1262 From B4348 Llandinabo To A49 At Oaklands House, Llandinabo, Herefordshire
- The development proposed is Proposed change of use of land from a three pitch travellers site to a five pitch travellers site. Construct a new washing facility for use by the site.
- The appeal is to be heard by Hearing

Case Officer: Mr C Brace on 01432 261947

Application 170739

- The appeal was received on 23 November 2017
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mrs A Smith & Mr G Barrett
- The site is located at Land at The Woodlands, Bridstow, Ross-on-Wye, Herefordshire
- The development proposed is Proposed erection of a single chalet bungalow.
- The appeal is to be heard by Written Representations

Case Officer: Miss Emily Reed on 01432 383894

APPEALS DETERMINED

Enforcement Notice 172688

- The appeal was received on 10 July 2017
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr Jim Gillespie
- The site is located at Lower House Farm, Church Road, Little Birch, Herefordshire, HR2 8BB
- The breach of planning control alleged in this notice is:
Without planning permission unauthorised operational development by erection of a log cabin.
- The requirements of the notice are:
Permanently remove the unauthorised log cabin from the land.
- The main issue in this case is the effect of the development on the character and appearance of the area.

The log cabin has been sited at the entrance to Lady Coppice Woods, an ancient woodland. It can be clearly seen from the 'Herefordshire Trail', a public footpath which runs immediately alongside the log cabin.

Decision:

- The appeal was Dismissed on 15 November 2017

Case Officer: Mr Simon Withers on 01432 260612

Application 170292

- The appeal was received on 10 July 2017
- 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 Jim Gillespie
- The site is located at Lower House Farm, Church Road, Little Birch, Herefordshire, HR2 8BB

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

- The development proposed was Log cabin to land at rear of Lower House Farm. Refer to application no 172688 for the Enforcement Appeal.
- The main issues were: The effect of the development on the character and appearance of the area.

The log cabin has been sited at the entrance to Lady Coppice Woods, an ancient woodland. It can be clearly seen from the 'Herefordshire Trail', a public footpath which runs immediately alongside the log cabin.

Decision:

- The application was Refused under Delegated Powers on 20 March 2017.
- The appeal was Dismissed on 15 November 2017

Case Officer: Mr Simon Withers on 01432 260612

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

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	6 December 2017
TITLE OF REPORT:	172552 - PROPOSED TWO ADDITIONAL MOBILE HOMES, TWO TOURING CARAVANS AND THE CONSTRUCTION OF A DAY ROOM, ASSOCIATED HARD STANDING DRAINAGE AND RE - ALIGNED ACCESS TRACK. AT ASHGROVE CROFT, MARDEN, HEREFORD, HR1 3HA For: Mr Harry Smith, Ashgrove Croft, Marden, Hereford, Herefordshire, HR1 3HA
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=172552&search=172552
Reason Application submitted to Committee – Ward Member Redirection Request	

Date Received: 6 July 2017

Ward: Sutton Walls

Grid Ref: 354018,249366

Expiry Date: 13 December 2017

Local Member: Councillor KS Guthrie

1. Site Description and Proposal

- 1.1 The application site, known as Ashgrove Croft, is located on the northern side of an unclassified road which leads to the hamlet known as The Vault, some 740 metres distant to the west. It is approximately 1.5 kilometres to the southwest of the village of Bodenham and 2 kilometres to the northeast of Marden. It is located within the Parish of Marden, but in close proximity to the boundary with Bodenham Parish, which includes land to the south of the site on the opposite side of the lane. To the west of the site lies a detached bungalow, known as Greenfields, which is set back some 90 metres from the lane and to the north of that development has commenced in respect of an agricultural building conversion scheme for one dwelling (under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015). To the northeast there is a solar farm extending to some 8.61 hectares. The prevailing land use is agricultural.
- 1.2 Levels rise within the site, from the lane to the north, although the area immediately adjacent to the existing vehicular access in the southeast corner and along the southern boundary is relatively flat. There is a mature hedgerow to the roadside boundary and also to the east and west boundaries. Presently the site is occupied as a gypsy site, with one static caravan, two touring caravans and various outbuildings. These are located towards the western side of the site.
- 1.3 The application seeks planning permission for the siting of two additional statics, two touring caravans and a day room, to be sited to the north of the existing static caravan. The day room would have an external floor area of 8 metres by 5 metres, with a pitched roof of 2.5 metres to

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

eaves and 4.25 metres to the ridge. It would contain a bathroom and kitchen area and externally would be finished in brick and artificial slates. The application also proposes the modification of the existing access track and parking area. Plans have been provided indicating that visibility splays of 100 metres and 170 metres are achievable towards Bodenham (the C1125) and The Vault, respectively.

- 1.4 Supporting information, in a Design and Access Statement, has been provided and supplemented during the consideration of the application. It is stated that one of the additional static caravans is required to provide more room for the applicant's elder dependant children, to create room in the existing static for the applicant's mother in law, who it is advised has medical needs such that she is a dependant relative, and the other for his son and his partner and dependants. These details are summarised in paragraphs 5.5 and 5.6 of this Report.

2. Policies

2.1 Herefordshire Local Plan Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA3	-	Herefordshire's Countryside
H4	-	Traveller Sites
LD1	-	Landscapes and Townscapes
LD2	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD4	-	Wastewater Treatment and River Water Quality

2.2 Neighbourhood Development Plan

Marden Neighbourhood Development Plan was made on 6th October 2016 and forms part of the Development Plan.

https://www.herefordshire.gov.uk/downloads/file/9017/neighbourhood_development_plan

M1	-	Scale and Type of New Housing Development in Marden village
M2	-	Scale and Type of New Housing Development in designated hamlets
M3	-	General Design Principles
M10	-	Landscape Character

2.3 NPPF

The following sections are considered to be of particular relevance:

Introduction - Achieving Sustainable Development
Core Planning Principles
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
Decision Making

2.4 Planning Practice Guidance (PPG)

2.5 Other Material Considerations:

Planning Policy for Traveller Sites August 2015 (PPTS)
Manual for Streets 2
Herefordshire Gypsy Travellers and Travelling Showperson Accommodation Assessment
update Final report July 2017
Travellers' Sites Document pre-submission draft consultation (consultation 6.11.2017-
18.12.2017)
Written Ministerial Statement (12 December 2016)

2.6 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/info/200185/local_plan/137/adopted_core_strategy

3. Planning History

- 3.1 DCCW2005/2579/F - Change of use from agricultural to a one family gypsy caravan site,
permission for 2 caravans and stable block – approved 16.11.2005.
- 3.2 DCCW2006/0573/F - Variation of condition 2 of application CW2005/2579/F – approved
5.4.2006
- 3.3 150871/F - Variation of Condition 2 of Permission DCCW/2006/0573/F - to allow for the siting of
an additional 4 static and 4 touring caravans (AMENDED APPLICATION) – withdrawn
19.11.2015
- 3.4 160494/F - Proposed change of use of land from a one pitch travellers site to a 5 pitch travellers
site, including stationing of 4 additional mobile homes, 4 touring caravans, ablution block and
hardstanding, parking, sheds and access track – withdrawn 21.6.2016

4. Consultation Summary

- 4.1 Statutory Consultations
- 4.2 Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of River Wye Special Area of Conservation
- damage or destroy the interest features for which River Lugg Site of Special Scientific
Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following
mitigation measures are required / or the following mitigation options should be secured:

- Foul sewage to be disposed in line with Policy SD4 of the adopted Herefordshire Core
Strategy. Where a package treatment plant is used for foul sewage, this should discharge
to a soakaway or a suitable alternative if a soakaway is not possible due to soil/geology.
- Surface water should be disposed of in line with Policy SD3 of the adopted Herefordshire
Core Strategy and the CIRIA SuDS Manual (2015) C753.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. Subject to the above appropriate mitigation being secured, we advise that the proposal can therefore be screened out from further stages in the Habitats Regulations Assessment process, as set out under Regulation 61 of the Habitats Regulations 2010, as amended.

Further advice on mitigation

To avoid impacting the water quality of the designated sites waste and surface water must be disposed in accordance with the policies SD3 and 4 in of the adopted Herefordshire Core Strategy.

Foul sewage

We would advise that package treatment plants should discharge to an appropriate soakaway which will help to remove some of the phosphate (see NE report below). Package Treatment Plants and Septic Tanks will discharge phosphate and we are therefore concerned about the risk to the protected site in receiving this. We therefore propose that the package treatment plant/septic tanks and soakaway should be sited 50m or more from any hydrological source. Natural England research indicates that sufficient distance from watercourses is required to allow soil to remove phosphate before reaching the receiving waterbody. (Development of a Risk Assessment Tool to Evaluate the Significance of Septic Tanks Around Freshwater SSSIs) Where this approach is not possible, secondary treatment to remove phosphate should be proposed. Bespoke discharge methods such as borehole disposal should only be proposed where hydrogeological reports support such methods and no other alternative is available. Any disposal infrastructure should comply with the current Building Regulations 2010.

Surface water

Guidance on sustainable drainage systems, including the design criteria, can be found in the CIRIA SuDS Manual (2015) C753. The expectation is that the level of provision will be as described for the highest level of environmental protection outlined within the guidance. For discharge to any waterbody within the River Wye SAC catchment the 'high' waterbody sensitivity should be selected. Most housing developments should include at least 3 treatment trains which are designed to improve water quality. The number of treatment trains will be higher for industrial developments.

An appropriate surface water drainage system should be secured by condition or legal agreement.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Other advice

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our Discretionary Advice Service.

4.3 Welsh Water

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

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

4.4 Internal Council Consultations

4.5 Transportation

Due to concerns of intensification of the existing access we require more information in regards to traffic movements currently on the site and proposed. This needs to be done under a transport statement.

Due to the route to the site we would need to condition any approvals on no commercial use at the site under this current application.

Once we receive a suitable Transport statement covering all vehicle pedestrian movements from the site on a daily basis now and as proposed, we will be able to better understand the intensity issues of the site.

Until then we will hold any additional comments on this application.

Accessibility by other modes of transport:-

The site is remote for all other modes of transport and is lacking in connectivity. Whilst lack of connectivity was a factor in the original planning approval the sites remoteness off single track lanes is still to be noted.

Access:-

Speed limit:- 60mph

Existing visibility splays in both directions:- not supplied

Required visibility splays in both directions (quote both Herefordshire Highways Design Guide 2006 based on DMRB and MfS & Mfs2):-

An on site observation concluded that vehicle movements past the existing access are very low with 3 vehicles in 20 minutes just after 9am and max speeds were @30 mph. This is an existing access and as long as any approval is conditioned limiting the numbers proposed then we would be happy with the proposed access with some removal of the hedge line to improve visibility as much as possible. See photo below of lack of visibility out of the access.



The applicant has suggested a 90 degree to the highway access to improve the existing acute arrangement. This would be a big improvement over the current layout. (current layout below)



It should be noted that gates will need to be relocated 5 metres back from the edge of the carriageway

COMMENTS:-

Proposal acceptable, subject to the following conditions and / or informatives:-

The maximum numbers of static caravans and tourers are conditioned as per the number in the application.

Visibility splay is created by removal / pulling back of the existing hedge to maximise visibility.

Gate relocated 5 metres back of the carriageway to suit new 90 degrees to the road access re-alignment.

4.6 Transportation – amended/additional plans

Mitigation of the outstanding conditions.

The maximum numbers of static caravans and tourers are conditioned as per the number in the application.

Any approval will be related to the supplied drawings and statements regarding usage of the site supplied in this application.

Visibility splay is created by removal / pulling back of the existing hedge to maximise visibility.

"Sightlines from an X distance of 2.4 metres at the access have been measured at 100 metres to the east and 170 metres to the west along the highway" (as offered by the applicant's transport statement 3 document) This will be conditioned in any approval given.

Gate relocated 5 metres back of the carriageway to suit new 90 degrees to the road access re-alignment.

The recent resubmission of plans shows a gate 10m back with the access road joining the highway at 90 degrees. We will condition approval based on the new submission plan AQC3.

LATEST COMMENTS:

Proposal acceptable, subject to the following conditions and / or informatives:-

IN LINE WITH THE NEW ACCESS ALIGNMENT: the surfacing must be a sealed surface and no drainage to the Highway from the site.

We ask that no intensification above the transport statement supplied and plan AQC3 without a new application.

CAB - H03 Visibility splays :

East (2.4 metres ("X" distance) x 100 metres ("Y" distance)

West (2.4 metres ("X" distance) x 170 metres ("Y" distance)

CAC - H04 Visibility over frontage

CAD - H05 Access gates as per Dwg ref AQC3

CAE - H06 Vehicular access construction

CAH - H09 Driveway gradient

4.7 Conservation Manager (Ecology)

No objection. Subject to confirmation through Building Regulations that the current Package Treatment Plant and soakaway field has sufficient capacity to handle the increased volumes of foul water and still have legally required 'headroom' I can not see any unmitigated 'Likely Significant Effects' on the River Lugg SAC/SSSI.

If any upgraded PTP is required then final outfall MUST be through a soakaway field with no direct final outfall in to any watercourse, ditch or culvert – in order to ensure there is no detrimental impacts on local ecology and the River Lugg SAC/SSSI from Phosphorous (phosphates) residual nitrogen or suspended solids in the outfall discharge water. (Habitat Regulations, NERC Act, Core Strategy LD2 and SD4).

No additional external lighting should illuminate any boundary feature or the adjacent highway above existing night time illumination levels to ensure there are no impacts on local commuting and foraging wildlife.

4.8 Conservation Manager (Ecology) – amended plans/additional information

There is no detailed information supplied by the applicant on the actual capacity of the existing Package Treatment Plant or the existing soakaway field. I am aware that this type of site may not be subject to Building Regulations and so under the Council's Duty of Care to the River Lugg/Wye SAC and SSSI and in line with Habitat Regulations, Core Strategy (SD4 and LD2), NERC Act and NPPF this planning authority needs to be able to ensure there are NO unmitigated 'Likely Significant Effects' from this proposed development. To reach this conclusion, before determination a professional report confirming the type of current installation and capacity of the PTP and the soakaway field as well as a confirmation of operational condition is required to clearly demonstrate that the existing system has sufficient capacity (with required 'headroom') to cope with the maximum proposed occupancy of the site at any time. This stated maximum occupancy should also be subject to Condition.

If the professional report indicates the system is not capable of supporting the proposed maximum occupancy (with required headroom) then full details of the proposed upgraded foul water treatment system MUST be supplied PRIOR to determination of any Planning Application for consideration. If any upgraded or new PTP is required then final outfall MUST be through a soakaway field (percolation tests to establish this is practical and required length MUST be undertaken and supplied) with no direct final outfall in to any watercourse, ditch or culvert – in order to ensure there is no detrimental impacts on local ecology and the River Lugg SAC/SSSI from Phosphorous (phosphates) residual nitrogen or suspended solids in the outfall discharge water. (Habitat Regulations, NERC Act, Core Strategy LD2 and SD4). I note the plans supplied indicate a borehole and there are specific Building Regulations with regard to proximity of any soakaway to boreholes and the applicant should demonstrate that these distances are achievable.

I note that biodiversity enhancements through a soft landscaping scheme have already been included and will be commented upon by my colleagues in Landscape

4.9 Conservation Manager (Landscape)

Approve with conditions

1. Planning Context

1.1 National Planning Policy Framework

- 11. 109 Conserving and enhancing the natural environment
- 11. 112 Economic and other benefits of versatile agricultural land

1.2 Herefordshire Local Plan Core Strategy 2011 – 2031 (October 2015)

- SS6. Environmental quality and local distinctiveness
- LD1. Landscape and Townscape
- LD3. Green infrastructure

1.3 Designations/Constraints

- Unregistered Parks and Gardens – Vennwood – no impact on setting envisaged
- Agricultural Land Classification – Grade 2 - Good agricultural soil
- Footpaths/Bridleways – MR5 and BM28

1.4 Herefordshire Landscape Character Assessment

Principal Settled Farmlands – Main Characteristics are: ‘hedgerows used for field boundaries’. Secondary characteristics are ‘mixed farming land use, notably of domestic character, defined chiefly by the scale of its field pattern the nature and density of its settlement and its traditional land use’.

2. Landscape and Visual effects

I have read the Design and Access Statement and seen the Block Plan showing two additional mobile homes, two touring caravans and the construction of a day room, associated hard standing drainage and re- aligned access track, Dated June 2017.

I have visited the site and the surrounding areas on Thursday 10th March 2016.

These are my landscape comments which reference to this application relating to the following above planning policy statements:

2.1 The National Planning Policy Framework, Item 11, 109 states: ‘The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and soils’

The Landscape Character of this area is that of ‘Principal Settled Farmlands’ with mixed farming land use and native hedgerows as field boundaries. These rural fields have a domestic character and traditional land use. Without substantial landscape mitigation and landscape enhancement proposals the proposed caravans and associated facilities would not contribute or enhance this landscape when seen from local footpaths MR5 approx. 140m to the west and from BM28 a local bridleway to the east. This is due to the fact that the caravans are not in materially character with this landscape.

2.2 The National Planning Policy Framework, Item 11, 112 states: ‘Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality’

The Agricultural Land Classification of this proposed site is classified as Grade 2, Good Agricultural Soil. The development is not a significant in size but there would be a loss of Grade 2 agricultural soil. This does not demonstrate that poorer quality land has been sought for this proposed development.

2.3 The Herefordshire Local Plan Core Strategy 2011 – 2031, Dated October 2015, following policies state:

2.4 SS6. Environmental quality and local distinctiveness: ‘Development proposals should conserve and enhance those environmental assets that contribute towards the county’s distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations’.

The environmental quality and local distinctiveness of this area is a traditional rural land use with dispersed scattered farms, small villages and hamlets. This proposed development does not use local materials and local design which is characteristic to this landscape. This proposed development based on the present Block Plan without substantial landscape mitigation and enhancement proposals would not enhance or contribute to the counties distinctiveness in this landscape.

2.5 LD1. Landscape and townscape: ‘Development proposals should’

- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas;
- Conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, nationally and locally designated parks and gardens and conservation areas; through the protection of the area’s character and by enabling appropriate uses, design and management;
- Incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings; and
- Maintain and extend tree cover where important to amenity, through the retention of important trees, appropriate replacement to trees lost through development and new planting to support green infrastructure.

There has already been a loss of local distinctiveness and character in this area with the existing electric pylons crossing the site and a nearby solar farm to the north east of the proposed site.

2.6 LD3. Green Infrastructure: ‘Development proposals should protect, manage and plan for the preservation of existing and delivery of new green infrastructure’

The applicants Block Plan, Dated June 2017 shows some proposals for new native hedgerows and tree planting on the SE part of the proposed site. The Block Plan however does not show mitigation hedgerow screening on the northern boundary. The Western boundary also requires further native tree enhancement and hedgerow restoration where appropriate.

3. Recommendations

3.1 With reference to the applicants Block Plan, Dated 17 and to my above landscape impact comments I would approve this application with further substantial appropriate landscape mitigation and enhancement proposals for the site.

3.2 I would recommend appropriate landscape mitigation and enhancement measures to include a native hedgerow and native trees on the Northern boundary. Further native tree planting adjacent to the Western boundary and landscape enhancement proposals such as making the whole remaining grass area of the site an orchard (of a variety of fruit trees) with appropriate biodiverse native ground cover.

3.3 To achieve the above recommended landscape mitigation and enhancement proposals I would recommend the following landscape conditions:

With the exception of any site clearance and groundwork (excluding any works to retained features), no further development shall commence on site until a landscape design has been submitted to and approved in writing by the Local Planning Authority. The details submitted should include:

Soft landscaping

- a) An appropriately coloured landscape plan at scale showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, species and canopy spread, together with an indication of which are to be retained and which are to be removed.
- b) An appropriately coloured landscape plan at a scale of 1:200 or 1:500 showing the layout of proposed native trees, orchard trees, native hedges and appropriate orchard tree native ground cover areas.
- c) A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and wild flower establishment.
- d) A Landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas. These are to be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development. The landscape management plan shall be carried out as approved.
- e) The appointed Landscape Contractor shall maintain the proposed landscaping for a minimum period post Practical Completion for five years. Maintenance thereafter shall be by the occupants of the site through the use of the Landscape management plan.

Hard landscaping

- a) Existing and proposed finished levels.
- b) The position, design and materials of all site enclosure features.
- c) Vehicular layout and pedestrian areas
- d) Hard surfacing materials and their colours. These hard surfaces should be permeable.
- e) Minor structures (e.g. lighting, refuse areas, etc.)
- f) Location of proposed functional services above and below ground

4.10 Conservation Manager (Landscape) - amended/additional plans

With reference to my previous landscape comments of the 27th September 2017, I have now seen the latest amended Landscape Plan showing additional planting, plus a perforated concrete chamber rings soakaway.

This latest Landscape drawing has no Date or Revision number and has no bar scale to indicate scale. It does have a North point however. The plan shows further proposed tree planting in green graphics that of:

- Three proposed oak trees on the northern boundary adjacent to the existing native hedgerow.
- Two proposed oak trees on the western boundary adjacent to the existing native hedgerow and
- Seven extra proposed fruit trees near to the site entrance area.

These are my comments relating to this latest amended Landscape Plan.

1. My previous landscape comments dated 27th September 2017, Section Recommendations, Item 3.1 said 'With reference to the applicants Block Plan, Dated 17 and to my above landscape comments, I would approve this application with further substantial appropriate landscape mitigation and enhancement proposals for the site'.

The latest landscape proposal still does not have substantial landscape mitigation and enhancement proposals for the site.

To clarify substantial landscape mitigation and enhancement proposals. The whole site north of the Day Room to the existing northern boundary hedgerow should become a native woodland planted with oak *Quercus robur*. An appropriate native ground flora should be seeded or plug planted in this proposed woodland area.

2. The woodland proposal should take consideration of existing pylon wires.

When the applicant amends his latest landscape proposal with a native woodland and ground flora proposal, the following information should be provided.

Soft landscaping

- a) An appropriately coloured landscape plan at scale showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, species and canopy spread, together with an indication of which are to be retained and which are to be removed.
- b) An appropriately coloured landscape plan at a scale of 1:200 or 1:500 showing the layout of proposed native trees, orchard trees, native hedges and appropriate orchard tree native ground cover areas.
- c) A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and wild flower establishment.
- d) A Landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas. These are to be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development. The landscape management plan shall be carried out as approved.
- e) The appointed Landscape Contractor shall maintain the proposed landscaping for a minimum period of five years post Practical Completion. Maintenance thereafter shall be by the occupants of the site through the use of the Landscape management plan.

Hard landscaping

- a) Existing and proposed finished levels.
- b) The position, design and materials of all site enclosure features.
- c) Vehicular layout and pedestrian areas
- d) Hard surfacing materials and their colours. These hard surfaces should be permeable.
- e) Minor structures (e.g. lighting, refuse areas, etc.)

- f) Location of proposed functional services above and below ground.

Further information:

1. I can recommend three local chartered Landscape Architects who can provide an appropriate and professional Landscape Plan relating to the above Soft and Hard landscape requirements for this application.
2. To achieve appropriate and substantial landscape mitigation and enhancement, I would recommend that the applicant research the following documents:
 - BS3998:2010 Recommendations for Tree Works
 - Research Report : Woodland actions for biodiversity and their role in water management. March 2008, Woodland Trust
 - Traditional (standard) Orchard Technical Information Notes (TIN 012-020) Natural England 2010
 - Tree planting and aftercare, Elizabeth Agate (ed) 2004 BTCV and the following web link
 - www.conservationhandbooks.com/how-plant-trees

4.11 Environmental Health – Licensing and Gypsy Traveller Section

No objections, however, the applicant should be advised that the site may be subject to a caravan site licence as required under the Caravan site and control of Development act 1960. This licence will include conditions such as the distance between units and the boundary, number of facilities, electricity provision etc. Further details and an application form for a caravan site licence can be found from the council's website or from the licensing team on (01432) 261761.

4.12 Manager of Social Inclusion and Equalities

Herefordshire Traveller Education Service has known Mr and Mrs Smith and their children, currently of Ashgrove Croft, Marden, for decades. The family are Romany Gypsies and have travel patterns and family connections across the Midlands, but primarily in Herefordshire and Shropshire. The family still travel for employment purposes from their home at Ashgrove Croft.

Mrs Smith, in common with many Romany Gypsy women, has taken on full-time care of her elderly and dependent mother. The family accommodation is somewhat crowded as a result of this.

I have known Mr and Mrs Smith's eldest son, Hamby, since childhood. Hamby lives in a caravan with his wife and two children. To my knowledge they have no fixed address and are often resident in Shropshire. Hamby Smith and his wife would welcome a permanent base at Ashgrove Croft, from where they can access education and health services for their children and support Mrs Smith snr in her caring responsibilities. Hamby Smith is a reputable landscape gardener/tree-worker and frequently travels for employment.

The family epitomises the hard-working, flexible and nomadic approach to employment and living of traditional Romany Gypsy families. The extension of the existing family site to allow access to education and services and the better care of elderly relatives would be humane and sensible.

4.13 Strategic Planning Manager

Herefordshire Local Plan - Travellers Site DPD November 2017

Policy H4, Traveller Sites, of the adopted Herefordshire Core Strategy includes criteria for assessing applications for traveller sites in the absence of an adopted Traveller Sites

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

Development Plan Document (DPD). Policy RA3, Herefordshire's Countryside, of the adopted Core Strategy includes the development of sites for gypsies or other travellers as a use that is acceptable outside of settlements subject to meeting the requirements of Policy H4.

As stated in policy H4 the Council is preparing a Travellers Sites DPD which was published for pre-submission publication on 6th November 2017. The closing date for representations is 18th December 17. This supported by Gypsy and Traveller Accommodation Assessment (GTAA) that was updated in July 2017. The documents can be found here: https://www.herefordshire.gov.uk/info/200185/local_plan/149/travellers_sites_document/5

Both the DPD and the evidence base including the GTAA will be scrutinised as part of the Examination Process. The degree of weight that can be attached to an emerging development plan document varies according to what stage in the plan preparation has been reached. Given that the DPD is currently the subject of consultation, and we do not know the level of objections to the proposals and policies, little weight can be attached to it at this stage.

Therefore it is agreed that in the absence of an adopted DPD that there is no requirement for need to be taken into account for planning applications.

However for your information the findings of the latest GTAA are as below. This GTAA identified the requirement for pitches based on two approaches – firstly by applying a cultural definition of travellers and secondly applying the definition that is included in the 2015 Planning Policy for Traveller Sites guidance.

The GTAA Update 2017 has found evidence of Gypsy and Traveller pitch need over the next five years (2017/18 to 2021/22) equating to 48 pitches under a cultural definition, and as a subset of this number, 17 pitches under the PPTS 2015 definition of Gypsy/Traveller (those who still travel and/or intend to travel).

For the full Local Plan Period (2011/12 to 2030/31) the GTAA has identified a cultural need for 91 pitches and, as a subset of this number a PPTS need for 33 pitches.

The GTAA takes in to account an anticipated annual turnover of 6 pitches on local authority sites during the remainder of the plan period (2017/18 to 2030/31), this equates to 84 pitches becoming available. Therefore, it concludes that both the cultural and PPTS shortfalls are likely to be addressed.

However the GTAA recognises that not all traveller families will want to live on local authority sites and therefore it recommends that the Council should continue to consider applications for appropriate small sites to address the needs of local Gypsy and Traveller families should they be forthcoming over the plan period.

5. Representations

5.1 Marden Parish Council – original comments

Introduction

1. This document sets out the objection by Marden Parish Council to planning application P172552/F for the change of use of land from a one pitch travellers site with one mobile home and one touring caravan at Ashgrove Croft, Marden to a 3 pitch travellers site, with the proposed siting of 2 additional mobile homes, 2 additional touring caravans, construction of a Day Room, associated hard standing, drainage and re-aligned access track.

2. The page numbers in the application Design and Access Statement are shown in parenthesis as an aid to cross-referencing.

Marden

3. Marden is one of the largest parishes in Herefordshire and covers 1,396 hectares. The village of Marden is the main settlement in the parish.

4. The village of Marden has a compact triangular form, with two areas of ribbon development to the east and west. The village services are located at the southern side of the village. There are 3 other designated settlements within the parish, Litmarsh, Burmarsh and The Vault.

5. Marden Parish Council (hereinafter 'the PC) has an adopted Neighbourhood Development Plan (NDP) which is part of the local Development Plan for Herefordshire. Whilst the NDP does not address gypsy and traveller sites, it does identify settlement boundaries for Marden, Burmarsh, Litmarsh and The Vault in accordance with Policy RA2 of the Herefordshire Core Strategy.

National Planning Policy - Planning Policy for Travellers Sites (August 2015)

6. Policy C of the above document states at Paragraph 14

When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.

7. The closest settled community is The Vault at a distance of 0.8 km, with approximately 10 houses, and over 1.6 km from Bodenham Moor (outside the parish) which has 270 dwellings.

8. Policy D of the above documents states at Paragraph 15

If there is a lack of affordable land to meet local traveller needs, local planning authorities in rural areas, where viable and practical, should consider allocating and releasing sites solely for affordable traveller sites. This may include using a rural exception site policy for traveller sites that should also be used to manage applications. A rural exception site policy enables small sites to be used, specifically for affordable traveller sites, in small rural communities, that would not normally be used for traveller sites. Rural exception sites should only be used for affordable traveller sites in perpetuity. A rural exception site policy should seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection, whilst also ensuring that rural areas continue to develop as sustainable, mixed, inclusive communities.

9. With regard to determining planning applications for travellers' sites, the guidance is as follows (Paras 22-26):

22. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

23. Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.

24. 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 pitches/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.

However, as paragraph 16 makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

25. Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

26. When considering applications, local planning authorities should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

(Annex 1):

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

Persons of nomadic habit of life whatever their race or origin, 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 previously 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 circumstances.

10 Local Planning Policy Core Strategy

Existing local planning policy is contained in the Herefordshire Core Strategy (2011-2031). The relevant Core Strategy Policies are as follows:

- SSI - Presumption in Favour of Sustainable Development
- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- SS7 - Addressing Climate Change
- RA3 - Herefordshire's Countryside
- H4 - Traveller Sites
- LD1 - Landscapes and Townscapes
- LD2 - Biodiversity and Geodiversity
- SD1 - Sustainable Design and Energy Efficiency
- SD4 - Wastewater Treatment and River Water Quality

11. Herefordshire Council's Travellers' Sites Document Preferred Options was consulted on in 2016. The final document for submission to Examination is awaited. Until the Travellers' Sites Development Plan Document is adopted. Policy H4 of the Core Strategy applies.

Marden Neighbourhood Development Plan

12. The Marden Neighbourhood Development Plan was made (adopted) by Herefordshire Council on 6 October 2016 and now forms part of the Development Plan for Herefordshire.

13. Marden NDP identifies settlement boundaries for Marden village, Burmarsh, Litmarsh and The Vauld, which is the nearest settlement to the application site.

14. The Ministerial Statement of 12 December 2016 'Neighbourhood Planning: Written Statement - HCWS346' included the following:

I am today making clear that where communities plan for housing in their area in a neighbourhood plan, those plans should not be deemed to be out-of-date unless there is a significant lack of land supply for housing in the wider local authority area. We are also offering those communities who brought forward their plans in advance of this statement time to review their plans.

This means that relevant policies for the supply of housing in a neighbourhood plan, that is part of the development plan, should not be deemed to be 'out-of-date' under paragraph 49 of the National Planning Policy Framework where all of the following circumstances arise at the time the decision is made:

'This written ministerial statement is less than 2 years old, or the neighbourhood plan has been part of the development plan for 2 years or less;
'the neighbourhood plan allocates sites for housing: and
'the local planning authority can demonstrate a three-year supply of deliverable housing sites. (PC's emphasis)

16. Marden NDP allocates sites for housing and Herefordshire Council can demonstrate a 4.39-year supply of deliverable housing sites. Therefore, as Marden NDP is part of the development plan for Herefordshire, its policies are should be used to decide this application.

17. Herefordshire Council states an indicative figure of 104 new houses required in Marden parish by 2031. The latest position shows that completions between 2011 -2017 and commitments as at 1 April 2017 already leads to 48 more dwellings than the minimum 104.

18. The policies in Marden NDP that are relevant to the application are: Policy M2 - Scale and Type of New Housing in Designated Hamlets Policy M3 - General Design Principles Policy M10 - Landscape Character

The Application

19. The site was previously granted permission in 2005 (DCW/2005/02579 and renumbered as DC0524472) as a personal permission for one static and one touring caravan. The application was considered to be of a limited scale in terms of its effect upon the character and visual amenity of the area and the personal circumstances of the applicant set out a genuine need.

20. A further application was granted in 2006 (DCW/2006/0573 and renumbered as DCC060581) with the same usage clause as in the previous ownership, that the benefit was for Mr Harry Smith and Mrs Shirley Smith only and not for the benefit of the land or any other person interested in the land.

21. A further application (160494) to increase the number of on-site caravans by 4 additional mobile homes, 4 touring caravans, ablution block, hardstanding, parking, sheds and access track, was submitted but withdrawn.

22. This application (172552) seeks to increase the number of mobile home pitches to 3, by siting 2 additional mobile homes, increase the number of touring caravans from 1 to 3, adding a Day Room and associated hard standing, drainage and a re-aligned access track.

23. Although the current permission is only for 1 touring caravan on the site, 2 touring caravans are frequently seen on the site, of which 1 is not authorised under existing approvals. The PC is

concerned that further breaches in numbers of touring caravans on site will be seen if the application is permitted to allow 3 touring caravans in total.

24. This application site is located on a site in the countryside, outside the settlement boundary for The Vault. Policies RA3, Herefordshire's Countryside, and H4, Traveller Sites, of the adopted Core Strategy and Policy M2 of the Marden NDP are relevant.

25. Policy RA3 limits development outside a settlement in rural areas to certain criteria including sites providing for the needs of gypsies or other travellers in accordance with Policy H4.

26. A possible extension to the site could have been submitted to the Call for Sites process undertaken for Herefordshire Council's Travellers' Sites Document Preferred Options consultation, or indeed to the Call for Sites for development for the Marden NDP. However, the site was not submitted.

27. Policy H4 - Traveller Sites sets out a number of criteria where sites are proposed on non-allocated land in the absence of an adopted Travellers' Sites DPD, as in this case. These are considered as follows:

Sustainable Location

28. Criteria 1 states sites afford reasonable access to services and facilities, including health and schools.

29. The site is located in open countryside, 0.9 km from The Vault and 1.2 km from Bodenham Moor. It is over 1.2 km to the nearest shop in Bodenham and 3.4 km to the nearest services in Marden. With regard to schools, the distances to primary schools are as follows:

St Michaels Church of England Primary School in Bodenham - 3.4 km Marden Primary School - 3.4 km Sutton Primary School - 4.2 km.

The age of the children occupying the site (p 2 of Design and Access Statement) is such that only one child is still of primary school age and therefore the other children still within education are travelling much longer distances.

30. Given the distances to relevant services and facilities, the site does not afford reasonable access to services and facilities. For this reason, the PC considers the application is contrary to National Planning Guidance and the presumption in favour of sustainable development and Policy SSI and H4 of the Herefordshire Core Strategy.

31. The applicant states (p 7) that Marden NDP earmarked the hamlet of The Vault ... as sustainable for some further housing ...the argument put forward on behalf of the Parish Council in the Objection to the previous application that the latter is unsustainable, is now even more difficult to maintain. The PC strongly disputes this as the applicant's understanding of the NDP is incorrect. The NDP Policy M2 states that new housing development is only Within the settlement boundary as shown on the Policies maps.

32. The application is both outside the settlement boundary for The Vault and is unsustainable because of the distance to local amenities and must, therefore, be refused.

33. The applicant states (p 8) that The road to the village [of Bodenham Moor] starts on the C1125 and joins the Bodenham-Withington road. Neither is heavily trafficked... In reality, the C1125 is narrow, twisting and has a 60-mph speed limit, from just outside Bodenham Moor to Sutton St Nicholas. It is known to be dangerous for car traffic, let alone bicycles or pedestrians (p 8). The PC believes that there have been at least 10 accidents in the last few years at or close by the junction of the U72620 and the C1125.

34. The U72620 which runs past the site is single carriageway, with a passing place. The road is used by heavy agricultural traffic, traffic to the solar farm and other more usual traffic. The

addition of extra vehicles on the site, and touring caravans being manoeuvred on- and off-site, will merely increase the dangers of the roads in the locality. The realigned access appears likely to be as difficult to manoeuvre round when towing as is the current access and is therefore unsustainable.

Screening and landscaping

35. Criterion 2 states appropriate screening and landscaping is included within the proposal to protect local amenity and the environment.

36. Paragraph 58 of the NPPF states Local and Neighbourhood Plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. This is defined in the SPG Herefordshire Landscape Character Assessment and in Policy LDI of the Core Strategy, and Policy M10 of the Marden Neighbourhood Development Plan.

37. The existing site is visible from the C1125 which runs to the east of the site from Sutton St Nicholas to Bodenham Moor. As part of this application, the applicant is proposing a landscaping scheme to incorporate a new hedge and planting of fruit trees on the eastern side of the site to screen the pitches from the surrounding area (p 4). Given the height of the road in relation to the site, visibility will continue to be an issue, particularly in relation to the proposed Day Room near the top of the site (p 3).

38. The intensification of the use of the site and the concentration of caravans in this location, outside the settlement boundary for The Vault, would have a detrimental effect on the landscape character of the area by urbanisation of the countryside; the proposed Day Room at 4.5m high would exacerbate the situation. In addition, the introduction of high hedges would have a detrimental effect on the landscape character which has predominantly low hedgerows interspersed by trees. The landscaping scheme would neither protect nor enhance the character of the area.

39. In addition, the density of the addition of 2 static caravans, 2 more touring caravans together with the proposed Day Room on the site would not be in keeping with the surrounding low density, historic character of the area.

40. For the above reasons, the PC considers that the screening/landscaping, the density and effect on the character of the landscape/environment are contrary to Policies H4 and LD1 of the Herefordshire Core Strategy and Policies M2 and M10 of the Marden NDP.

Integrated existence

41. Criterion 3 states they promote peaceful and integrated co-existence between the site and the local community.

42. Due to the lack of services and facilities in the immediate surrounding area, there are no opportunities for integration with the local community. The site is an isolated site in open countryside.

43. For this reason, the PC considers that the application is contrary to Policies SS1 and H4 of the Herefordshire Core Strategy.

Mixed use

44. Criterion 4 states they enable mixed business and residential accommodation (providing for the live-work lifestyle of travellers).

45. The application states that The businesses the site residents engage in are largely off site, but there is space for the storage of equipment as necessary (p 10). However, it also states that

the area to the north of the existing static would be cleared of the sheds and other assorted outbuildings to improve the appearance of the site (p 3). It is difficult to see how these statements are compatible, particularly with the later statement that the site is spacious enough to accommodate storage provision (p 11).

Pressure on services

46. Criterion 5 states they avoid undue pressure on local infrastructure and services.

47. The addition of more families and family members, assessed as a total of 12 individuals, together with the extra caravans and Day Room will put undue pressure on local infrastructure and services. Moreover, it will increase the traffic to and from the site, due to the unsustainable location of the site which is a significant distance from facilities and services.

Dominate communities

48. Criterion 6 states in rural areas, the size of the site does not dominate nearby settled communities.

49. The closest settled community is The Vault at a distance of 0.8 km, with approximately 10 houses, and over 1.6 km from Bodenham Moor which has 270 dwellings.

50. The PC considers that the intensification of the site's population will impact the nearby community of the Vault and will be contrary to Policy H4 of the Herefordshire Core Strategy; the proposal should be refused.

On-site facilities

51. Criterion 7 states they are capable of accommodating on-site facilities that meet best practice for modern traveller site requirements, including play areas, storage, provision for recycling and waste management.

52. This application proposes the inclusion of a Day Room but, as previously noted, the removal of storage sheds, which is incompatible with criterion 7.

53. The PC has considerable concerns that the proposed Day Room, with full facilities as well as space for a sitting area, could in future be used as extra living accommodation, possibly for the older children. This would be in non-conformity with not only any possible approval but with planning law generally. In addition, the permitting of a Day Room could be used in future as an argument for further expansion to the site as the older children start their own relationships and families.

54. The application states that the Day Room and the two additional statics could be connected up to the existing treatment plant.... The existing treatment plant is thought to be of an adequate size for this small increase in population (p 4). However, the PC considers that the potential increase in the number of adults and children on the site is likely to exceed the capabilities of the existing sewerage treatment system. There is also concern that the proposed new mobile homes will require the pumping of raw sewage up to the existing system without any holding tanks being identified. In addition, the PC has concerns that the planned soakaways for grey and surface water will be unable to sustain the required drainage from the Day Room and extra units.

Exception

55. Policy H4 also states in rural areas, where there is a case of local need for an affordable traveller site, but criterion 1 above cannot be fulfilled, then an exception may be made and proposals permitted, provided such sites can be retained for that purpose in perpetuity.

56. With regard to this criterion, the site was originally granted permission on the personal circumstances of the applicant and is restricted as such.

57. This proposal is to enable the following:

The housing of the older children in a unit separately from their parents, allowing the applicant's mother to remain in the current mobile home with the applicants.

The housing of the applicant's younger son (from a previous marriage) and his family in the third mobile home.

58. Whilst it may be a wish of the applicant to expand the site to accommodate family members, there is not sufficient evidence submitted to demonstrate any need for the additional family members to be accommodated on this site.

59. The draft Travellers' Sites DPD, as above, included a potential residential site for 5 pitches at Sutton St Nicholas. This would allow Hamby Smith and his family a permanent site within easy reach of his parents, in a much more suitable and sustainable location, as the proposed site is close the services and facilities of Sutton St Nicholas.

60. The applicant states that he has retained a strong commitment to the traditional travelling way of life and doing business and once all the children have finished their education, the family intends to do more of it (p 5). This is disingenuous given the current age of the youngest child, a travelling way of life is extremely unlikely for at least 7 years. Therefore, this would be permanent development if permitted.

Conclusion

61. The Parish Council does not consider that there is a demonstrated need for additional pitches at this site, located in open countryside, and a significant distance from services and facilities. For this reason, the application is considered to be unsustainable and contrary to Policies RA3 and H4 of the Herefordshire Core Strategy, the NPPF and Marden NDP. Consequently, Marden Parish Council recommends refusal of this planning application.

5.2 Marden Parish Council – and further comments on amended/additional plans and information will be reported in the Committee update.

5.3 Bodenham Parish Council - original comments

The subject site lies in Marden Parish very close to the Bodenham Parish Boundary.

Planning History

Consent for a one-family traveller site to include 2 caravans & stable block at this location was given in 2005 (code 2579) taking account of the exceptional needs of the then occupiers. Consent was varied in 2006 (0573) to allow the "personal condition" to be transferred another traveller family with the stipulation that one mobile home and one touring caravan only were permitted. Significantly it was stated by the Case Officer at the time that "the nature of the development is such that it is only considered acceptable in this location having regard to the applicant's special circumstances". There have subsequently been two unsuccessful attempts through the planning system to increase the number of accommodation units etc. notably applications 150871 & 160494. In both cases the applications were mainly predicated on the personal needs of, what is described in the Design and Access Statement submitted with the current application, as the "intergenerational family network".

The current application is again largely based on such (changing) needs. It is also stated in the current Design & Access Statement that "The current proposal is a more modest (sic) to introduce an additional 2 pitches for easier accommodation of the growing family and Mrs. Smith's ailing mother, and the construction of a Day Room to improve facilities available".

Likely Planning Policy Considerations

National Planning Policy -Planning for Travellers Sites (Aug 2015) policy C - When assessing the suitability of sites in rural settings LPAs should ensure that the scale of such sites does not dominate the nearest settled community. Apart from Greenfields, an adjacent bungalow and Ashgrove Farm immediately to the north of the subject site, the Vault hamlet lies to the west and comprises 10 dwellings. Parish Councillors concluded that the proposal to multiply the use and development of the site would have adverse visual and amenity impacts affecting local residents. The principal relevant Core Strategy Policies are:

- SS1 - Presumption in favour of sustainable development,
- SS6 - Environmental Quality and Local Distinctiveness,
- RA3- Herefordshire's countryside,
- H4 Traveller sites,
- LD1-Landscapes and townscapes,
- LD2- Biodiversity and Geodiversity and
- SD4 - Wastewater treatment and river water quality.

The Marden Neighbourhood Development Plan was adopted in Oct 2016 and the following Plan policies are of relevance when determining this application:-

- M3 -Scale and type of new housing development in the countryside,
- M4-General Design principles and
- MI 1 - Landscape character.

Summary and Recommendation

Having considered the abovementioned matters Bodenham Parish Councillors unanimously resolved to object to this application and wished to reiterate the points raised in their earlier response relating to application 150871. A copy of these representations is attached below.

Comments in respect of 150871

Bodenham Parish Councillors raised concerns about the adverse impact development of the scale envisaged by the proposal would have. In particular they considered that the number of pitches would not "reflect the surrounding population size and density" and as such would be in conflict with Core Strategy Policy H4 criteria 5, and UDP policy H11. Criteria 2 of the latter policy states that "sites for settled occupation should be small" and criteria 3 requires proposals "not to have an adverse impact on the character and amenity of the landscape". In this context councillors noted the reference made in decision notice code DCCW2006/0573/F to the fact that the then consent was limited the siting of one mobile home and one touring caravan for the sole benefit of Mr Harry and Mrs Shirley Smith only in the light of "their special circumstances". It was also made clear that the nature of the development was only considered acceptable in this location because of these special circumstances with the implication that no increase in density of accommodation units would be acceptable.

Bodenham Parish Councillors consider that the current proposal fails the tests of acceptability mentioned above and would additionally have a detrimental impact on the residential amenity of the occupants of the adjacent property. They also expressed further concerns about the adequacy of the existing unspecified foul water treatment plant to cope with the considerably increased number of occupants although it is claimed in the applicant's supporting statement that there is sufficient capacity for up to 10 persons. It is thought that there is a need to examine this aspect further.

If, notwithstanding the above-mentioned comments, the LPA is minded to approve the application, it is requested and that consent be suitably conditioned to:-

- i] ensure that the existing foul and surface water treatment plant is adequate and

ii] occupancy of any additional residential units be limited to the individuals named in the statement accompanying the application.

5.4 Bodenham Parish Council – any further comments on amended/additional plans and information will be reported in the Committee update

5.5 The applicant submitted information in support of the proposal. In summary the main points raised are:

- 0.4 hectare site in larger 1.6 hectare holding of Class 2 agricultural land with crop from the grassland being taken by a local farmer
- Existing development comprises one mobile home, one caravan, oil tank and assorted sheds and parking/access
- Improved facilities proposed are for needs of extended family
- Two statics and two tourers are required for the applicant's elder dependant children and his son (Hamby Smith) from an earlier relationship and his family
- Foul drainage to existing PTP, including macerator pump, which can be conditioned
- Dayroom are equivalent to utility blocks, which are an accepted feature of Local Authority sites.
- Brick skin to dayroom with artificial slate roof and upvc fenestration, to provide kitchen, bathroom and washing/drying area
- Existing sheds and outbuildings would be removed
- Access to be realigned and gates set back 10.5m to allow a towed caravan to clear the road and improve visibility
- Supplementary landscaping, native hedgerow and fruit tree planting, to reduce views into the site
- Applicant is a traveller and the family travel as part of Mrs Smith's business – horse fairs
- Hamby Smith travels between the application site and his partner's parents' pitch, stopping on the roadside where possible
- Significant restrictions imposed now to travelling life
- Shortage of stopping places – no transit sites in the County (Council closed and sold off its only site in Madley without replacing it – contrary to its own policy) – other proposed sites have been sold off (Ross and others in the Draft Travellers DPD)
- Decline in seasonal work and enhanced police and local authority powers mean itinerant life is extremely problematic – acknowledged in European Court in the Chapman case
- In assessing if Mrs Smith's mother has given up her travelling life issues of Human Rights need to be considered – strong personal circumstances for her to receive care from her daughter
- MNDP – draft attempted to exclude gypsy and traveller sites from benefiting under the exceptions set out in CS policy RA3 – Government Inspector confirmed this was not in conformity and excised draft policy M3.
- MNDP includes the hamlet of The Vault for further housing development, so undermines the argument that the application site is not sustainable
- Reference to appeal where it was accepted that whilst caravans may be conspicuous in design and appearance they are not uncommon in rural areas
- Site is near to services in Bodenham (listed 27th out of 215 villages in the county in terms of services available), Marden (listed 7th out of 215 villages in the county in terms of services available) and public transport – access to Hereford and Leominster
- Sustainability should be assessed in economic and social terms as well as environmental terms
- Low hedges claimed in the MNDP are aspirational rather than fact – tall hedges are evident in the area
- Criteria requiring gypsy applicants to seek land of lower agricultural classification is '*ethnic cleansing by the back door*'
- Use of land can revert to former use, unlike a house

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

- Recent developments include the solar farm and adjoining new house and 5 berth holiday caravan park – to argue no further development should be allowed is prejudiced
- Established site, small and proposal would not dominate the settled community
- Would not generate much extra traffic
- Government's revised definition of gypsies and travellers, excluding those who have ceased to travel permanently is subject to legal challenge in the courts
- Government's overarching aim is to ensure fair and equal treatment of travellers in a manner to facilitate their traditional and nomadic life, whilst respecting the interests of settled community
- Until adoption of the DPD the inspector determined there is no longer a requirement to prove need.
- Re-assessment of numbers is being carried out – previous figures have shown a need for 19 additional pitches before 2019, with possibility of further 18 for those currently in houses – no 5 year supply of deliverable sites, this is a material planning consideration
- Lack of available alternatives is highly material – no such sites on the market
- Council failure to heed the CS inspector's remarks that adoption of a Traveller sites DPD should be a key priority to plan effectively for their needs
- No realistic alternatives, as dependant children get older with the withdrawal of housing benefit for young people they could be homeless
- Limited landscape harm does not amount to a 'pressing social need' when carrying out the proportional balance under Article 8
- Proposal has been significantly scaled back and landscaping now provides better mitigation
- Personal circumstances weigh strongly for the development

5.6 Additional supporting information has been provided by the applicant. In summary this advises that:

- Existing static caravan has three small bedroom, one with a serious problem in the floor
- Mrs Smith's mother requires a room of her own due to health and mobility problems
- Mr Hamby Smith shared a nomadic life with his parents until they settled at the application site and is now developing his skills for a successful business that is compatible with a travelling life
- Mr Hamby Smith travels between Shropshire and the application site, stopping on roadsides and suitable stopping places and over the summer travelling further afield looking for work (including Derby, Oxfordshire, Stoke on Trent and Brynmawr)
- New employment patterns that are compatible with travelling lifestyles are slowly developing
- Revised PPTS definition is subject to legal challenge and needs to be applied realistically
- Recent approvals for dayrooms on other sites (Wellington, Bodenham and Bosbury) are of brick/block construction and are of similar dimensions to that proposed and this is not excessive
- Dayroom needs to be near to the applicant's static to enable satisfactory supervision and caring and as proposed would be partially obscured by the static and tree by the gate
- Design and size could be amended to reduce it to 4 metres in height, 7 metres in length and remove the porch canopy. Roof materials could be substituted to onduline
- Herefordshire Council passed a proposal to create an Open Framework for the delivery of home care services, which included working with the Planning Department to support the building of annexes or adaptations to dwellings to facilitate individuals home care needs – this is what the applicant is trying to achieve
- Evidence provided of the installed PTP, which is emptied once a year by a local contractor – accepted that this would need to be more frequent if permission is granted
- Septic tank in the photograph reproduced by objectors belonged to the previous owner and was never installed
- Site is in Flood Zone 1, little flood risk – few impermeable surfaces so run off is limited

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

- Rainwater butts can be provided for each static, with any surplus directed to a better designed soakaway – sited in the corner of the parking area subject to infiltration tests
- With regards landscape comments the CS should be read as a whole and RA3 accepts the principle of traveller sites with caravans
- Hedgerows have grown considerably since the Landscape Officer's visit of March 2016 and is better screened.
- In response to the specific suggestions
 - Hedge to northern boundary - there is already a northern boundary hedge, in the field beyond the red line and separates the applicant's land from the house under construction at Windy Top and the solar farm
 - Orchard – happy to plant additional fruit trees by the access, but not turn the rest of the field into an orchard. Mrs Smith is highly allergic to bee stings (she has been hospitalised before) so fruit tree planting near to the statics is not acceptable
- Additional tree planting in the north and west hedgerows, particularly oak trees, is accepted and the site plan has been amended
- Transport Statement has been provided to address the Transportation Manager's comments

5.7 30 objections (one anonymous), 2 objections from Marches Planning on behalf of The Vault Community Group and 2 letters of support were received in respect of the original plans and information. In summary the main points raised were:

Objection:

Principle

- Original permission was granted in extenuating circumstances – are these limits now meaningless?
- Original permission states no further applications – consideration of this application is a waste of tax payers money
- Original permission was personal, effectively for the lifetime of the applicant and his wife and therefore does not run with the land – it does not amount to a change of use of land
- Asserted need has changed from previously withdrawn applications
- Unclear who the occupants of mobile homes would be, so cannot condition as per the original permission for the applicant
- Permission could not control number of caravans, as per case law – Reed – v- SoSCLG and Anor (2014)
- Should move to a more suitable area if circumstances have changed
- Insufficient information regarding the size of caravans and number of occupants
- Over development – original scheme was for one to minimise impact
- Unsustainable site – no reasonable access to services, public transport etc.
- Will result in a full blown camp if approved
- No evidence that any of the intended occupants, or applicant and wife, meet the PPTS/CS/MNDP definition of a gypsy/traveller
- Contrary to development plan
- Application does not demonstrate a need for an 'affordable' site, due to applicant's affluence
- How can applicants lead a nomadic lifestyle when they are carers?
- If only travelling in the holidays, how is this different to the settlement community in holiday time?
- If travelling between two known family sites is unsuitable and difficult, how can they be proven travellers that enjoy and need that way of life
- Draft DPD out to consultation in October 2017, Council expects to be able to deliver housing needs of travellers by next year

- Application seeks a permanent site, so Council's inability to demonstrate supply of adequate sites is not a material consideration

Landscape

- Site is visible from various PROW, roads and properties in the local area
- Existing site is an eyesore
- Elevated site, existing caravans are very visible
- Harm to green belt, open countryside and area of natural beauty, including many listed buildings (Grade II* The Vault Farmhouse and Listed Buildings in Venn's Green)
- Urbanising impact, density is out of character with the rural area and disproportionate to the local community
- Adverse landscape impact would result from increased density
- Impact of the solar farm is different – they are sympathetically arranged in contour with the land, dark in colour, low to the ground and will not change
- Solar farm has caused harm to the landscape, but this means it is more important to protect it from further harm
- White caravans and unknown appearance of the site, which will change, is harmful
- Previous landscaping requirements were not carried out
- No details of brick for dayroom, appearance of caravans or lighting plan
- Dayroom would be visible at the highest point of the site and would be too large
- Screening is not effective and hedges are only high because they are not tended to

Highways

- Junction of Bodenham-Hereford Road and road to The Vault has poor visibility, with many accidents – unsuitable for increased use by touring caravans
- Roads are unsuitable for increased traffic, which would be dangerous
- If allowed there is a need for passing bays
- Proposal would increase traffic, parking provision is stated to increase from 3 to 8 cars/vans
- Caravan club site application was turned down on highway safety grounds
- Re-alignment of access track includes an almost 90 degree bend, how is this suitable for towing caravans?

Drainage

- Sewerage facilities are inadequate and details are vague
- Area floods, with waste seepage in to ditches
- No evidence of the PTP with capacity
- Evidence of septic tank on site
- In 2005 Environment Agency advised that porosity test had shown ground was not suitable for septic tank and requested a PTP
- 3,800 Klargestep septic tank is only suitable for 5-10 people – inadequate for increasing population of the site
- CS policy SD4 requires full foul drainage details to be provided

Others

- Two touring caravans are on site, in breach of original permission (50% increase of permitted two) – no enforcement action taken
- Potential to breach future permissions if granted – would council enforce?
- Dayroom could become living accommodation for other family members, linked to the static caravan or extended to provide a bungalow
- Future applications for additional family members
- Cannot restrict number of occupants and even maybe number of caravans
- Culmination of harm – case law allows refusal if evidence other development could be accumulation of potential harm
- Detrimental to small rural community, which relies on tourism

- Potential to 'spread' into the northern section of the site, which is not separated
- Clever timing of application to when the trees are in full bloom
- Roadside hedgerow cut for this first time in years just before submission of the application
- Harm caused would be distressful and bring heartache to local residents
- Settled community are being discriminated against by planning policies not allowing new dwellings
- Applicant's children should apply for affordable housing to provide stability and better facilities
- Regular fires at the site – result in pollution
- Sets a precedent for other greenfield sites
- Unfair to those who struggle to find affordable rural housing and are not allowed to build new dwellings to remain in the village they grew up in
- Lack of detail about the size of the caravans is unfair, as for a proposed dwelling scaled drawings are required.
- Applications 170623 and 163958 for a residential mobile home were refused and enforcement action taken – this is relevant to this case
- Sheds and outbuildings should be conditioned to be removed – but where will the contents go?
- Tourers should only be used to pursue nomadic lifestyle, not occupied as they are currently
- Larger oil tank may be required – no details of this. Should not contaminate the class 2 agricultural land
- Other options available for providing stability for Mr Smith's son and family and Mrs Smith's mother, in social housing and care home – this would allow applicants to continue their nomadic lifestyle
- Potential for lamping for rabbits to increase – which is scary
- Objector's address not provided for fear of repercussions
- Already 6-8 family (sic) living on site, with more visitors and those wanting to live there
- If screened with high fencing there would be no way of monitoring expansion
- Dispute that seasonal and temporary work is in decline, as post Brexit vote news reports stated that farmers are having difficulties in recruiting seasonal workers and zero hours contracts and temporary work are more prevalent than any time in recent history
- Reference to allowed appeals are not relevant, due to different circumstances
- Conditions to mitigate impact would not work due to previous non-compliance with conditions
- Permanent dayroom structure is unacceptable on the site, which only has a temporary, lifetime permission – to grant permission for a permanent building would amount to a new dwelling in an unsustainable location
- Highly likely that the dayroom would be used as independent residential accommodation
- Not developed land – Grade 2 agricultural
- Human rights – no suggestion that applicant's children would be homeless – right under Article 8 is qualified and is to be balanced against the rights of the wider community
- Photographs provided of views of the site from PROW and aerial images of increasing use of the site over the permitted number of caravans
- If amendments are sought by the case officer this should be a revised submission and not reported to committee at this stage
- If dayroom would cause landscape harm, as per Officer's letter to applicant (dated 3.10.2017) will it be deleted?
- Do not understand why application is being considered for approval
- Even if traveller status is proven it would be contrary to PPTS
- Number of dependant children will reduce, so no need for further accommodation
- Extra space could be provided in a twin unit mobile that meets the definition of a caravan
- Lack of 5 year supply of housing is not relevant for a permanent permission

Support:

- Visited the site and discussed the proposal with the applicant and his wife – none of the objectors have done this
- Objections lack merit, should not be considered as fact
- Have lived in the area for 10 years and have not encountered any problems, disputes or anti-social behaviour from the applicant or his family
- Applicant deserves peaceful enjoyment of their property – Council’s Equality and Human Rights Charter
- Currently facilities are inadequate for their needs
- Many objections are overstated (I know the applicant and the site)
- Solar farm is more obvious in the landscape
- Solar farm creates more traffic
- Applicant and family are pleasant and careful of their civic obligations
- If they do not integrate this is largely due to latent and widespread prejudice against them
- Personal needs should prevail
- Safeguards are available against the ‘where will it all end’ argument
- Opportunity to show flexibility

5.8 Following publicity of amended/additional plans and information two objections have been received. In summary these raise the following additional points:

- No proof of applicant’s or Hamby Smith’s traveller status - legal requirement for them to be leading a nomadic life at the time of determination of an application
- Social Inclusion and Equalities Manager has never commented before, but state they have known the family for decades – statement from one person without proof should not be taken into account
- What availability is there on Council run sites? Hamby Smith could occupy a pitch on one of these
- Landscaping not previously adhered to, so details should be provided prior to determination
- Fear the reason that the applicant does not want to provide planting is so it leaves space for further expansion of the site
- Insufficient drainage details, which could result in contamination
- How can the number of occupants be enforced?
- Siting of soakaways would require water to flow up hill – levels should be investigated and proof supplied that they have sufficient fall
- Does the application have a site licence at present?
- Should licence requirements be checked before determination of the application?
- Inaccuracies/deficiencies in the Transport Statement
- Expansion of the site on such a scale would dominate The Vauld – area has few houses some distance apart
- Application is for a change of use, additional caravans would not be for the benefit of Mr and Mrs Smith
- Draft DPD shows the Council has met its five year supply
- At time of the application there were seven vacancies on Council owned sites
- Travel survey shows heavy reliance on car - Hamby Smith’s wife cannot drive so not a suitable location for her to live as she cannot walk to facilities
- Mr and Mrs Smith’s older children will look to bring partners to live at the site and have families. This would dominate the local community by being the largest population in the area.
- Large majority of local residents are against the application; to approve would not promote integrated and co-existence

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=172552&search=172552

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

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

Background – planning history

- 6.1 Planning permission was originally granted to Mr Jones and conditioned as a personal permission for himself and his wife, for a one family gypsy site on the application site (Reference: CW2005/2579/F). Subsequently planning permission was granted, under a section 73 application (Reference: CW2006/0573/F), to amend condition 2 of CW2005/2579/F, which specified the personal restriction to Mr and Mrs Jones, to change this to Mr Smith, the applicant for this submission, and his wife. Neither the original planning permission (CW2005/2579/F) nor the subsequent amendment (CW2006/0573/F) which were for the permissions to enure for the applicants, imposed a condition to restricted the site or caravans' occupation to gypsies or travellers. Only the first planning permission made reference to this in the proposal description, but as established in case law this does not impose a restriction unlike a condition. The 2006 permission imposed conditions requiring certain details to be submitted and approved within 2 months of the date of the permission, including amongst other things the resiting of the caravans to the eastern side of the site. No details were submitted and the caravans were not relocated. Permission was granted on 6th April 2006, so the breach of the planning permission commenced after 6th June 2006, namely two months after the permission was granted. No enforcement action was commenced before 10 years had elapsed. As a consequence, by virtue of section 171B(3) of the Town and Country Planning Act 1990 (as amended), the use of the land as it has been operating as a one family gypsy site is now lawful, as 10 years has elapsed since the breach.
- 6.2 It is proposed to site two static caravans, to be positioned in the southwestern part of the site. One would be aligned along the western boundary and the other along the southern, with a tourer in between and one to the south of the existing, retained static. The dayroom would be sited to the north of the existing static caravan. The additional static caravans are proposed to be occupied by the applicant's older children, to provide more space in the existing static caravan for Mrs Smith's dependant mother and the other for his son, wife and their dependants.

Policy and Guidance

- 6.3 It is a legal requirement that applications are determined in accordance with the Development Plan, unless material planning considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990). This requirement is reconfirmed in paragraphs 11 to 13 of the National Planning Policy Framework (NPPF). These paragraphs state that the NPPF is guidance and does not change the statutory status of the Development Plan, but that it is highly desirable for local planning authorities to have an up-to-date local plan. In this instance the Development Plan consists of the Herefordshire Local Plan – Core Strategy (hereon referred to as the CS), which was adopted on 16th October 2015 and the Marden Neighbourhood Development Plan (hereon referred to as the MNDP), which was made on 6th October 2016.
- 6.4 The NPPF, Planning Policy for Traveller Sites August 2015 (hereon referred to as the PPTS), and Planning Policy Guidance (hereon referred to as PPG) are important material planning considerations.
- 6.5 In cases where there is a lack of 5 year housing land supply, paragraph 49 of the NPPF states that policies relevant to the supply of housing cannot be considered to be up to date and as a result the 'tilted' planning balance set out in paragraph 14 applies. This requires permission to be granted 'where the development plan is absent, silent or relevant policies are out- of- date, granting permission unless:

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

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.'

- 6.6 At the present time the Council has a shortfall in housing land supply, with the published position being 4.54 years, but this figure does not include gypsy and traveller site provision, as this is recorded and analysed separately. With specific reference to gypsy pitch supply, as confirmed by the Strategic Planning Officer, the GTAA (July 2017 update) has found evidence of a Gypsy and Traveller pitch need over the next five years (2017/18 to 2021/22) equating to 48 pitches under a cultural definition and 17 pitches under the revised PPTS (August 2015) definition of Gypsy/Traveller. For the full Local Plan Period (2011/12 to 2030/31) the GTAA has identified a cultural need for 91 pitches and a need for 33 pitches for the revised PPTS definition. Under the employed GTAA methodology of anticipated annual turnover (6 pitches on local authority sites during the remainder of the plan period) (2017/18 to 2030/31), it is calculated that 84 pitches would become available. As a result the assessment concludes that both the cultural and PPTS shortfalls are likely to be addressed. Critically, at this juncture, this document cannot be afforded weight, due to its consultation status and reliance on a revised definition of gypsies and travellers, which is subject to legal challenge and methodology which may also be questioned. At the present time the Council has not established that it has a five year supply of sites.
- 6.7 Permission is sought for additional caravans on a lawful private gypsy site, with the asserted need for these being derived from a dependant elderly relative and to provide a pitch for the applicant's son and his family. In assessing this, and to qualify for the exception to the normal approach to limit residential accommodation outside of settlements, the occupier has not only to be a gypsy or traveller ethnically, but also must meet the amended, and more stringent definition of a gypsy or traveller, as revised in the Government's revised PPTS (31 August 2015). This states that 'For the purposes of this planning policy "gypsies and travellers" means:
- 'Persons of nomadic habit of life whatever their race or origin, 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.'*
- 6.8 The previous definition (23 March 2012) included provision for those ceasing travel permanently for their own or their family's or dependants' educational or health needs or old age.
- 6.9 In assessing whether persons are 'gypsies and travellers' under the revised planning policy it is stated that consideration should be given to the following issues amongst other relevant matters:
- a) whether they previously 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 circumstances.
- 6.10 It is established that travelling does not have to be a major or primary source of family income, but should be more than a hobby.
- 6.11 The CS, at paragraph 5.1.21 states that the definition of "travellers" means "gypsies and travellers" as defined in PPTS, CLG 2015, however the Glossary of Terms is more lenient and states that Gypsies and Travellers when used in combination means persons of a nomadic habit of life whatever their race or origin, including such persons who, on the grounds only of their own or their family's or dependents' educational or health needs or old age, have ceased to

travel temporarily or permanently. The MNDP repeats the same definition as the CS. This inclusion of the ability to remain a gypsy or traveller for planning policy purposes even when travelling has ceased permanently for health and education needs, in the CS and MNDP, remain as per the Government's original PPTS (March 2012) and in both cases post-date the amendment to the PPTS (August 2015), having being adopted in October 2015 and October 2016, respectively. It should be noted that the revised definition in the PPTS (August 2015) is the subject of legal challenge.

6.12 Policy RA3 of the CS limits new residential development in rural locations outside of settlements, as to be defined in either Neighbourhood Development Plans or the Rural Areas Site Allocation Development Plan Document. The MNDP is made and forms part of the Development Plan. The site is not within a designated settlement in the MNDP, the nearest being The Vault (figure 4.15 of CS policy RA2), approximately 740 metres to the west of the site. There are no specific policies in the MNDP regarding any development to be permitted outside of the settlements, or indeed gypsy sites and as a result whether the principle of the development proposed is acceptable falls to be considered under CS policies RA3 and H4 initially. The site is not adjacent to a settlement or facilities, such as shops, education or health facilities. It is considered that the site is in a rural location where RA3 of the CS, M1 of the MNDP and paragraph 55 of the NPPF would seek to limit new residential development. Policy RA3 of the CS states that residential development in such locations will be limited to proposals that satisfy one or more of the specified criteria. Criterion 7 provides for proposals for a site that would provide for the needs of gypsies or other travellers in accordance with policy H4 – Traveller Sites. This policy provides the more detailed considerations for assessing such applications. It should be noted that the site is already a lawful private gypsy site and the proposal is for additional units within the established site.

6.13 CS policy H4 states that the accommodation needs of travellers will be provided for through the preparation of a Travellers' Sites Document (DPD) which will include site specific allocations. Currently this is being prepared, and the pre-submission publication was published for comments last month, with an end consultation date of 18th December 2017. In this instance, in the absence of an adopted DPD and where proposals for sites are brought forward on non-allocated land, policy H4 states that proposals will be supported where:

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;*
7. *They are capable of accommodating on-site facilities that meet best practice for modern traveller site requirements, including play areas, storage, provision for recycling and waste management.*

In rural areas, where there is a case of local need for an affordable traveller site, but criterion 1 above cannot be fulfilled, then an exception may be made and proposals permitted, provided such sites can be retained for that purpose in perpetuity.

6.14 The supporting text to CS policy H4 (at 5.1.26) acknowledges that until the Traveller's Sites DPD is adopted the private sector may need to provide sites and policy H4 sets out the basis upon which applications will be determined. The Strategic Planning Manager has confirmed that in the absence of an adopted DPD that there is no requirement for need to be taken into account for planning applications.

- 6.15 The introduction to the NPPF states that it should be read in conjunction with the PPTS and in decision taking on such sites regard should be had to the NPPF so far as is relevant. The PPTS was revised in August 2015. It provides the most recent national guidance for such forms of development and is an important material planning consideration. It states that the Government intends to review this policy when 'fair and representative practical results of its implementation are clear' and whether planning policy for traveller sites should be incorporated in the wider NPPF. The PPTS states that applications should be assessed and determined in accordance with the presumption in favour of development and application of the NPPF policies and those in the PPTS. It confirms that the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life whilst respecting the interests of the settled community. When assessing the suitability of sites in rural or semi-rural settings, Local Planning Authorities should ensure that the scale of such sites would not dominate the nearest settled community.
- 6.16 In the determination of planning applications paragraph 22 of the PPTS sets out criteria (a-e) which are issues that the LPA should consider. These are as follows:
- 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 pitches/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.
- 6.17 The revised PPTS has amended paragraph 25 to advise that '*Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.*' (amendment underlined).
- 6.18 The PPTS guidance advises that weight should be attached to the following (paragraph 26):
- a) Effective use of previously developed (brownfield), untidy or derelict land.
 - b) Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness.
 - c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children.
 - d) Not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
- 6.19 The PPTS advises that if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. Exceptions to this are where the site is within the Green Belt (designated as such), sites protected under the Birds and Habitats Directive and/or Sites of Special Scientific Interest, Local Green Space, an Area of Outstanding Natural Beauty, a National Park or the Broads. The site does not fall within any of these designations. A temporary permission is not sought.
- 6.20 Firstly, this is an application for additional caravans and not a new gypsy site. In terms of assessment the key issues are whether the proposed occupiers of the caravans meet the definition of gypsies, highway impact, landscape and ecological impacts, affect on amenity and drainage.

Status of intended occupiers of the proposed caravans

- 6.21 The applicant and his wife's compliance with the revised definition of a gypsy or traveller in the PPTS have been questioned in the objections. It should be noted that the permission granted in 2006 for the applicant did not impose a condition restricting occupation to gypsies or travellers, but rather only limited it to the applicant and his wife as a personal permission. Nevertheless, the use is lawful by way of the passage of time, during which the applicant and his family have remained Romany Gypsies travelling for Mrs Smith's work as set out in the Social Inclusion and Equalities Manager's representation. Mrs Smith's travel has reduced and could be reasonably described as ceasing temporarily whilst she cares for dependant relatives. It is noted that Mrs Smith has also been employed as a carer. The caring for elderly dependant relatives is temporary and there is an intention to resume travel and a nomadic habit when circumstances permit. The more stringent August 2015 PPTS definition of gypsies and travellers, for planning purposes, permits temporary cessation and it was accepted in 2006 that the applicant and his wife were gypsies and they intend to continue living a nomadic habit of life in the future when the circumstances allow greater travel to horse fairs. The Council's Social Inclusion and Equalities Manager has corroborated this.
- 6.22 One of the additional static caravans is proposed to enable the applicant's elderly mother in law, who has significant health problems, to occupy their existing static caravan with them, by providing extra bedrooms for some of their older dependent children. Mrs Smith's mother-in-law no longer travels due to health reasons and old age and on the basis of the information provided this situation is unlikely to reverse. Consequently, it is considered reasonable to conclude that Mrs Smith's mother has ceased to travel permanently and under the revised PPTS definition can no longer be classed as a gypsy for the purposes of applying planning policy. This does not question Mrs Smith's mother's ethnicity. Alternatively, Mrs Smith's mother is considered to be a dependant relative. Similarly to many situations in the settled community Mrs Smith wishes to care for her mother and more room is required to facilitate this. An additional static caravan is proposed to achieve this. In principle this is acceptable, provided that this is properly controlled, with a condition requiring removal of the additional static should Mrs Smith's mother no longer live on site with the applicants.
- 6.23 The second static caravan proposed is sought for the applicant's adult son (Hamby Smith), his wife and their dependent children. Hamby Smith previously lived on the site as a dependent child and now travels between the site and his parents in law's pitch in Shropshire. Some of the objections received have questioned whether Hamby Smith's travel patterns meet the definition of a gypsy or traveller for planning purposes and suggest that it is not dissimilar to those that travel during the holidays for pleasure. On this basis it is contended that Hamby Smith should not benefit from the exception of permitting gypsy sites outside of settlements, because to do so would be inequitable to the settled community. Further information has been provided by the applicant outlining how Hamby Smith travels for employment and is building up a business that meets his nomadic life. The difficulties in achieving this are also highlighted in the applicant's submission and are a reason for his nomadic life being curtailed to some degree. The Council's Social Inclusion and Equalities Manager has corroborated that Hamby Smith, and indeed the family as a whole, travel for employment purposes. The travel patterns are employment, rather than hobby or recreational based. In light of the additional information and this representation it is considered that Hamby Smith meets the revised definition in the PPTS.
- 6.24 Turning to the County's provision of gypsy and traveller sites, and the question of whether the proposal must demonstrate a need for an additional caravan on site, the Strategic Planning Manager has advised that in the absence of an adopted DPD that there is no requirement for need to be taken into account for planning applications. The Council is producing a Travellers' Sites Document as part of the CS, to focus on the accommodation needs of the Traveller community (Gypsies, Travellers and Travelling Show People) up to 2031. The updated Gypsy and Traveller Accommodation Needs Assessment (GTAA) November 2015 sets out the

requirements for the number of pitches and plots up to 2031. The Travellers' Sites Document is at pre-submission draft consultation stage, with the consultation period running from 6th November to 18th December 2017. This has made changes to the DPD and the consultation is seeking views on the soundness of the draft DPD and the assessment of accommodation need that has informed it. The latest GTAA methodology was based on the revised definition in the PPTS and identifies a pitch requirement on this basis, but also looked at the requirement for pitches based on 'cultural need'. Thus the identified pitch requirement excludes those considered to have permanently ceased to travel on the grounds of their health or educational needs, or those of dependants, or due to old age. As highlighted earlier in this report this revised definition is subject to legal challenge. The current status of the DPD means that little weight can be attached to it at this stage, as the level of objections are unknown and its 'soundness' has not been confirmed. Given that the definition of a gypsy and traveller, which has informed the methodology for calculating the required number of sites is that of the revised PPTS which is subject to legal challenge, it is not unreasonable to conclude that some objections will be robust and allied to this challenge.

- 6.25 In considering new sites CS policy H4, at criterion 1, states that sites should afford reasonable access to services and facilities and paragraph 24 of the PPTS sets out the relevant matters to be considered for applications for traveller sites, which include the existing level of local provision and need, availability of alternative sites, personal circumstances and locally specific criteria. It is accepted that the site is not adjacent to a settlement, but it is some 740 metres from a CS policy RA2 figure 4.15 settlement (The Vault), which has been included in the made MNDP for proportionate growth. Furthermore, PPTS advised at paragraph 25 that new traveller sites should be very ('very' was added in the revised August 2015 version) strictly limited in open countryside that is away from existing settlements or outside of allocated area in the Development Plan.
- 6.26 Although there is no requirement to demonstrate need, it should be noted that providing an additional static caravan and provision for the siting of a touring caravan for Hamby Smith, on an established site without expansion of its area accommodates another gypsy family without the need for an additional site, which in planning policy terms would be steered to a site closer or adjacent to a settlement. The nearest settlement is The Vault, where proportionate growth is appropriate, as per CS policy RA2 and MNDP policy M2 and with Bodenham being the nearest figure 4.14 settlement with its range of services, such as a school, public house, parish hall, GP surgery and dispensary, church, chapel, post office/general store, garage/shop, café (at the Golf Course and hairdressers), as listed in their draft NDP (paragraph 7.5).
- 6.27 Taking into account that Hamby Smith meets the more stringent definition of a gypsy and traveller under the revised PPTS and the limited weight to be afforded to the Draft DPD at this time it is considered that in principle the provision of an additional static caravan and siting for a tourer for him, his wife and dependent children is acceptable.
- 6.28 For the reasons set out above the provision of two static caravans to enable the applicant's mother in law and his son and family to live on site is acceptable in principle. The proposed details are appraised below.

Highway impact

- 6.29 The proposal would give rise to increased traffic generation from the site as set out in the applicant's Transport Statement. CS policy MT1 requires developments to provide safe access and MNDP policy M3, amongst other matters, states that all developments should ensure movement to and within development is satisfactory and does not have a detrimental effect on the safe and efficient operation of the existing transport and road infrastructure. The NPPF requires decisions to take account of whether safe and suitable access can be achieved for all people. It states that development should only be refused on transport grounds where the residual cumulative impacts are severe.

- 6.30 The Transportation Manager has no objection on the basis of the submitted further information and revised plans, which clarify the achievable visibility splay and a set back of the gates (10 metres) to the access, and subject to conditions. The recommended conditions should be assessed against the 'six tests' set out in the NPPG, which specifically stipulate that they should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. It is considered that the majority of the recommended conditions meet these tests, with the exception of those specifying that there should be no intensification above the Transport Statement and the duplication with regards the visibility splay requirements. A limitation of the number of caravans would reasonably control access usage, in a manner commensurate with the approach taken for the settled community.

Landscape

- 6.31 CS policy LD1 and MNDP policy M10 are relevant in the assessment of the impact of the additional caravans, dayroom and revised access on the landscape. Policy LD1 of the CS states that landscape should positively influence design, scale, and nature of proposals and policy M10 of the MNDP requires all developments to show regards to the distinctive landscape character of the Herefordshire Lowlands Character Area by retaining the development form of scattered hamlets and farmsteads within the wide setting of the area, using appropriate local building materials, retaining existing field patterns and boundaries, including low hedgerows and tree cover, protecting and enhancing areas of woodland and encouraging country stewardship and similar schemes to enhance the biodiversity and natural and historic environments.
- 6.32 When appraising the scheme and whether it complies with policy requirements, only the impact of the proposed development should be assessed and this should be carried out in the context of the lawful use of the site. The extent of the lawful site, and indeed the originally approved site, would not be enlarged by this proposal for additional caravans, dayroom and revised vehicular access, but rather they would all be situated within its confines. Other than the dayroom, the development would be located between the existing static and the unclassified road to the southern boundary. Dayrooms are an accepted component of gypsy sites, to meet ethnic practices. Indeed the Council's pre-submission draft consultation Travellers' Sites Document includes a section on residential pitches (paragraph 4.5), which states that 'There will usually be a separate amenity block which will include toilet, washing and cooking facilities'.
- 6.33 Objections to the loss of Grade 2 agricultural land have been lodged and the Landscape Officer has also raised this issue, but given that the use is lawful and the current application would not encompass any additional land these are not material considerations for this proposal.
- 6.34 In landscape terms, the site falls outside of a settlement and is therefore in the countryside. The Herefordshire Landscape Character Assessment defines the site context as 'Principal Settled Farmlands' and the main characteristics are: 'hedgerows used for field boundaries', with secondary characteristics being 'mixed farming land use, notably of domestic character, defined chiefly by the scale of its field pattern the nature and density of its settlement and its traditional land use'. The site is bounded by hedgerows and the proposal would not extend beyond these. Modest supplementary planting has been proposed to aid filtering of views of the site. Caravans, being pre-manufactured, are not of local building materials and thus conflict with that element of MNDP policy M10, but this should be considered in light of the Development Plan as a whole and this sets out the principle for allowing gypsy and traveller sites, and indeed caravan sites for tourist purposes, in the countryside. As a consequence this element of MNDP policy M10, by itself, cannot outweigh those policies that permit the principle of developments, which by their very nature entail the stationing of caravans. Instead, the landscape policies must be considered alongside the other relevant policies and also the site's context and planning history. In this case, an established gypsy site that includes caravans.

- 6.35 The Conservation Manager (Landscape) notes that there has already been a loss of local distinctiveness and character in this area by virtue of existing electric pylons crossing the site and the solar farm to the north east and originally advised that '*without substantial landscape mitigation and landscape enhancement proposals the proposed caravans and associated facilities would not contribute or enhance this landscape when seen from local footpaths MR5 approx. 140m to the west and from BM28 a local bridleway to the east. This is due to the fact that the caravans are not in materially character with this landscape.*' There was no objection in principle to the additional caravans, dayroom (size or siting) or modifications to the access.
- 6.36 The Conservation Manager (Landscape) has drawn attention to the inadequacies of the revised drawings, in terms of lack of a scale bar, drawing number or date. Nonetheless, the proposed supplementary planting can be considered indicative and more accurate plans are being sought. To summarise the Conservation Manager (Landscape) considers the additional planting now proposed to be insufficient. In particular woodland planting and provision of a new northern boundary, just beyond the proposed siting of the day room, are considered to be necessary to mitigate impact and provide enhancement. Discussions are to take place with the applicant in this regard and any update will be provided to Committee. Although the Government has encouraged the 'front loading' of applications by setting application fees for the approval of conditions, so that all information is provided at the time of determination, this is not always the case and where reasonable to do so such matters can be conditioned. Provided that the applicant agrees to a greater amount of supplementary planting this is a matter that can be conditioned.
- 6.37 With regards the dayroom, although a potential resiting was suggested to the applicant so that it would occupy lower ground levels than the existing static, this has been declined on practicality grounds although it has been confirmed that there is potential to reduce the size and height and revise the design modestly. The request for an alternative siting to be considered does not equate to an assessment of harm to the landscape. Taking the Conservation Manager's (Landscape) view into account along with the potential for a reduced size and modified design to be submitted, as per the applicant's letter, it is considered that in its context the dayroom would be acceptable. A condition can be reasonably imposed to require submission of details or samples of external materials.
- 6.38 Overall, it is accepted that the increased number of caravans on the site would be more obvious in the landscape and this is exacerbated by their colour, which does not harmonise with the landscape or sporadic built form of development. However, views are filtered by existing hedgerows and the grouping of the caravans accords with the general pattern of the built form in the locality. Moreover, the siting of the additional caravans on the lower part of the site minimises the visual impact due to the levels and also by not encroaching further into the more open part of the parcel of land. Planting to the west of the revised access driveway would filter views of the caravans from lane. On landscape criteria alone there is a modest degree of harm. The proposed layout is considered to be the most satisfactory option for accommodating additional units and can be further improved with appropriate planting.

Effect on amenity

- 6.39 CS policy SD1 states that developments should safeguard residential amenity for existing and proposed residents, in tune with one of the core planning principles of the NPPF that states that planning should seek to secure a good standard of amenity for all existing and future occupiers of land and buildings. Furthermore, CS policy H4 confirms that in the absence of an adopted DPD, as is the current position, or for proposals for sites brought forward on unallocated land, proposals will be supported where they meet the specified criteria, including promoting peaceful and integrated co-existence between the site and the local community and the size would not dominate the nearby settled community. Again, in assessing this it must be borne in mind that the site is lawful as a one family gypsy site. One of the proposed static caravans would only result in one additional extended family member, Mrs Smith's mother, living on site, although it

is accepted that this would not prevent other family members from occupying it. This is no different to occupation of a dwelling in the settled community, where the number of occupants is not restricted. The second additional caravan would result in another related family being on site, thus increasing the density of the site, but not its size. The nearest dwelling is some 120 metres distant to the northwest and the closest grouped community, The Vault, some 740 metres to the west. Taking into account the cluster of dwellings there, along with the sporadic development in between, and the distance separation from the majority of the settled community and the site it is considered that as a result of the proposal the site would not dominate nearby settled communities.

- 6.40 It has been asserted by objectors that there is no mechanism to control the number of caravans on the site and this would exacerbate the harm that would result and should be taken into account. It is considered that this premise is incorrect, and conditions can be lawfully imposed to control the number and sitings of caravans, together with their size as set out in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as has been imposed on previous permissions by the Council and Government Inspectors. The definition of a caravan for planning purposes relates to both its degree of mobility and its size. In summary a 'caravan' is a structure designed or adapted for human habitation which is capable of being moved from one place to another (whether being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, which is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices and when assembled is physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer). The maximum dimensions of a caravan are 20 metres in length (exclusive of any drawbar), 6.8 metres width and an overall height of living accommodation of 3.05 metres (measured internally from the floor at the lowest level to the ceiling at the highest level).

Drainage/Ecology

- 6.41 CS policy SD4 sets out the sequential preference for foul drainage. The applicant has confirmed that there is an existing PTP with soakaways on site which it is proposed to utilise. This is the second preference after a mains connection. Similarly to any intensification of use it may need to be emptied more frequently and as with any homeowner this obligation rests with the owner.
- 6.42 The site lies in the SSSI impact zone where the Local Planning Authority, as the competent authority, has a duty to undertake a Habitat Regulations Assessment (HRA) in terms of ensuring that there would be no likely significant effect on the water quality from increased nutrient levels. The Conservation Manager (Ecology) has advised that insufficient detail has been provided to demonstrate to the required degree of confidence that the existing PTP has sufficient capacity for the increased number of occupiers of the site. This information has been requested and an update will be provided to Committee.
- 6.43 With regards surface water and flood risk, the site is in Flood Zone 1, where the NPPF steers new development towards. Although 'minor development' and 'changes of use' are exempt from the sequential test, those that include a change of use to a caravan site are not and the sequential test should be applied as appropriate. Again, whilst not negating the lawful use of the site, in respect of the additional caravans the sequential test steers new development to Flood Zone 1 in the first instance and the site falls within this zone and is therefore acceptable. There are no recorded surface water issues in the locality of the site. As amended the management of surface water from the statics is proposed to be to water butts and to permeable surfaces. Taking into account the site's area, the limited requirement for hardstanding and the lack of surface water issues in the vicinity it is considered that this can be reasonably conditioned.

Conclusion

- 6.44 The PPTS confirms that planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise (paragraph 22). It continues in the subsequent paragraph by advising that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF and within the PPTS itself. In terms of the overriding principle of the NPPF, to achieve sustainable development, it is considered that the proposal would provide social benefits through the increased number of pitches on an existing lawful private gypsy site, which due to its size relative to the local settled community would enable and promote the facilitation of social interaction and creation of a healthy, inclusive community. Objectors consider that there would be social disbenefits if additional caravans were permitted, but in the absence of evidence of experiences to substantiate these assertions it is considered that this cannot be given weight at this time. Turning to the environmental dimension of sustainable development, the site is capable of accommodating additional caravans without expanding beyond its defined boundaries and by virtue of its relatively modest size and the density and scale of the proposal, improvements to the site's vehicular access and the potential for improvements to biodiversity the scheme would not have a materially adverse impact upon the landscape. It is recognised that occupiers of the site would be reliant on private vehicles to access day to day requirements. However, this would mainly relate to Hamby Smith, and his family, with travel patterns most likely reducing for care provision for Mrs Smith's mother if she lives on site. Given that 'The Vault' has been included in the CS and MDNP for proportionate growth and is similarly distant from services and facilities it is considered that in terms of locational sustainability the proposal is acceptable.
- 6.45 Having regard to the requirements of the Development Plan, together with the aims of the NPPF and the PPTS, and giving weight to the Council's shortfall in the provision of Gypsy and Traveller sites (due to the limited weight to be afforded to the emerging development plan document, as both the DPD and the evidence base including the GTAA have not as yet been scrutinised as part of the Examination Process) it is considered that any harm identified is limited and can be mitigated by conditions.
- 6.46 The site is considered to be acceptable to accommodate two additional static caravans and two touring caravans for gypsies and the occupation should be restricted to the definition for gypsies and travellers set out in Appendix 1 to the PPTS. There is no requirement to limit both of the static caravans' occupation solely to the applicant or Hamby Smith, by way of a personal permission, because in light of the shortfall in deliverable sites these personal circumstances have not been a determining factor. The NPPG advises on the appropriate use of conditions to limit the benefits of planning permission to a particular person or group of people (at paragraph 015 Reference ID: 21a-015-20140306) as follows:
- Unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.*
- 6.47 It is considered reasonable, necessary and relevant to planning and the development proposed to limit occupation of the additional caravans to gypsies and travellers, as the justification for this residential development outside of a settlement is derived from the specified exception, provided in CS policy RA3(7).

- 6.48 Turning to whether a personal permission meets the NPPG test for conditions, it is considered that the justification is provided by gypsy status rather than Hamby Smith's individual circumstances. As a result there is no need to stipulate that one static and one touring caravan are for Hamby Smith, but rather that they are for a person/persons meeting the definition of a gypsy or traveller, which Hamby Smith fulfils.
- 6.49 The situation is somewhat complicated by the proposed use of one pitch for the applicant's children, thereby providing a bedroom for his mother in law, as although she is ethnically a gypsy, she is not considered to meet the revised definition of gypsies and traveller for planning purposes, as set out in the PPTS, because no evidence has been provided to demonstrate that her cessation of travel has been temporary or is likely to be so. On this basis, as she is considered to be a dependant relative a condition is considered to meet the NPPG's six tests to limit the retention of one static caravan for the duration of her occupation of the site and whilst it coincides with the applicant's occupation of the site.

RECOMMENDATION

That subject to satisfactory resolution of the matters relating to landscaping and drainage and on the basis that no new material considerations arise following receipt of further comments, planning permission be granted subject to the following conditions and any other conditions considered necessary by officers named in the scheme of delegation to officers:

- 1. A01 Time limit for commencement (full permission)**
- 2. The development hereby approved shall be carried out strictly in accordance with the amended approved plans (drawing nos: 'insert drawing numbers') except where otherwise stipulated by conditions attached to this permission.**

Reason: To ensure the development is carried out in accordance with the approved plans and to comply with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 3. Prior to the construction of the day rooms details (or samples) of the materials and finishes to be use externally on walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, policies 3 and 10 of the Marden Neighbourhood Development Plan and the National Planning Policy Framework.

- 4. The site and caravans hereby approved shall not be occupied or used 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).

- 5. No more than 6 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 3 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 Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, policies M3 and M10 of the Marden Neighbourhood Development Plan and the National Planning Policy Framework.

6. No material change to the positioning of the static caravans on the site, or their replacement by other caravans, or their replacement by other caravans in a different location on the site, shall take place except in strict accordance with details, which shall have first been 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 Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, policies M3 and M10 of the Marden Neighbourhood Development Plan and the National Planning Policy Framework.

7. No commercial activities shall take place on the land, including the storage of materials for commercial purposes.

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, policy M10 of the Marden Neighbourhood Development Plan and the requirements of the National Planning Policy Framework.

8. The applicant's mother-in-law (name to be inserted) shall only be resident of the site whilst being a dependant relative of Mr and Mrs Smith and her occupation shall cease if at any time Mr and Mrs Smith permanently cease occupation of the site.

Reason: It would be contrary to Policy RA3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework to grant planning permission for caravans in this location except to meet the expressed personal circumstances of the applicant's mother-in-law or for a gypsy or traveller.

9. On cessation of the residential occupation of the site by the applicant's mother-in-law (name to be inserted), the occupation of the static caravan marked 'X' on the approved site plan [drawing no: number to be inserted] shall cease and that static caravan be removed from site within three months.

Reason: It would be contrary to Policy RA3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework to grant planning permission for caravans in this location except to meet the expressed personal circumstances of the applicant's mother-in-law or for a gypsy or traveller.

10. With the exception of any site clearance and groundwork (excluding any works to retained features), no further development shall commence on site until a revised landscape design has been submitted to and approved in writing by the Local Planning Authority.

The details submitted should include:

Soft landscaping

a) A plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, species and canopy spread, together with an indication of which are to be retained and which are to be removed.

- b) A plan(s) at a scale of 1:200 or 1:500 showing the layout of proposed native trees, orchard trees, native hedges and grass areas
- c) A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and wild flower establishment.
- d) A Landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas.

Hard landscaping

- a) The position, design and materials of all site enclosure (e.g. fences, walls)
- b) Car parking layout and other vehicular and pedestrian areas
- c) Hard surfacing materials
- d) Minor structures (e.g. play equipment, lighting, refuse areas etc.)

The approved details shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation.

If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. The hard landscaping shall be completed prior to the first occupation of the development hereby permitted.

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy, policies M3 and M10 of the Marden Neighbourhood Development Plan and 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 being installed. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development, unless further details have first been submitted to and approved by the local planning authority.**

Reason: To safeguard local amenities and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy, policies M3 and M10 of the Marden Neighbourhood Development Plan and the National Planning Policy Framework.

- 12. **H03 Visibility splays**
- 13. **H05 Access gates as per Dwg ref AQC3**
- 14. **H06 Vehicular access construction**
- 15. **H09 Driveway gradient**
- 16. **With the exception of any site clearance, groundwork (excluding any works to retained features) and alterations to the vehicular access as shown on the approved plans, no further development shall commence on site until a scheme for the provision of foul and surface water drainage works have been submitted to and approved in writing by the local planning authority. The submitted details shall include:**

- Confirmation of the capacity of the existing private treatment plant
- Details of the capacity of a new private treatment plant (if one is required)
- Infiltration test results – siting of any new soakaways
- Size and position of any new soakaways
- Number, size and siting of any rainwater butts

The approved scheme shall be implemented before the first occupation of any of the additional static and touring caravans hereby approved.

Reason: In order to ensure that satisfactory drainage arrangements can be provided within the site, so as not to have an adverse impact on the SSSI and to comply with Policies SD3 and SD4 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 proposed caravan site may require a site licence issued by the Licensing section of the Council’s Environmental Health and Trading Standards Division.

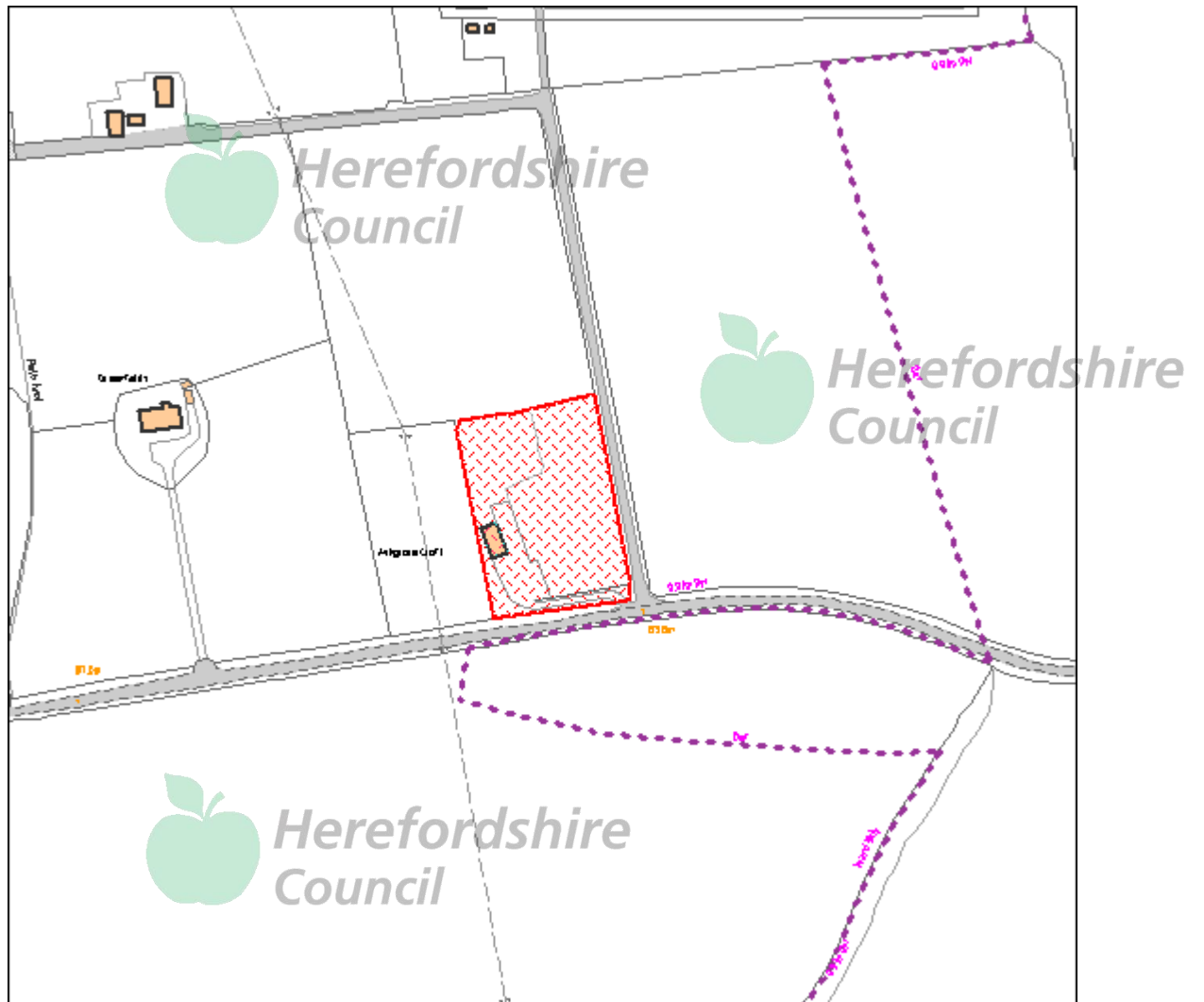
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 172552

SITE ADDRESS : ASHGROVE CROFT, MARDEN, HEREFORD, HEREFORDSHIRE

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

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	6 December 1017
TITLE OF REPORT:	<p>172704 - PROPOSED DEMOLITION OF EXISTING AGRICULTURAL BUILDINGS AND REPLACEMENT WITH SIX DWELLINGS WITH ASSOCIATED WORK SPACE. CONVERSION OF EXISTING WORKSHOP TO FORM SINGLE DWELLING AND ASSOCIATED WORKS. AT LAND AT MIDDLE COMMON PIGGERY, LOWER MAESCOED, HEREFORDSHIRE.</p> <p>For: Mr Lewis per Mr Ian Pople, 30 The Causeway, Chippenham, SN15 3DB</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=172704&search=172704
Reason Application submitted to Committee - Redirection	

Date Received: 20 July 2017

Ward: Golden Valley
South

Grid Ref: 334670,230851

Expiry Date: 31 October 2017

Local Member: Councillor PC Jinman

1. Site Description and Proposal

- 1.1 The site is located at Lower Maes-coed, a settlement identified in Core Strategy Policy RA2 where proportionate housing growth is supported in principle. It is located north-west of Ewyas Harold where there are services/shop and a bus service to Hereford.
- 1.2 It comprises a derelict pig farm on an approximately 1 hectare plot with a variety of redundant covered corrugated buildings. The site is relatively level. Public Right of Way NW14 runs in a northerly direction along the eastern boundary from Common Road.
- 1.3 There are sporadic roadside dwellings in the vicinity namely New House (to the east) on the opposite side Common Road, and Great House to the north-west with Sweeps Cottage to the west. Access to the site from the Ewyas Harold direction is from the south with the point of access off Common Road (which is designated common land).
- 1.4 The proposal is for a total of 7 new dwellings (one of which comprises a conversion of a workshop) namely:
- 1 3 bed dwelling;
 - 2 x2bed live work;

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

- 3x 3bed live work;
- 1x4 bed live work.

1.5 The above are shown to be sited in an F plan layout, with internal access road serving a number of contemporary linear barn style buildings.

1.6 The planning application has been accompanied with:

- Transport Statement;
- Flood Risk Assessment;
- Design and Access Statement;
- 3d perspective colour visualisations of the site layout.

1.7 Further submitted information includes:

- Phase One ecological survey;
- Land contamination survey.

2. Policies

2.1 Herefordshire Local Plan: Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
RA2	-	Housing settlement outside Hereford and the market towns
RA3	-	Herefordshire's Countryside
RA6	-	Rural economy
E2	-	Re-development of Existing Employment Land
E3	-	Homeworking
H2	-	Rural Exceptions Site
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
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency;
SD3	-	Sustainable water management and water resources
SD4	-	Waste Water Treatment and River Water Quality

2.2 Vowchurch and Group Neighbourhood Development Plan: Made on 16 October 2017 and can therefore be afforded full weight.

https://myaccount.herefordshire.gov.uk/media/1989471/vowchurch_ndp_july2017.pdf

Policies 1 (protecting and enhancing the local environment), 2 (future developments), 3 (open countryside), 4(nature and scale of new housing) and 7 (amenity) are considered particularly relevant.

2.3 National Planning Policy Framework

Of relevance to site remediation paragraphs 109, 120, 121, 197.

Paragraphs 14, 47 and 49 (5 year housing land supply) are engaged. This is presently 4.54 years (published at April 2017).

- 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/info/200185/local_plan/137/adopted_core_strategy

3. Planning History

- 3.1 151875/PA4 Prior notification: Agricultural to Residential Use (Refused).

DCSW2006/2902/F: Two year temporary change of use for equipment storage at Shop Vach Farm and war games at Middle Common Piggeries (Refused).

4. Consultation Summary

Statutory Consultations

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

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

Dwr Cymru Welsh Water has no objection to the proposed development.

Internal Council Consultations

- 4.2 Transportation Manager: Proposal acceptable, subject to the following conditions and / or informatives:-

The road network around the site mainly consists of narrow single track carriageways with no footway, limited verges and limited number of official passing bays. The wider network has two way carriageways with narrow sections. Whilst the number of vehicles using the network will increase with the development the impact on the network would not be classed as severe.

CAB 2.4 X 49m to the right (looking west) and 2.4 X 53m to the left (looking east)

CAE, CAH, CAL, CAS, CAT, CAZ, CB2

I11, I09, I45, I07, I05, I47, I35

- 4.3 PROW Officer: Public footpath NW14 has been shown on plans, and would not appear to be adversely affected by the development. No objection.

- 4.4 Neighbourhood Planning Team: This site is within the Vowchurch and District Group Neighbourhood Plan area. The plan has full material weight.

With this in mind, the policies for this application are contained within both the Herefordshire Core Strategy and the Vowchurch and District Group NDP.

Lower Maes-coed is contained with Policy RA2 figure 4.15 highlighted for proportional growth. The proportional growth requirement for the Group Parish is 28 of which at April 2017 there were 2 built and 2 commitments leaving a residual total of 24.

Policy RA2 indicates that housing within 4.15 will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in the settlement.

There is no settlement boundary defined within the Vowchurch and District Group NDP for Lower Maes-coed as the settlement has evolved from single dwellings and farmsteads. Therefore proposals are adjudged under Policy 2 of the NDP.

Policy 2 highlights that proposals should consist of 1 to 3 dwellings per site reflecting the current building pattern and historic pattern of housing. Conversions are encouraged.

Policy 4 indicates that development should be of 2 and 3 bedroom homes and Policy 5 required the reflection of historical building styles.

The proposal does not accord with policy in terms of the number of dwellings per site however policies 4 and 5 have been reflected within the proposal. Although it is acknowledged that the site currently consists of agricultural buildings (Piggery) and some of the land is currently hardstanding.

4.5 Conservation Manager (Landscape): No objection in principle. The proposal is for 7 residential units upon the site of The Piggeries at Lower Maes-coed. I have visited the site, read the pre-application advice and viewed the drawings and visualisations for the scheme.

I note that no landscape appraisal or landscape proposals have been submitted in support of the application but I have read the relevant detail within the Design and Access Statement.

I understand that the site cannot in policy terms be considered a brownfield site however given the derelict condition of the buildings I consider that from a landscape perspective there is opportunity for enhancement. I would also echo the pre-application advice in that a courtyard style layout would be most appropriate within this rural location. In terms of the detail of what is proposed as part of the scheme I would like draw a number of points to the attention of the case officer:

- The site is undesignated however the PROW NW14 follows the eastern boundary there is therefore opportunity for near views of the proposal as well as longer views from the east.
- The site is well contained by vegetation from other aspects and this enclosure should be maintained through retention of all boundary vegetation.
- The landscape comments within the D & A make reference to the existing units not being inherently obtrusive within the landscape and to my mind the reason for this is primarily due to the heights of the buildings.

I would therefore like to make the following recommendations:

- The number of units has increased from 6 to 7 this should be reduced to 6 [losing Unit G at the back of the site which is shown to contain a bat loft];
- Built form should be brought back from the eastern boundary and open space should be relocated to the eastern section of the site so that it can be integrated with the PROW.
- Heights of the proposals should be clearly identified on the elevation drawings and should take their lead from the current context. Higher units should be retained on the western half of the site which is less visually sensitive with lower units some part or all single storey to the east in order to reduce visual impact and maintain the farmstead appearance.
- Field boundaries marking residential curtilage should be avoided to ensure their future retention.

Given the particular nature and location of the scheme I consider the landscape to be an integral part of the proposal and would therefore request a landscape plan be submitted at application stage.

- 4.6 Environmental Health Officer (contaminated land): No objection subject to the imposition of a planning conditions securing appropriate remediation should contamination be found during further site investigations.
- 4.7 Conservation Manager (Ecology): No objection.

I note the Ecological Report and Bat Surveys by Ecology Services dated July 2017. This identifies the presence of a Long-eared Bat roost within one of the units proposed for removal. This means that a European Protected Species Licence (issued by Natural England) will be required. This EPSL can ONLY be applied for subsequent to approval of the Planning Application but MUST be confirmed and issued by Natural England prior to ANY groundworks or demolition taking place on site.

The recommendations in the ecological report would appear to be relevant and appropriate and should be subject to a relevant implementation Condition. In addition to the required bat roosting compensation and landscaping, in line with NPPF, NERC Act and Core Strategy all developments should show how they are going to further enhance the local biodiversity potential of the area

I note that the outfall from the proposed package Treatment Plants is indicated as going to a soakaway field. In line with best practice, NPPF, Core Strategy (LD2 and SD4) and NERC Act this final discharge to soakaway should form part of the approved plans so as to ensure no Phosphates, residual nitrogen or suspended particulates are directly discharged in to any local watercourse, stream or culvert with potential associated individual and cumulative detrimental impacts on local and downstream aquatic ecology and water quality.

5. Representations

- 5.1 Vowchurch and Group Parish Council (aka Newton Parish Council): Objection.

At the meeting last night the above planning application was discussed with regards to the recent Neighbourhood Plan referendum result. The Parish Council has asked me to contact you to confirm that the referendum result will be taken into account and that any planning decision will follow the Neighbourhood Plan.

The Parish Council fully supports the objections made by local residents to this application. The Council itself objects to the application on the grounds that the proposed development is unacceptable in its scale and nature for the local area.

There is an important issue of policy here. Herefordshire Council's Core Strategy sets out policies which permit development in certain local areas. The Core Strategy identifies Lower Maes-coed as a community in which some new housing development can take place. Here any such new housing should "respect the scale, form, layout, character and setting of the (existing) settlement" - recognising that such small settlements often do not have a village centre.

Local residents and the Parish Council do not believe that the current planning application is consistent with this Core Strategy policy. The creation of seven new houses in the form of what is, to all intents and purposes, an urban type cul-de-sac is completely inappropriate in a rural area with a historic pattern of scattered dwellings. The Parish Council does not agree that a development should take the form of a traditional farmyard arrangement. We consider that development should rather reflect what the pre-application letter from Herefordshire Council describes as the "wayside grain of residential development with Lower Maes-coed."

The Neighbourhood Plan which the Parish Council has prepared to reflect the views of local residents is the subject of a referendum on 7 September. This Plan supports Herefordshire Council's planning policies as set out in the Core Strategy.

The content of the neighbourhood plan was made clear to the developer in the pre-application letter from Herefordshire Council in January 2017. At that stage the plan had not completed its Regulation 16 consultation. The advice therefore was that the draft plan might not therefore carry full weight in assessing a planning application.

Since then the Regulation 16 stage has been completed and the plan has been assessed by an independent assessor and judged to meet all the requirements of such plans. It will therefore go to a referendum on 7 September. Given this the Parish Council would expect the policies in the Plan to be taken into account and given full weight in assessing this application even though the Plan has yet to be adopted.

The essence of the policies in the Plan is that future developments should enhance the local environment by reflecting the historic pattern of housing and the materials from which the bulk of the existing housing is made. This implies small scale developments of modest homes in wood, stone or brick with slate roofs. The impact of new houses on the existing homes is also very important. This includes the visual impact and the impact in terms of increased traffic on very small, single lane roads.

It is important to point out that although the developer was advised by Herefordshire Council to discuss development proposals with local residents and with the Parish Council at an early stage, this has not happened. An initial contact was made but the Parish Council's request for a site visit and discussion was not taken up. We would have welcomed a close involvement in a scheme which could have a positive impact on the area if designed and carried out sensitively. As it is a scheme has been put forward which could have a major detrimental impact on the area and the people who live here.

It should be stressed that, although we object to the current proposals, local people and the Parish Council support the development of this unattractive, polluted site for a small number of sensitively located and designed new homes which are in keeping with the pattern and materials of the existing houses.

5.2 To date (14/11/2017) some 14 objection letters have been received. These raise the following points:

- Is more than the 2-3 house preference in Policy 2 of the Neighbourhood Development Plan;
- Cul-de-sac style proposal;
- Concern regarding external lighting;
- Highway safety in respect of access roads.

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=172704&search=172704

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

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

6. Officer's Appraisal

6.1 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

"If regard is to be had to the development plan for the purpose of any determination to

be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

- 6.2 The Core Strategy (CS) sets the overall strategic planning framework for the county, shaping future development. The Neighbourhood Development Plan (NDP) has been made and this forms part of the ‘development plan’ in decision making and is afforded full weight.
- 6.3 The strategic Policy SS1 sets out a presumption in favour of sustainable development as required by the National Planning Policy Framework (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. At present, the Council cannot demonstrate a 5-year supply of housing land and as such the policies of the CS cannot be inherently relied upon, although still retain weight dependent upon their consistency with the NPPF.
- 6.4 The delivery of sustainable housing development to meet objectively assessed needs is a central CS theme, reflecting the objectives of the NPPF. Policy SS2 ‘Delivering new homes’ directs that Hereford and the market towns shall be the main focus for new housing development with proportionate growth of sustainable rural settlements, which are listed at figures 4.14 and 4.15, also supported.
- 6.5 Lower Maes-coed is identified as being suitable for new housing both in the CS and Policy 2 of the adopted NDP, which promotes smaller scale residential development of 1-3 dwellings. The wording of the latter policy is as follows (I have underlined what is considered an important material consideration underpinning the recommendation below):-

Policy 2: New housing proposals will be permitted within the defined settlement boundaries for Michaelchurch Escley and Vowchurch as shown on pages 6 and 7 of the Plan and on the Policies Maps and within the small settlement area of Lower Maes-coed. Proposals will be subject to the following criteria:

- they should broadly be for no more than 1 to 3 homes on each site, reflecting the historic building pattern of small developments;
- they should be on land around or between existing buildings; • where possible they could be for the conversion of existing buildings such as stables, barns and workshops;
- schemes should blend in sensitively with the historic pattern of houses;
- they are protected from the risk of flooding and will not result in increased flooding to elsewhere.

Policy 4:

Nature and scale of new homes

Justification – The views of local people about the kind of homes that are needed is completely consistent with the findings of the study carried out for Herefordshire Council referred to above. That is, primarily homes with up to 3 bedrooms, as well as some smaller homes being required.

- 6.6 Having regard to the strategic level objectives of CS policy RA2, the location of the proposed development is considered to be within or at least adjacent to the identified settlement of Lower Maes-coed. This supports the principle of residential development at this location. This said policy RA2 makes clear that the detailed manner in which new development comes forward should be informed by NDPs. In this case, there is a tension with made NDP policy 2 in terms of the proposed number of dwellings and this is fully recognised. Officers have carefully considered its wording and conclude that the policy is not definitive and establishes only a preference for no more than 1 to 3 homes on site. In this case there are other material considerations that must be taken into account. Weight has been given to the current adverse condition of the site and the design and layout of this proposal is considered to be of a high

quality that enhances the site in a form that reflects a characteristic farmstead typology. The proposal incorporates 1no. 2 bed dwelling and 5no. 3 bed dwellings and a conversion which aligns with NDP policy 4. Six of the units are proposed to incorporate office/workshop/studio space as part of a live-work arrangement and the smallest unit includes a small office space provision, which is welcomed in terms of the potentially greater economic benefits that would accrue.

- 6.7 Further to the above benefits, the delivery of 7 dwellings would make a significant contribution towards the remaining 21 dwellings required to be delivered throughout the Group Parish which in turn will assist in meeting the Council's wider 5 year housing land supply requirements.
- 6.8 It should be noted that Officers have discussed the potential for reducing the number of dwellings to align fully with policy 2 but this has been resisted by the applicant. Accordingly whilst recognising the local concerns identified, it is considered that there are material considerations that apply to this site that warrant a favourable recommendation in terms of supporting the principle of development.

Design/Landscape/Amenity

- 6.9 This Council's Senior Landscape Officer does not object in principle and has made suggestions in terms of the layout and in particular how that could be improved on the eastern edge of the site through the loss of a dwelling. However the removal of the derelict piggery buildings and introduction of contemporary barn style dwellings together with associated landscaping, open space and more sensitive surface treatments would, it is considered, result in an immediate localised visual improvement. The site sits on level ground with no longer views into the site from more distant vantage points.
- 6.10 The design quality of the proposed buildings is considered to be high and innovative, reflecting a rural building typology in a modern interpretation using wood cladding and stone plinths to elevations and metal cladding to rooves, with simple massing and grouping of buildings in the overall site layout.
- 6.11 There would be satisfactory standards of residential amenity for future residents, and there is no appreciable amenity impact to those existing dwellings in proximity to the site.

Accessibility

- 6.12 The approach roads to the site are considered acceptable and capable of accommodating the level of traffic generated by this new residential use. The proposed internal road layout is also satisfactory. The Transportation Manager raises no objection and relevant planning conditions can secure suitable access, parking and road layout provision.

Ecology

- 6.13 The site has limited ecological value, although the presence of 6 long eared bats in one of the existing prefabricated buildings has been identified. As mitigation a bat loft is shown to be incorporated in Unit G at the rear of the site. On site enhancement also includes new native species hedgerows. The Council's Ecologist has reviewed the submitted report and has no objection to the recommended ecological mitigation and enhancement. This can be secured by way of planning conditions attached to the planning permission.

Foul and Surface Water

- 6.14 A package sewage treatment unit is shown to be provided on the eastern edge of the site, which would provide capacity to deal with waste water from the proposed dwellings. It is

considered that there is sufficient room within the site for the installation of the treatment plant and associated soakaway system. Potable water is available at this location. As such a condition is recommended to ensure that this aspect of the proposal is properly controlled so as to accord with CS policies SD3 and SD4

Contaminated Land

- 6.15 Initial surveys undertaken do not indicate any adverse land contamination issues arising from its former use as a piggery. The Council's Environmental Health Officer does not raise any objection. A planning condition will ensure that further sampling of soils is undertaken to ensure that any potential contamination on site is appropriately remediated.

Flood Risk/ Drainage

- 6.16 The site is in Flood Zone 1 (low risk) and the more vulnerable housing use is compatible with that designation.

Conclusion

- 6.17 Whilst it is recognised that the NDP indicates a preference for new housing of 1-3 units in scale, a specific assessment of this site and proposal suggests that there is significant benefit in enhancing a derelict site that is considered to adversely impact upon the immediate local landscape. The proposed scheme is of a high quality design and layout that is considered compatible with its rural setting. It will make a significant contribution towards the proportionate housing growth target for the parish together with the attendant economic benefits applying during and after construction. The mix of housing types offers a degree of affordability that may also fulfil a modest social benefit. This together with the site being in a location that is supported in principle by both Policy RA2 of the adopted Core Strategy and Policies 2 and 4 of the made NDP is such that a positive recommendation is put forward.
- 6.18 the proposal is considered to be representative of sustainable development at this location in respect of the National Planning Policy Framework, and there are no overriding adverse planning implications which would lead to an alternative recommendation.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**
- 4. G09 Details of Boundary treatments**
- 5. G10 Landscaping scheme**
- 6. G11 Landscaping scheme - implementation**
- 7. H06 Vehicular access construction**
- 8. H09 Driveway gradient**
- 9. H13 Access, turning area and parking**

10. H11 Parking - estate development (more than one house)
11. H21 Wheel washing
12. H27 Parking for site operatives
13. H29 Secure covered cycle parking provision
14. I18 Scheme of foul drainage disposal
15. I32 Details of floodlighting/external lighting
16. I42 Scheme of refuse storage (residential)
17. K5 Habitat Enhancement Scheme
18. M09 Universal cond for development on land affected by contamination
19. M17 Water Efficiency - Residential
20. The ecological protection, mitigation and working methods scheme as recommended in the Ecological Report by Ecology Services dated July 2017 shall be implemented in full as stated and a relevant European Protected Species Licence obtained prior to any work commencing on site, unless otherwise approved in writing by the local planning authority.

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

21. In addition to any required bat roosting enhancements and agreed soft landscaping, prior to commencement of the development, a detailed habitat enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

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

22. M09 Universal cond for development on land affected by contamination
23. The work space within the live-work units hereby approved (Units A, B, C, D, E and F on the approved site layout drawing 2472 P(0) 01 shall be used solely for purposes falling within Class B1 of the Use Classes Order 1987 (as amended).

Reason: To control the use of the workspace areas in order to ensure that they remain compatible with the adjoining residential properties so as to comply with policies SD1 and RA6 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. **HN01 Mud on highway**
3. **HN04 Private apparatus within highway**
4. **HN05 Works within the highway**
5. **HN08 Section 38 Agreement & Drainage details**
6. **HN24 Drainage other than via highway system**
7. **HN28 Highways Design Guide and Specification**
8. The enhancement plan should include details and locations of any proposed Biodiversity/Habitat enhancements as referred to in NPPF and HC Core Strategy. At a minimum we would be looking for proposals to enhance bird nesting and invertebrate/pollinator homes to be incorporated in to the new buildings as well as consideration for amphibian/reptile refugia and hedgehog houses within the landscaping/boundary features. No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative.
9. The enhancement plan should include details and locations of any proposed Biodiversity/Habitat enhancements as referred to in NPPF and HC Core Strategy. At a minimum we would be looking for proposals to enhance bird nesting and invertebrate/pollinator homes to be incorporated in to the new buildings as well as consideration for amphibian/reptile refugia and hedgehog houses within the landscaping/boundary features. No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative.

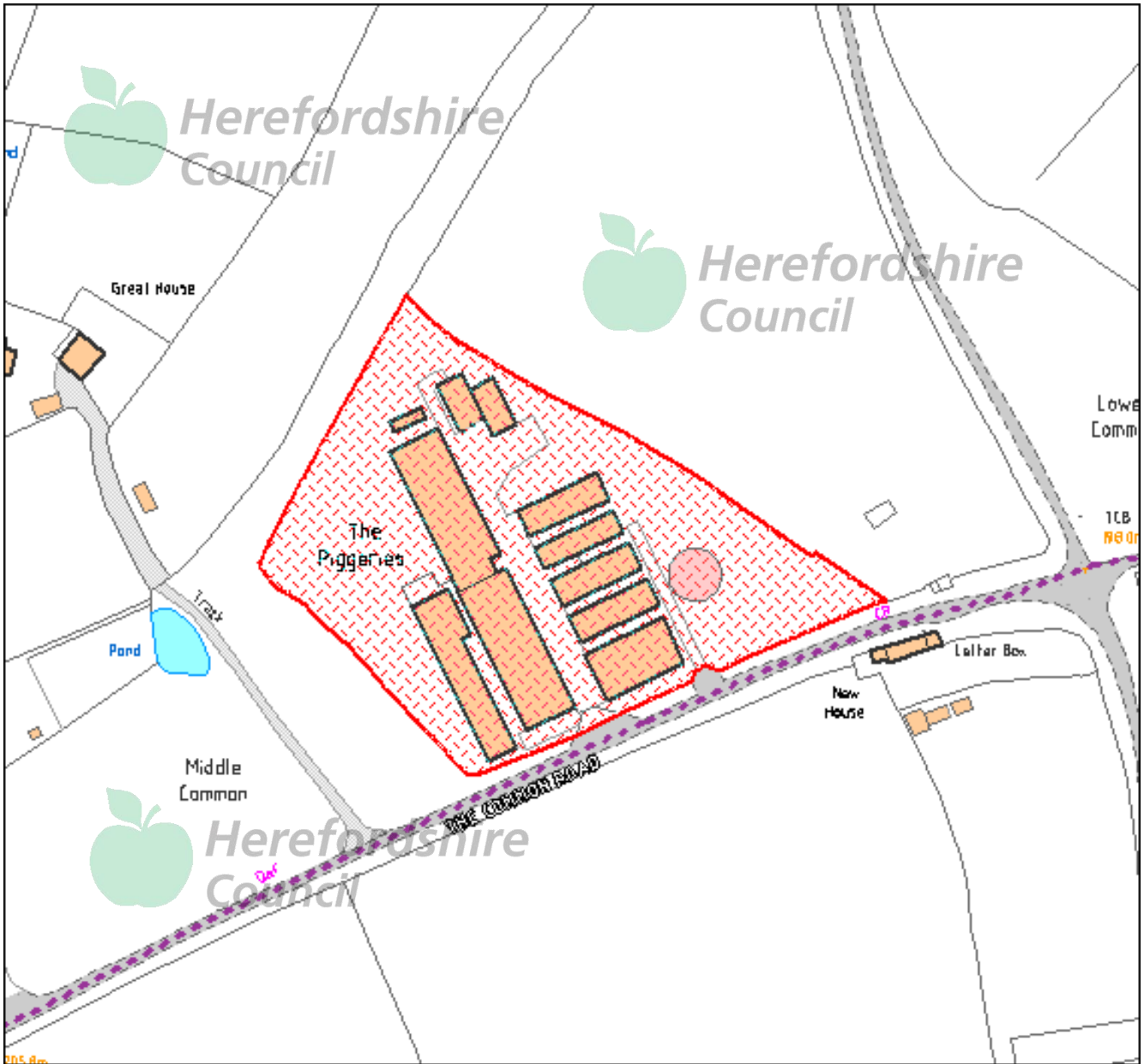
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 172704

SITE ADDRESS : LAND AT MIDDLE COMMON PIGGERY, LOWER MAESCOED, HEREFORDSHIRE

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	6 December 2017
TITLE OF REPORT:	173692 - PROPOSED 5 NO. DWELLINGS WITH GARAGES AND TREATMENT PLANT AT LAND ADJACENT TO VILLAGE HALL, AYMESTREY, LEOMINSTER. For: G & J Probert per Mr John Needham, 22 Broad Street, Ludlow, Shropshire, SY8 1NG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=173692&search=173692
Reason Application submitted to Committee – re-direction	

Date Received: 28 September 2017 **Ward: Mortimer** **Grid Ref: 342578,264893**
Expiry Date: 27 November 2017
Local Member: Councillor CA Gandy

1. Site Description and Proposal

- 1.1 The application site is located on the eastern side of the A4110 immediately to the south of the village hall in Aymestrey. To the north of this on the same side of the highway is Aymestrey Court, beyond which is the Grade I listed Church of St John the Baptist and St Alkmund.
- 1.2 The site is currently in agricultural use and is roughly rectangular in shape. Mature hedgerows and trees are present along the site's frontage which is approximately 85m. The land slopes from west to east towards the River Lugg, which is 160 metres from the site boundary. There is existing residential development opposite the site along Bacon Lane.
- 1.3 The proposal is to construct five dwellings with garages on the site, consisting of two x 3 bed and three x 4 bed traditionally styled properties. A new access is proposed off the A4110, which has been subject of much discussion and has been relocated further to the north from the location originally proposed to improve visibility. A landscaping scheme would be implemented across the site. Levels are proposed to ensure that the ridge line of the dwellings does not project above the height of the village hall ridgeline.
- 1.4 An identical application was before planning committee on 26th April 2017. At that time the following resolution was made

RESOLVED: That officers named in the scheme of delegation to officers be authorised to grant planning permission, following consultation with the Chairman and local ward member, subject to the conditions set out in the report and update and any other conditions considered necessary by officers and there being no adverse comments received from Historic England, and subject to the application

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

being brought back to the Committee for consideration if such adverse comments were received.

- 1.5 Before it could be returned to Committee it was found that the application had, as a consequence of the withdrawal of the appeal against non-determination, been withdrawn completely. Hence it was necessary for the application to be submitted anew.

2. Policies

- 2.1 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:-

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	-	Housing in Settlements Outside Hereford and the Market Towns
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
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality

- 2.2 NPPF - Achieving Sustainable Development & Chapters 4, 6, 7, 8, 11 and 12

- 2.3 Aymestrey Neighbourhood Development Plan was designated on 7th January 2016 but has not yet reached regulation 14 stage. It cannot be attributed any weight within the decision making process.

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

https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

3. Planning History

- 3.1 153330 - An identical application which was subject to appeal against non-determination that was subsequently withdrawn. In the event that appeals against non-determination are withdrawn, the planning application is, in effect, also withdrawn.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water

As the applicant intends utilising a private treatment works we would advise that the applicant contacts the Environment Agency, who may have an input in the regulation of this method of drainage disposal.

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

4.2 Historic England

The Church of St John the Baptist and St Alkmund in Aymestrey is listed Grade I and sits in the flat land of the Lugg valley. The majestic square stone tower of the church is a focal point in views up the valley on leaving Mortimer's Cross. The valley provides the setting in which the church is experienced and one which bears evidence an ancient history of strategic occupation from the Scheduled hillforts of Pyon Wood and Croft Ambrey to the undesignated route of the Roman Road to Leintwardine, the Scheduled remains of medieval motte and bailey castles, the undesignated site of the Battle of Mortimer's Cross and medieval and post medieval Listed Buildings. The setting of the church is therefore extensive, attractive and characterised by designated and undesignated heritage which contributes to the significance of the church.

Historic England considers that the proposed development lies within the wider setting of the church as described above and will necessarily impact upon it. Paragraph 132 of the NPPF is clear that heritage assets are irreplaceable and that harm to their significance including that which may result by virtue of development within their setting requires a clear and convincing justification. Where harm is less than substantial, it should be weighed against the public benefits of the proposal (paragraph 134).

Historic England's publication Historic Environment Good Practice in Planning: The Setting of Heritage Assets recommends a staged approach to the assessment of development within the setting of heritage assets. This approach has been used in the submitted Heritage Assessment. The assessment places greater emphasis on the monumental character of the church set against smaller structures as seen within the village compared to the church in its broader setting. While Historic England is not entirely convinced by this emphasis, we broadly agree with the conclusion that the proposal has a negative impact on views approaching Wigmore from the south on the main road. We consider that the development changes the way in which the church is experienced in its wider setting and that less than substantial harm is caused. We are not expert in assessing whether the degree of harm is outweighed by the public benefits of the proposal; this is a matter for the Council to assess.

Recommendation

Historic England has concerns regarding the application on heritage grounds. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. And also of section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Internal Council Consultations

4.3 Historic Building Officer

Background to Recommendations

Description & Location of Development

The proposals are for a group of 5 houses on land to south of Aymestrey, Herefordshire

The nearby Heritage Assets which could potentially be affected are the church (Grade 1), an un-registered Park & Garden to the N, Croft Castle 2.3km to the E (Grade 1), Croft Castle Park 840m to the SE (Grade 2*)

There is also Aymestrey Court, an unlisted timber framed building to the North and an unlisted former tin tabernacle to the West, now converted.

Aymestrey is a scattered linear settlement situated within a flat bottomed valley with a ridge to the E and hills to the W. It is characterised by a mix of modern and vernacular houses with the Church as a centrepiece.

Comments

Setting is the surrounding area in which a heritage asset is experienced. This is not necessarily reliant on there being direct views between a site and the object. (for example, buildings or sites which are close to each other, but not visible from each other, may have a connection due to historic or aesthetic connections which means that they are within each other's setting, for example a lodge for a country house designed by the same architect, or buildings associated with a historic event such as a battle.

If you consider that the experience of the church, as with many similar villages, the centre piece of any village, is partly how it is perceived from the approach to and through the village, then the field is within that setting.

The development is such that whilst it would alter the setting, it is not felt that this would harm the setting. Therefore we do not feel that the proposals would trigger paragraph 134 of the NPPF. When viewed from the SE of the churchyard, it is likely that the housing would be perceived from the Church to a limited extent, and the church will be perceived from the housing. The design and layout of the housing is not such that it would detract from the character of the settlement and therefore the setting of the church. The setting of the church is that it is situated within a scattered linear village with views out to countryside beyond. It is not felt that the fundamental character of this setting will be changed, even though it will be altered to a limited degree.

Recommendations

The proposals would alter the setting of the church to a very limited degree, but it is not felt that this would be harmful as it would not affect those aspects of the setting which strongly contribute to its significance.

Care would be required over the design and detail of any development to ensure that it responds to local context as such we would recommend that, if approved, conditions are imposed relating to materials and detailing, in particular, roof materials and detailing, window details and walling materials. In terms of landscaping we would recommend native hedging, estate fencing etc as an appropriate response to context.

4.4 Transportation Manager: No objection subject to conditions

The traffic generated from the site can be accommodated within the network,

The site is located next to the village hall and south of Aymestrey.

The proposal requires visibility splays of 2.4m X distance and Y distance of 104m to the north and 160 to the south. More can be achieved to the south but securing this will enable a safe access.

The village has issues with speed, the PC has developed a scheme to be implemented which should impact on the locality, the issue is with visibility to the south. The visibility splay may slightly impede the proposed gateway feature, this will require redesigning if the development is built. The Gateway features do belong to the PC but this is under license to the highway authority via the council's service provider. This does become complicated in so far as alteration will be required. This will need to be accommodated within the agreement. The applicant has offered to pay for the extension of the 30mph but this is not supported locally and I understand the concerns in extending the speed limit will further detract from the impact of the 30mph zone, therefore the speed limit will not be extended. The cost for the speed limit will be better spent reinforcing the 30mph such as the 30mph red roundles. The speed heading south is recorded at 46.9mph and north being 44.9mph.

The connectivity (pedestrian crossing), will need to be detailed and accommodated within the S278 works.

The access to the site needs to incorporate radius and the footpath link to the village hall, this can be delivered and will be conditioned.

The hedgerow will need to be moved back, the visibility splay will be conditioned with the new centre line being a minimum of 1m behind the visibility splay and maintained as such.

Safety

If the above can be accommodated within any permission, the impact of the development is not deemed to be severe.

4.5 Environmental health (contamination) – no comment.

4.6 Ecologist - not received but previously no objection subject to condition.

4.7 Land drainage - no objection subject to conditions.

5. Representations

5.1 Aymestrey Parish Council

Aymestrey Parish Council confirms its objections to this application on the following grounds:

1) The development would harm the setting of the Grade I listed church as has been confirmed by Historic England, which made a finding of "less than substantial harm".

The proposed development is in conflict with paragraph 134 of the National Planning Policy Framework, which requires that where less than substantial harm will be caused to the significance of a heritage asset, the harm should be weighed against the public benefits of the proposal.

Paragraph 134 is one of the policies identified in footnote 9 of the NPPF as a specific policy under Limb 2 of paragraph 14, which indicates that development should be restricted.

The presumption in favour of development does not, therefore, apply. The committee report for planning application 153330 advised that the presumption in favour of development then applied because Herefordshire Council could not demonstrate a five year housing land supply and the Aymestrey Neighbourhood Development Plan had not yet reached Regulation 14 stage

and at that time the officer did not accept that there would be harm to the heritage asset or its setting.

This was the conclusion of the committee report:

“Given the current 5 year housing land position and absence of a Neighbourhood Development Plan being accorded any weight, this sustainable proposal, in the absence of material considerations demonstrating significant harm to outweigh the benefits, including loss of grade 2 agricultural land, is recommended for approval.”

The planning committee minutes do not give reasons for recommending approval at the meeting in April, so it can be assumed that the committee agreed with this conclusion and followed the recommendation of the officer report.

It is clear that the planning committee voted in favour of the development because it considered itself bound by the presumption in favour of development for the reasons given in the officer report.

As the presumption no longer applies, the decision must be to refuse. The Council cannot now find a different reason for approving the same development. The requirement for consistency in planning decisions is well established in case law and was reiterated earlier this year in *Baroness Cumberlege of Newick v Secretary of State for Communities and Local Government* [2017] EWHC 2057 (Admin).

2) Both the committee report and the lead development manager overstated the housing target for Aymestrey in saying that the parish needed to find an additional 15 houses.

Aymestrey needs to deliver sites for only 11 houses to meet its target and there is already a planning application for a new house at Yatton. Sites have been put forward to the NDP sufficient to meet that target and the parish has achieved average growth of two dwellings per year through windfalls in recent years, indicating that the target would be achieved without allocating any sites.

Consequently, the NDP, which is now approaching Regulation 14, will substantially over-deliver on its housing targets.

3) The development would prevent or significantly reduce the effectiveness of the traffic calming scheme, in particular the element for which the parish council has been granted funding by the Police and Crime Commission for West Mercia and Breedon Quarries and is nearly ready for installation.

This is the village gateway at the south end of the village close to the access to the proposed development. The aim of the gateways is to make the road appear narrower, encouraging drivers to slow down. This effect would be lost if the development went ahead because:

a) the gateway would have to be set back from the edge of the road by more than 1m than would otherwise be the case

and

b) the access itself, the loss of trees and the relocation of the hedge further away from the carriageway would all make the road appear wider.

The parish council has been working for several years to accomplish this traffic calming scheme. Controlling the speed of traffic through the village is a high priority: traffic speeds were identified as a problem by 80% of respondents in two separate surveys for the Parish Plan and

the Neighbourhood Development Plan. Traffic surveys have shown that the average traffic speed through the village is approaching 50 mph, despite the 30 mph speed limit.

One or more planning committee members proposed relocating the 30 mph limit on the A4110 in an attempt to reduce traffic speeds at the site entrance. This proposal had already been considered and dismissed by Aymestrey Parish Council and the Police. Extending a 30 mph reduces its effectiveness, would require the village gateways to be installed at a distance from the village itself and would require a Traffic Regulation Order.

The committee report for 153330 advised that the applicants had offered £10,000 towards the traffic calming scheme, but it has already been confirmed that the planning authority could not secure this funding because it will not use a S106 agreement.

3) The proposed development is suburban in layout and appearance, thus failing to reflect the character and setting of the historic village. The houses are large and in very large plots and would not deliver the housing needs of the settlement as established in Parish Plan and Neighbourhood Development Plan surveys. The surveys have identified the need for affordable and retirement homes. The residential area of the Aymestrey is on the opposite side of the A4110, with only two houses on this side of the road in the village, 200m north of this proposed development, the intervening land being traditional orchard. The development would fail to comply with any of the requirements of CS Policy RA2.

The officer report for 153330 mischaracterised the linear nature of the village, saying:

“There is no set building line and many of the existing buildings are set alongside, at right angles or obliquely to the main road and are dispersed and fairly sporadic further outside the village centre.”

This is not representative of the village, which is principally formed of historic buildings built close to and facing the A4110. The village is concentrated with no development south of the village hall and only the gate house to Yatton Court north of the bridge.

This linear form of development characterises Aymestrey village and is in itself of historic importance. This was confirmed in the recent appeal case no. APP/J0405/W/17/3169545 in which Planning Inspector Simon Warder said as follows:

“The linearity of Grendon Underwood is, therefore, locally distinctive and worthy of protection. I have already concluded that the proposal would relate poorly to the settlement edge.”

4) The development would result in the loss of 1 hectare of Grade 2 agricultural land. Grade 2 land is at a premium in the parish and this is the only part of this particular field that is outside a flood risk zone. The NDP will seek a higher density for new residential development in order to ensure that new housing meets identified local need and development will be directed to brownfield sites or, if no such sites are available, to agricultural land of lesser quality.

The loss of Best and Most Versatile land puts the development in conflict with paragraphs 109 and 112 of the NPPF and with policies SS6 and SD1 of the Core Strategy. Given this conflict with policy, the committee report to 153330 was wrong to conclude the proposals were deemed to be sustainable development.

5) The parish council objects to the removal of the old hedge and the trees at the proposed entrance, not only on ecology grounds, but due to visual impact. The removal of the hedgerows would interrupt a wildlife corridor placing the proposals in conflict with CS Policy LD3 and allow the houses to have an even greater impact on the landscape and the setting of the church.

6) The parish council is concerned about the limited pedestrian access from the site and requests that, if permission is granted, a footpath is provided connecting the development to Mortimers Cross, the main employment area of the parish.

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=173692&search=173692

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

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

6. Officer's Appraisal

6.1 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

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

6.2 The position in terms of the Council's 5 year housing land supply is that it sits at 4.54 years. The Aymestrey Group Parish Neighbourhood Development Plan has not yet reached Regulation 14 stage, and can be afforded no weight at this stage.

6.3 Aymestrey is an RA2 settlement within the Leominster Housing Market Area with an indicative growth target of 14%. As at 1 April 2017 the position was of the 23 dwellings required 8 had been built a further 6 committed leaving 10 to be approved/allocated.

6.4 Policy LD4 of the Core Strategy (Historic environment and heritage assets) sets out the approach to the assessment of development proposals affecting heritage assets and the wider historic environment. It identifies that proposals should *"protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design...."*

6.5 Where possible, development should also contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas. What LD4 doesn't include is a mechanism to assist the decision-maker where harm to significance of a heritage asset is identified. In this regard recourse must be made to the NPPF and Chapter 12 in particular.

6.6 The advice received from Historic England tends to the view that harm to significance of the Grade I listed parish church derives from the change to its setting. This places the harm, which is described as less than substantial, within the purview of paragraph 134 of the NPPF, which states:

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

6.7 Case law has established that paragraph 134 is a restrictive policy within the meaning of footnote 9 of the NPPF i.e. a policy that indicates development should be restricted. In practice paragraph 134 acts to 'restrict' development by requiring that less than substantial harm to significance be placed into an unweighted balance. All that is required, in reflection of the statutory provisions described above, is that harm to significance outweighs the public benefits in a straight forward assessment i.e. it is not necessary to demonstrate that the harm *significantly and demonstrably* outweighs the benefits – merely that it outweighs them.

- 6.8 In this instance the Council's Principal Building Conservation Officer concludes that there will be no harm to the significance of the Grade I listed Church. In any event, even if Historic England's perspective is preferred and less than substantial harm to significance does arise, officers conclude that the test prescribed by paragraph 134 is passed.
- 6.9 This judgement is based on the degree of harm weighed against the social and economic benefits of additional housing within the parish and contribution to the supply of available housing land within the county at large. With housebuilding there is associated economic activity both in terms of the construction phase and supply chain and activity of residents thereafter. The environmental impacts in this case are considered to be neutral. It is also acknowledged that additional houses are more likely rather than less likely to help secure the future viability of the Church. It is considered that in exercising the 134 unweighted balance the public benefits associated with the proposal outweigh the less than substantial harm to significance.
- 6.10 Having conducted the planning balance required by 134 it then remains to consider whether there are any other adverse impacts i.e. besides any harm to significance of heritage assets, to weigh in the pre-weighted planning balance.
- 6.11 At this stage, officers would point out that it is perfectly possible for a scheme to exhibit sufficient public benefits accruing from the supply of housing such that less than substantial harm to the significance of heritage assets is outweighed and yet fail the pre-weighted test when other 'harm' is put into the pre-weighted balance.
- 6.12 Such assessment led the Inspector to such a conclusion in relation to the Public Inquiry at Bartestree in 2016; with that decision subsequently endorsed by the Secretary of State. On that occasion the Inspector held that harm to the significance of heritage assets adjoining the site fell within the purview of NPPF 134 but was not in itself sufficient to outweigh the public benefits arising from the supply of housing. However, when allied to harm arising in other spheres, he concluded that the scheme overall was not representative of sustainable development and should be refused.
- 6.13 The same approach should be followed here. Beyond the heritage impacts described above, the two other main issues revolve around:
- Highway safety
 - Character/amenity of area
- 6.14 After much discussion and revision to plans the Transportation Manager is now satisfied that a safe access arrangement is available. This includes a condition ensuring space is available for the provision of traffic calming by way of 'village entry gates' The applicant has offered to contribute to such a scheme. This will be via a S278 Highway Agreement which is required to reinforce the speed limit as set out in the consultation response and linked to a planning condition as set out in the recommendation.
- 6.15 In terms of the character of the area, the designs, a different one for each plot, are considered to be appropriate to the area. Whilst the site currently benefits from no boundary trees/hedges on the south boundary a landscape condition will require this in particular to be addressed, which will increase green infrastructure locally in accordance with Policy LD3. There are no neighbours near enough to be overlooked by this development and the scheme would thus accord with Policy SD1.
- 6.16 The approach to the village from the south allows views of the church tower, behind the village hall. Much of the rest of the church is already obscured by the existing hedge/tree lined northern boundary of the site. The ridge height of the proposed new dwelling will not exceed the height of

the village hall. Officers conclude that the scheme is acceptable in terms of its design and appearance and would not offend the provision of CS Policy LD1.

- 6.17 Neither the Drainage Consultant nor Ecologist object to the proposal, subject to appropriate safeguarding conditions.

7. Conclusion

- 7.1 S66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states

In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 7.2 This duty is manifest in national policy at Chapter 12 of the NPPF and the report explains above how harm to significance should be held in an unweighted balance against the public benefits arising. Historic England confirm that such harm as they identify falls within the purview of NPPF paragraph 134 and this is not contested by the Parish Council. It is noted, however, that the Council's own advisor is of the view that there is no harm to the significance of the Grade I listed church.

- 7.3 In this case, officers are satisfied that the report has given special regard to the heritage duties, as required above, and considers that the safeguards including the opportunity for additional landscaping and the height of the proposed dwellings and distance from the Church, are such that there are insufficient grounds to refuse the application on heritage grounds.

- 7.4 In the absence of any additional harm to put into the weighted balance, it is concluded that the proposal complies with relevant Core Strategy policies and the general tenet of the NPPF

- 7.5 Given the current 5 year housing land position and absence of a Neighbourhood Development Plan being accorded any weight, this proposal, in the absence of material considerations demonstrating significant harm to outweigh the benefits, including loss of grade 2 agricultural land, is recommended for approval.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. A01 - Time limit for commencement (full permission)**
- 2. B01 - Development in accordance with the approved plans (1447/1C, 1447/2-8, 1447/10)**
- 3 C01 - Samples of external materials**
- 4. Recommendations set out in the ecologist's report from Protected Species dated October 2015 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

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

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 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

- 5 G10 - Landscaping scheme
- 6 G11 - Landscaping scheme – implementation
- 7 I51 - Details of slab levels - ridge heights not to exceed that of village hall
- 8 H03 - Visibility splays
- 9 H06 - Vehicular access construction
- 10 H09 - Driveway gradient
- 11 H13 - Access, turning area and parking - garage pd rights to be removed.
- 12 H17 - Junction improvement/off site works
- 13 H20 - Road completion in 2 years
- 14 H21 - Wheel washing
- 15 H27 - Parking for site operatives
- 16 H29 - Secure covered cycle parking provision

INFORMATIVES

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 HN10 No drainage to discharge to highway
- 3 HN07 Section 278 Agreement
- 4 HN04 Private apparatus within highway
- 5 HN01 Mud on highway

6 HN28 Highways Design Guide and Specification

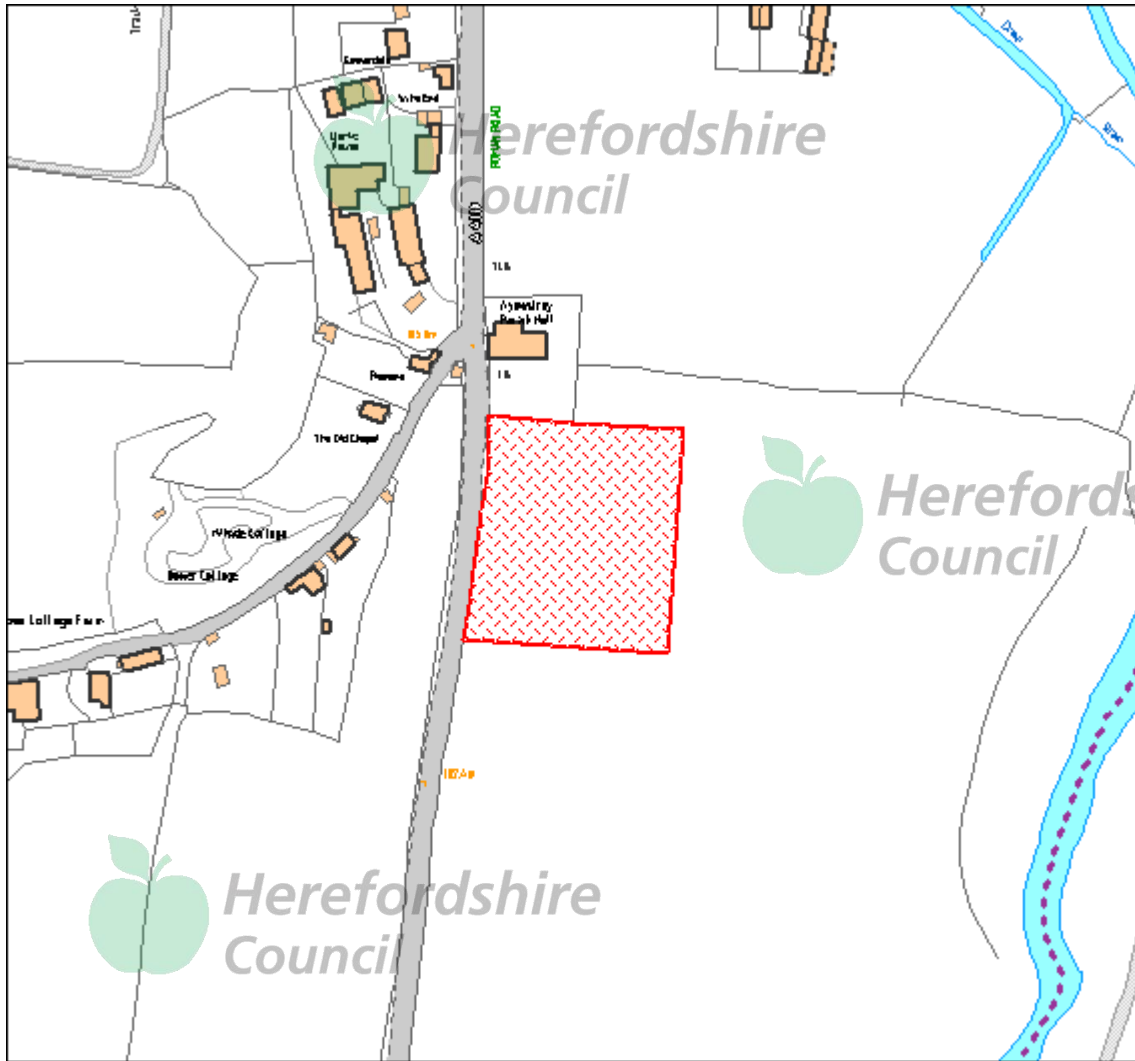
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 173692

SITE ADDRESS : LAND ADJACENT TO VILLAGE HALL, AYMESTREY, LEOMINSTER, HEREFORDSHIRE

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