

**Minutes of the meeting of Planning and regulatory committee held at Three Counties Hotel, Belmont Road, Belmont, Hereford, HR2 7BP on Wednesday 29 September 2021 at 10.00 am**

**Present:** Councillor Terry James (chairperson)  
Councillor Alan Seldon (vice-chairperson)

**Councillors:** Paul Andrews, Polly Andrews, Sebastian Bowen, Elizabeth Foxton, Tony Johnson, Graham Jones, Trish Marsh, Mark Millmore, Jeremy Milln, Paul Rone, John Stone, David Summers and William Wilding

**In attendance:** Councillors Nigel Shaw (virtual participant), Carole Gandy (virtual participant) and Jonathan Lester (virtual participant).

**27. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors Toni Fagan and John Hardwick.

**28. NAMED SUBSTITUTES (IF ANY)**

Councillor David Summers acted as a substitute for Councillor John Hardwick. Councillor Trish Marsh acted as a substitute for Councillor Toni Fagan.

**29. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**30. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 1 September 2021 be approved.

**31. 210640 - CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, HEREFORDSHIRE, WR6 5SG (Update sheet - Pages 15 - 16)**

The senior planning officer gave a presentation on the application and the updates/representations received following the publication of the agenda as provided in the update sheets and appended to these minutes.

In accordance with the criteria for public speaking a statement was read on behalf of Mr R James, Whitbourne Parish Council; Mrs L Kershaw, a local resident, spoke in opposition to the application; and Mr B Greenaway, the applicant's agent, spoke in support of the application.

In accordance with the Council's constitution the local Ward member spoke on the application. In summary he explained that the reasons for the original condition 5 had not been explained therefore a decision to remove the condition could not be taken. Condition 16 preserved local residential amenity by ensuring there was a cut-off of 11:00 p.m. The noise assessments that had been undertaken were not sufficiently robust to justify the removal of the condition. In order to protect local residential amenity the committee was asked to

consider the refusal of the application on the basis of National Planning Policy Framework (NPPF) paragraphs 7, 8, 126-135, (specifically 130 f) and 185 and RA6 of the Local Plan.

The committee discussed the application.

The legal adviser to the committee explained that there was doubt regarding the imposition of condition 5 and there were not felt to be any exceptional circumstances to justify the continuation of the condition.

The Local Ward member was given the opportunity to close the debate and explained the relevant planning policies which would support the refusal of the application.

A motion to refuse the application due to unacceptable impacts on residential amenity (with reference to National Planning Policy Framework (NPPF) paragraphs 7, 8, 126-135, (specifically 130 f) and 185 and RA6 of the Herefordshire Local Plan – Core Strategy) was carried.

**RESOLVED: that planning permission be refused due to unacceptable impacts on residential amenity (with reference to National Planning Policy Framework (NPPF) paragraphs 7, 8, 126-135, (specifically 130 f) and 185 and RA6 of the Herefordshire Local Plan – Core Strategy).**

*(There was an adjournment at 11:14 a.m.; the meeting reconvened at 11:26 a.m.)*

**32. 210373 - LAND OFF WYSON LANE, BRIMFIELD, HEREFORDSHIRE** (Update sheet - Pages 17 - 20)

*(Councillor John Stone left the committee to act at the local ward member for the next application)*

The principal planning officer gave a presentation on the application and the updates/representations received following the publication of the agenda as provided in the update sheets as appended to these minutes.

In accordance with the criteria for public speaking a statement in objection to the application was read on behalf of Mr M Thomas, a local resident and Ms A McCann, citizen housing, spoke in support of the application.

In accordance with the Council's constitution the local Ward member spoke on the application. In summary he explained application was an exception site outside the Neighbourhood Development Plan (NDP). The application did not prioritise housing for local families. There was concern about the impacts on local highways of the development. Concern was raised regarding the pressure on the local sewage system. The open space proposed on the development appeared insubstantial. The legal agreement highways England imperative to redirect traffic on to the A49.

The committee discussed the application.

The principal planning officer explained that no highways objection had been received on the application and further details were awaited from the applicant to respond to the issues raised by National Highways.

The local Ward member was given the opportunity to close the debate and explained that the application could overload the sewage system and clarity was required regarding the access to the A49. There was not support locally for the application, it was felt the benefits of the development did not outweigh the disadvantages.

A motion that the application be approved in line with the officer's recommendation was carried.

**RESOLVED – That:**

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

**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 and National Highways confirming either no objection or no objection subject to conditions they require, 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**

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

**Regulatory Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

- 2 The development shall be carried out strictly in accordance with the approved plans and supporting details:**

- To be completed***

**except where otherwise stipulated by conditions attached to this permission.**

**Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy RA2 and SD1 of the Herefordshire Local Plan – Core Strategy, Bosbury and Coddington Neighbourhood Development Plan and the National Planning Policy Framework.**

**Pre Commencement Conditions**

- 3 Before any work, including any site clearance or demolition begin, or equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) including a full Ecological Working Method Statement and a specified 'responsible person', shall be supplied to the local 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 finally been removed; unless otherwise agreed 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, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies MT1, SD1 and LD1-3.**

- 4** Before any work, including any site clearance or demolition begin, or equipment or materials moved on to site, a Construction Management Plan (CMP) including a full Construction Working Method Statement and a specified 'responsible person', shall be supplied to the local planning authority for written approval. The approved CMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the local planning authority.

The Construction Management Plan shall include, but is not limited to, the following matters:

- site management arrangements, including on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles (including cycle parking for staff and visitors); and provision for the loading/unloading of plant and materials within the site;
- wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway;
- measures for managing access and routing for construction and delivery traffic;
- hours during which construction work, including works of site clearance, and deliveries can take place;
- Tree / hedge protection plan for the phase of development (as per condition 18);
- Construction Traffic Management Plan, including construction access details if it differs from the access detailed under Condition 12 of this Decision Notice;
- Ecological mitigation and protection for the phase of development

**Reason:** In the interests of highway safety, in the interests of safeguarding adjoining amenity, protection of retained green infrastructure and to comply with National Planning Policy Framework (2018), policies MT1, SD1 and LD1-3.

- 5** The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority.

The scheme shall be implemented in accordance with the approved details before the development is first brought into use and occupation and thereafter be maintained as such.

**Reason:** To ensure adequate drainage arrangements serve the development and to mitigate, prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution and prevent adverse impact on adjoining land and use and to comply with Herefordshire Core Strategy policies SD1, SS3 and SS4 and the Brimfield and Little Hereford Neighbourhood Development Plan.

- 6** Development shall not begin in relation to the provision of road and drainage infrastructure until the engineering details and specification of the proposed roads and highway drains have been submitted to and approved in writing by the local planning authority.

The development shall be carried out in accordance with the approved details and completed prior to first occupation of the development hereby permitted.

Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

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

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

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

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing.

The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to comply with Herefordshire Core Strategy policy SD1 and the relevant aims and objectives of the National Planning Policy Framework.

8 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:

- A plan(s) at a scale of 1:200 or 1:500 showing the layout of retained and proposed tree, hedge and shrub planting and grass areas
- 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
- Existing and proposed finished levels or contours
- Hard surfacing materials
- Minor structures (e.g. play equipment, street furniture, lighting, refuse areas, signs etc.)
- Any retained historic features and proposals for restoration

The approved soft landscaping scheme and planting 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.

**Reason: To protect and enhance the visual amenities of the development and wider area and setting of Brimfield hereabouts, to maintain and enhance the character and appearance of the location and setting of Brimfield and to ensure that the development complies with the requirements of Policy SS6, RA1, RA2, LD1, LD4 and SD1 of the Herefordshire Local Plan – Core Strategy, the Brimfield and Little Hereford Neighbourhood Development Plan, and the design and environmental aims and objectives of the National Planning Policy Framework.**

### **Compliance Conditions**

- 9 The ecological protection, mitigation, compensation and working methods scheme and biodiversity net gain enhancements as specified in the ecology report by Turnstone Ecology dated August 2021 shall be implemented in full as stated, and hereafter maintained, unless otherwise approved in writing by the local planning authority and Natural England as relevant to any protected species licences.**

**Reason: To ensure that all species are protected and habitats enhanced having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and Brimfield and Little Hereford Neighbourhood Development Plan.**

- 10 No development in any phase, including any works of site clearance, shall commence during the bird nesting season (1 March – 31 August inclusive) unless it has been demonstrated through the submission of a method statement that shall previously have been submitted to and approved in writing by the local planning authority, that nesting birds can be adequately protected. Development shall be carried out only in accordance with the approved details which may include, but are not confined to, the timing of work, pre-work checks, avoidance of nesting areas, and protection zones around nesting areas.**

**Reason: To ensure that species and habitats are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework 2018, NERC 2006.**

- 11 No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction phase and thereafter for 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars.**

**Reason: To safeguard the character and amenity of the area and to ensure that the development conforms to Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 12 The construction phase of the development hereby permitted shall be carried out in strict accordance with the details specifying the measures to be put in place during the construction period for the protection of those trees and hedgerows to be retained, in accordance with the principles set out in BS 5837:2012 as detailed within the Tree Condition Report Arboricultural Impact Assessment Root Protection Areas Method Statement, listed under Condition 2**

of this Decision Notice.

**Reason:** To safeguard and protect trees and hedgerows to be retained during the construction phase and to comply with Herefordshire Core Strategy policies LD1, LD2 and LD3.

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

**Reason:** In the interests of human health and to comply with Herefordshire Core Strategy policy SD1 and the relevant aims and objectives of the National Planning Policy Framework.

- 14 At no time shall the means of enclosure shown on the approved plans listed under Condition 2 be removed (unless being replaced on a like for like basis) and/ or any access, whether pedestrian, vehicular or other modes of transport, be facilitated through the site to enable access to the A49 road. For the avoidance of doubt vehicular access to and from the site shall be through The Coppice only.

**Reason:** In the interests of highway safety, to ensure the safe flow of traffic on the A49 strategic road and to comply with Herefordshire Core Strategy policy MT1 and the relevant aims and objectives of the National Planning Policy Framework.

#### **Prior to Occupation Conditions**

- 15 Prior to the first occupation of any dwelling to which this permission relates an area for car parking shall be laid out within the curtilage of that property, in accordance with the approved plans which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any other purpose than the parking of vehicles.

**Reason:** In the interests of highway safety and to comply with Herefordshire Core Strategy policies SS4 and MT1.

- 16 No dwelling hereby approved shall be occupied until details including illumination areas, luminance levels and control systems of any floodlighting or external lighting proposed to illuminate any phase of the housing development, as relates to non domestic fixings, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

**Reason:** To safeguard local amenities and adjoining land uses, Dark Skies and to comply with Policy SD1, SS6 and LD1-3 of the Herefordshire Local Plan – Core Strategy, National Planning Policy Framework and Conservation of Habitats and Species Regulations (2018).

- 17 No dwelling hereby approved shall be occupied until arrangements to facilitate broadband and/or high speed internet connection to those dwellings have

been implemented in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

**Reason:** To ensure occupiers have suitable facilities and to address the requirements policies in relation to climate change SS7 and SD1 of the Herefordshire Local Plan Core Strategy and the guidance contained within the National Planning Policy Framework.

- 18 Prior to the first occupation of any dwelling hereby permitted a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 of the Herefordshire Local Plan Core Strategy 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 and the National Planning Policy Framework.

- 19 Prior to the first occupation of any dwelling within any phase of residential development hereby permitted a scheme to enable the charging of plug in and other ultra low or zero emission vehicles (e.g. provision of outside electric sockets ) to serve the occupants of the dwellings hereby approved shall be submitted to and approved in writing by the local planning authority.

**Reason:** To address the requirements policies in relation to climate change SS7 and SD1 of the Herefordshire Local Plan Core Strategy and the guidance contained within the National Planning Policy Framework.

- 20 Details regarding the storage and collection location of bins should be provided and approved in writing by the Local Planning Authority prior to occupation of any dwelling. Bin collection points would need to be provided for any plot located over a 25 metre walking distance from where the RCV can safely access and shall be installed and made available for use prior to the occupation of the dwelling to which it serves.

**Reason:** In the interests of highway safety, public health and amenity and to comply with Herefordshire Core Strategy policies LD1, MT1 and SD1.

- 21 Before any dwelling is first occupied or brought into use, a schedule of landscape implementation and maintenance of non-private garden areas shall be submitted to and approved in writing by the local planning authority. Delivery and Maintenance shall be carried out in accordance with this approved schedule. The maintained height of existing and proposed hedgerows should be specified within the Schedule and a plan is required to show which areas are covered by the Estate Management Company.

**Reason:** To ensure the future establishment of the approved scheme, in order to protect and enhance the visual amenities of the area and setting of Brimfield hereabouts, to maintain and enhance the character and appearance of the location and setting of Brimfield and to ensure that the development complies with the requirements of Policy SS6, RA1, RA2, LD1, LD4 and SD1 of the Herefordshire Local Plan – Core Strategy, the Brimfield and Little Hereford Neighbourhood Development Plan, and the design and environmental aims and objectives of the National Planning Policy Framework.

- 22 The provision of covered and secure cycle parking on site and within the curtilage of each dwelling as shown on and within the approved plans and

details listed under Condition 2 of this Decision Notice shall be made available for use prior to occupation of the dwelling it serves and thereafter be retained for such use.

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 23 The Remediation Scheme, as approved pursuant to condition 7 of this Decision Notice shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to comply with Herefordshire Core Strategy policy SD1 and the relevant aims and objectives of the National Planning Policy Framework.

- 24 Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, B, C, D and H of Part 1 and of Schedule 2, shall be carried out and furthermore no windows shall at any time be placed in any elevation, or dormer windows in any facing roof slope of the dwellings hereby permitted other than those shown on the approved plans listed under Condition 2 of this Decision Notice..

Reason: In order to protect the character and amenity of the locality, to ensure the design, character and appearance of this high quality development is protected, to maintain the amenities of adjoining property, ensure the development retains a mix of housing sizes and to comply with Policy H1, H3, RA2 and SD1 of the Herefordshire Local Plan – Core Strategy, the Brimfield and Little Hereford Neighbourhood Development Plan and the National Planning Policy Framework

- 25 The development hereby permitted shall be served by vehicular access and egress by the route through and from The Coppice and Wyson Lane only, as shown on the approved plans listed under Condition 2 of this Decision Notice.

Reason: In the interests of highway safety and amenity, to safeguard the strategic road network and having regard to the basis on which the development has been assessed and to comply with Herefordshire Core Strategy policies SS4 and MT1 and the relevant aims and objectives of the National Planning Policy Framework.

**Informatives:**

- 1 **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other 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 **It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.**
- 3 **The Developer is advised that some public sewers, lateral drains or water mains may not be recorded on Welsh Water's maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.**
- 4 **With reference to the surface water, Welsh Water advise they would not permit the communication of flows to the public sewer as it is designated to receive foul water only. Any drainage strategy should consider utilising a sustainable drainage technique. In addition, please note that no highway or land drainage run-off will be permitted to discharge directly or indirectly into the public sewerage system.**
- 5 **With regards to the requirements of Condition 7 –**
  - **Assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2021**
  - **All investigations of potentially contaminated sites are required to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission**
  - **Where ground gas protection measures are required, they shall be validated in accordance with current best practice guidance**
- 6 **This planning permission is pursuant to a Section 106 legal agreement dated XXX**

**33. 210222 - TOGPEN, WILLEY LANE, LOWER WILLEY, HEREFORDSHIRE**

The planning officer gave a presentation on the application.

In accordance with the criteria for public speaking Mrs G Turner and Mrs J Stock, local residents, spoke in objection to the application. Mr M Murray, applicant's agent, spoke in support.

In accordance with the council's constitution the local Ward member Councillor Carol Gandy spoke on the application. In summary she commented that the application was located in a very rural area. Drainage and sewerage on-site was a concern, particularly the septic tank. There was doubt concerning the appearance of the yurts. The impact on the Dark Skies policy from external lighting which would be necessary to light the way to the toilet was raised. Planning enforcement in such a rural location was a challenge.

The committee discussed the application.

The local Ward member was given the opportunity to close the debate and explained that the application was in a very remote area, a large proportion of local residents had objected to the application. Assurance was sought that if your application was approved conditions would be enforced effectively.

A motion to approve the application in accordance with the officer recommendation was carried.

### **RESOLVED – That**

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

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

- 2. The development shall be carried out strictly in accordance with the approved plans, except where otherwise stipulated by conditions attached to this permission.**

**Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development which complies with policies E4, RA6, LD1, SD1 and MT1 of the Herefordshire Local Plan Core Strategy, policies BG1, BG14, BG17 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework.**

- 3. There shall be no more than two yurts sited upon the land subject of this permission at any time and they shall be sited in accordance with the locations shown on the approved site block plan supplied to the Local Planning Authority on the 24<sup>th</sup> August 2021.**

**Reason: In order to define the terms of the permission and to minimise the potential for visual intrusion within the landscape as required by policies SD1, LD1, RA6 and E4 of the Herefordshire Local Plan – Core Strategy, policies BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework**

- 4. The yurts subject of this permission shall only be in place and/or occupied between the 1st April and 31st October in any given year. Outside of these periods, the yurts shall be dismantled and removed from the land along with all associated paraphernalia (with the exception of the permanent base structures).**

**Reason: In order to define the terms of the permission and to**

**minimise the potential for visual intrusion within the landscape as required by policies SD1, LD1, RA6 and E4 of the Herefordshire Local Plan – Core Strategy, policies BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework**

- 5. The yurts hereby permitted shall only be used for holiday purposes by tourists. No person or group of persons shall occupy the accommodation for more than 28 consecutive days at a time and no same person or group of persons shall occupy the accommodation for more than 156 days in any one calendar year. The owners/operators of the site shall maintain an up-to-date register of the names of all occupiers of the accommodation and of their main home address (i.e. place of residence) and shall make this information available at all reasonable times to the Local Planning Authority.**

**Reason: To ensure that the development hereby permitted is used for the specific use applied for and to prevent the proliferation of uncontrolled residential uses in the open countryside in accordance with policies SS4, SS7, RA6, E4 and RA3 of the Herefordshire Local Plan Core Strategy, policies BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework**

- 6. The external surfaces of the yurts hereby approved shall be permanently coloured dark brown, unless a suitably recessive alternative colour is first agreed in writing with the Local Planning Authority.**

**Reason: To ensure that the yurt structures assimilate appropriately into the landscape in the interests of protecting the character of the locale in accordance with the requirements of policies SD1, LD1, RA6 and E4 of the Herefordshire Local Plan – Core Strategy, policies BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework.**

- 7. All foul water shall discharge through a connection to the existing septic tank and ground discharge drainage field as advised in supplied Design & Access Statement and accompanying site plans; and all surface water shall discharge to soakaway infiltration features on land under the applicant's ownership; unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2, SD3 and SD4**

- 8. At no time shall any external lighting except in relation to safe use of the approved development be installed or operated in association with the approved development and no permanently illuminated external lighting shall be operated at any time, without the written approval of the Local Planning Authority. All lighting installed shall**

**demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals.**

**Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3**

- 9. There shall be no playing of amplified music nor the use of fireworks outside at any time.**

**Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy,**

**Prior to the first use of the yurts hereby permitted, full details of a scheme for the provision of covered and secure cycle parking facilities shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained for the lifetime of the development.**

**Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform to the requirements of policies SS4, MT1, RA6 and E4 of Herefordshire Local Plan – Core Strategy, policies BG14 and BG17 of the Border Group Neighbourhood Development Plan 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 development may not have access to mains water and be reliant on a private water supply. The applicant is advised that the Private Water Supplies (England) Regulations 2016 (as amended) and the Water Supply (Water Quality) Regulation 2016 are likely to apply. In accordance with these Regulations and the Building Regulations 1984 the water must be of a potable and safe standard.**

**If the supply is to be used for shared or commercial purposes including renting, the Private Water Supplies (England) Regulations 2016 specify**

**that the water supply cannot be used until it has been risk assessed by the local authority's private water supplies team (01432 261761) and found compliant.**

**Applicants that are connecting to existing private water supplies or accessing sources of water on land over which they have no control are advised to give careful and specific attention to contractual/civil arrangements including rights of access, maintenance arrangements, provision of alternative water supply are agreed in writing at the outset.**

- 3. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as all Bat species, Great Crested Newts, Badgers and other wildlife that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that further advice from a local professional ecology consultant is obtained.**

**34. 202412 - FLOW HOUSE, LAND NORTH OF SHEEPCOTTS COURT, ULLINGSWICK, HEREFORDSHIRE, HR1 3JQ (Update sheet - Pages 21 - 24)**

The senior planning officer gave a presentation on the application and the updates/representations received following the publication of the agenda contained in the update sheets appended to these minutes.

In accordance with the criteria for public speaking Mr G Blackmore spoke on behalf of the Ocle Pychard Group Parish Council and Mr M Tompkins, the applicant's agent, spoke in support of the application.

In accordance with the council's constitution the local Ward member spoke on the application. In summary he explained that the development was an intrusion on the landscape and open countryside. The design was out of keeping and did not respect local buildings. The application should be refused consistent with Core Strategy policies SS1, SS2, LD 1, LD4 and the neighbourhood development plan.

The committee discussed the application.

The development manager major teams commented that under section 80(e) of the national planning policy framework the current application should meet the highest standards of architecture and enhance it's immediate surroundings.

The local Ward member was given the opportunity to close the debate and explained that a number of objections have been raised by people in the local community due to the applications intrusion on the Landscape. The argument that the development represented a decrease in phosphate pollution as it replaced agricultural use of the Land was not accepted.

A motion that the application be approved was lost.

A motion to refuse the application (with reference to SS1, SS2, LD1, LD4 and RA3 of the Herefordshire Local Plan – Core Strategy) was carried.

**RESOLVED: that planning permission be refused (with reference to SS1, SS2, LD1, LD4 and RA3 of the Herefordshire Local Plan – Core Strategy).**

**Chairperson**

The meeting ended at 2.23 pm



## SCHEDULE OF COMMITTEE UPDATES

**210640 - APPLICATION FOR REMOVAL OF CONDITION 5 AND THE VARIATION OF CONDITION 16 FOLLOWING APPLICATION NO: 163902/F (DEMOLITION OF 5NO. EXISTING REDUNDANT AGRICULTURAL OUTBUILDINGS TO FACILITATE EXPANSION OF EXISTING RESTAURANT AND FOLLOWING EVENTS FACILITIES: FUNCTION SUITE, FINE DINING RESTAURANT AND LOUNGE, CONFERENCE SPACE AND 16NO. AT CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, WR6 5SG**

**For: Mr E Evans per Mr Ben Greenaway, PO Box 937, Worcester, WR4 4GS**

### OFFICER COMMENTS

At paragraph 2.1 of this agenda item, it needs to be confirmed that the Core Strategy is now in review. This should read as follows: "*The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. From reviewing those policies most pertinent to the determination of this application, they are viewed to be entirely consistent with the NPPF and as such, significant weighting can be afforded to these policies*".

### NO CHANGE TO RECOMMENDATION



**210373 – PROPOSED DEMOLITION OF FARM BUILDINGS AND CONSTRUCTION OF 14 DWELLINGS WITH ASSOCIATED ACCESS. AT LAND OFF WYSON LANE, BRIMFIELD, HEREFORDSHIRE,**

**For: Mr Sambrook per Miss Stephanie Cain, Lowfield, Marton, Welshpool, SY21 8JX**

## **ADDITIONAL REPRESENTATIONS**

Highways England, now renamed **National Highways** comments –

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendations with regard to P210373/F and has been prepared by Priya Sansoy, Assistant Spatial Planner at National Highways.

This consultation relates to the seeking of full planning consent for the proposed demolition of farm buildings and the construction of 14 affordable dwellings with associated access at Land off Wyson Lane, Brimfield, Herefordshire. The development site is located approximately 40 metres west of the A49 Trunk Road boundary therefore has no common boundary with the SRN. It is apparent from satellite imagery that the development site which currently constitutes vacant farm buildings appears to be served via an existing shared direct access on the A49 Trunk Road, although it is noted that the existing means of vehicular access to the site has not been disclosed within the submission. The A49 direct access is shared with Rose cottage and Alma House.

### **Access**

#### *Proposed access*

The development is proposed to be solely served via an existing private access road to the south of the site which abuts the site and is under the current ownership of the applicant. Physical means of enclosure are proposed around the perimeter of the site to ensure access to and from the site is restricted as per the site layout proposed. The private access road has recently been constructed to serve a 10-unit housing development named 'The Coppice' and has been confirmed by the Local Highway Authority as not suitable for highway adoption due to drainage issues. The private access road connects onto Wyson Lane which is a narrow rural lane and is maintained by the Local Highway Authority.

## *Access to SRN*

The nearest point of access / egress onto the A49 Trunk Road (Brimfield Bypass) from the site is via the Wyson Lane / A49 all movement Priority junction situated approximately 370 metres east. The SRN junction is not considered to have any existing highway safety or operational issues on review of the latest Crashmap 5-year accident data and live google traffic data. The scale of development is not considered to generate significant traffic movements within the SRN peak period therefore the minimal intensification of use of the Wyson Lane / A49 Priority Junction as a result of the development proposal is considered unlikely to give rise to any adverse highway safety and operational impacts. National Highways would therefore raise no concern to the proposed means of access off Wyson Lane.

## *Existing access to the site and private access rights*

Limited detail has been submitted in regard to the existing means of vehicular access to the site which has raised some potential concerns. On review of satellite imagery of the site and surrounding area, it is apparent that the site may have been previously / historically linked to Rose Cottage and Alma House and accessed via the existing A49 direct access. It is unclear whether any private access rights may have been retained by the developer on transfer of the land which may permit the site to be accessed via the A49 direct access on some capacity. The retention of any private access right, proposed change of use of the land and potential impact on the A49 direct access is a material consideration to the determination of this application and National Highways would therefore ask for the applicant to provide further details regarding land transfer to confirm whether a legal access right exists and/or has been retained. Ultimately the existing A49 direct access is of a substandard design due to its DMRB non-complaint geometric layout and junction visibility splays therefore any intensification or change of its use as a result of the proposal is unlikely to be supported by National Highways in its present form. If private access right has been retained, the applicant will need to provide full details of the required use of any private access right connecting the development site to the A49 Trunk Road via the existing direct access for National Highways to consider further. To safeguard the integrity of the SRN, National Highways may request that any existing private access rights to the A49 Trunk Road from the development site are stopped up via the appropriate legal mechanism.

## **Construction/ service access**

No details have been provided in regard to any Construction Management Plan and particularly the proposed means of vehicular access to the site during the temporary construction phase of the development. National Highways request that further detail is provided by the applicant in regard to the proposed temporary construction access to the site.

As the site is proposed to be served via a private access road, details of the refuse / recycling bin collection point should be provided as it is typical for council refuse vehicles to operate a kerbside collection from the adopted highway. As the site is situated at the end of the cul-de-sac close to the A49 Trunk Road, council operatives may intend to collect from the A49 (T) which may give rise to a highway safety concern affecting the SRN. It is requested that the applicant provides further detail on the proposed servicing arrangements and provides evidence from the council's

refuse collection team that the servicing arrangement will be adopted in practice. Boundary related matters and Environmental Impact.

The A49 Trunk Road is elevated above the ground level of the site and the development site is suitably set back from the SRN. Therefore, it is considered any boundary related or environmental impact would not give rise to any adverse issue which may affect the safe operation of the A49 Trunk Road and National Highways legal responsibilities as a Strategic Road Company.

## **Recommendation**

**In light of the above, National Highways recommends that planning permission not be granted for a period of three months from the date of this notice, to allow the applicant time to submit additional supporting information.**

## **OFFICER COMMENTS**

It is noted in itself, Highways England has no objection to the 14 dwellings with regards the impact of vehicular movements from the proposal on the strategic road network with regards access to it via Wyson Lane. The concern is with respect to any residue access rights to the North and directly on to the A49.

With regards to Existing access to the site and private access rights, There will be no new residential access to the development via the access to the north from the A49. Boundary treatments and layout prevent this. Furthermore officers can recommend a condition to this effect with details of the 'stopping up'.

With regards to Construction / service access, A Construction Management Plan is set to be a condition, the information required by National Highways could be submitted as part of these conditions and discharge of them only with formal consultation and written agreement from them.

However, it is noted without further details on what, if any, legal access rights are retained to and from the site to the A49 a holding objection remains. As such and on National Highways satisfaction this addressed, the application can still be assessed and determined by Planning Committee with the amended recommendation, below –

## **CHANGE TO RECOMMENDATION**

**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 and National Highways confirming either no objection or no objection subject to conditions they require, 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**

Notwithstanding the above, A further additional Compliance Condition is recommended for clarity and completeness –

*At no time shall the means of enclosure shown on the approved plans listed under Condition 2 be removed (unless being replaced on a like for like basis) and/ or any access, whether pedestrian, vehicular or other modes of transport, be facilitated through the site to enable access to the A49 road.*

*For the avoidance of doubt vehicular access to and from the site shall be through The Coppice only.*

*Reason: In the interests of highway safety, to ensure the safe flow of traffic on the A49 strategic road and to comply with Herefordshire Core Strategy policy MT1 and the relevant aims and objectives of the National Planning Policy Framework.*

**202412 - ERECTION OF 1 NO. DWELLING AND ASSOCIATED WORKS INCLUDING ACCESS, LANDSCAPING, OUTBUILDINGS, INFRASTRUCTURE, LAKE CREATION AND OTHER ENGINEERING WORKS AT FLOW HOUSE - LAND NORTH OF SHEEPCOTTS COURT, ULLINGSWICK, HEREFORDSHIRE, HR1 3JQ**

**For: Mr & Mrs Perry per Mr Matt Tompkins, 10 Grenfell Road, Hereford, Herefordshire, HR1 2QR**

### **ADDITIONAL REPRESENTATIONS**

Since the publication of the officer report, three further representations have been submitted. The first is submitted on behalf of the British Horse Society:

*“The British Horse Society is the UK’s largest equestrian charity representing the UK’s 3 million horse riders. The objections to the proposed development are in regards to its impact on bridleway UW1, part of the Three Rivers Ride, which was conceived by Brenda Wickham, a British Horse Society volunteer, as a link from Worcestershire to Herefordshire to Wales, opened in 2002. Horse riders have access to only 22% of the public rights of way network, therefore existing routes must be protected especially as the roads become less and less safe.*

*The BHS requested the following in October 2020:*

*1) Please provide a clear specification regarding the surfaces for the bridleway for the full extent of the route where it lies within the development area as this is not clear from the plans so that the suitability for horse riders can be assessed. Surfaces must be suitable for equestrian use therefore not constructed of a slippery material such as tarmac or concrete. Please see relevant guidance: <https://www.bhs.org.uk/advice-and-information/free-leaflets-and-advice>*

*2) The proposal suggests the addition of gates on the route. Gates are an obstruction on a public right of way and should not be considered unless to prevent the ingress or egress of livestock. Please provide assurance that gates will not be installed on the public right of way.*

*3) The development would increase traffic during the construction stage and beyond. Please provide a provisional Site traffic management plan for the build and an assurance of how traffic crossing the public right of way would be managed. Please see relevant guidance: <https://www.bhs.org.uk/advice-and-information/free-leaflets-and-advice>*

*The BHS has not had any response or engagement from the planning applicant or their representatives in the interim at the time of writing this correspondence. The BHS therefore reiterates the above comments and requests further discussion regarding how best to safeguard the Three Rivers Ride public right of way for the safety and enjoyment of all walkers, cyclists and equestrians.*

*Should the planning permission be granted, the BHS respectfully requests that Herefordshire Council incorporates conditions to the permission which require the applicant to fully engage with Herefordshire BHS and the Council's Public Rights of Way team, in particular, a requirement to provide of full details of this development where it affects and concerns the PROW route and agree measures to ensure that the use and enjoyment of the Three Rivers Ride will not be impacted by this development in the short, medium and long term. This will uphold Policy LTP PRW1 - Policy B3 Managing Public Rights of Way in Herefordshire Council's published Rights of Way Improvement Plan (draft) 2017-20."*

The remaining two representations have been made by two local residents, which have already been sent directly to members of this committee and are repeated below:

1. *"It is by chance that I know about his submission although Phil Perry did bring down the 100 page document some months ago when I did study it, and my first reaction was that he should not be allowed to build a large house on such a prominent site which will be visible from many aspects, and the materials he is proposing to use for the building will make it glaringly visible.*

*The yellow notice is up the road which he makes look as if it is his own drive, when it is a public road, so that people are deterred from going up there and so no-one has seen it. And the Merediths at Lowdy Farm, who would be very close neighbours of this proposed property, but whose farm is off the Lower Hope road but with their fields adjacent, had no idea about the application as you have not notified them.*

*I gather that it is supposed to meet all the requirements of Clause 79 of the Planning Agreement because it is "innovative" and of "supreme quality" to be permitted to be built in a field where there has never even been a barn. I am aware that a lot of input has gone into this project but I consider it an erosion of our countryside and no doubt there will be even more traffic going up our very small lane which is already ruined by farm traffic as the machinery is too wide.*

*If Mr Perry had not made his present property so suburbanized I would be happier to consider this latest application but definitely not on its present site. He put up kerbstones on a public road which is not his but he has made it look like his private drive, saying that I would not see the kerbs after a while. For as many years since he put them in, I have been affronted by them every time I drive up the lane. Visitors to my house ask if there is a housing estate up there. I am still amazed how a small cottage has been converted into such a large residence with a considerable two-storey building alongside it and a new barn with your approval or lack of objection.*

*So I am now concerned that the proposed Flow House will be lit up and disturb the dark sky that we enjoy in this area, and that there will be alterations to the original plans if it is allowed to be developed.*

*I wish to put in a strong objection."*

2. *"Dear Sir/Madam,*

*I object to the planning proposal to build The Flow House in Ullingswick. The building is totally inappropriate in a beautiful unspoiled area of Ullingswick in Herefordshire. It does not add to the landscape. How could it? The objection is not because it is a*

*modern dwelling. It is impossible for any building in this particular area to add to the outstanding landscape. At night the design of the building will cause light pollution. It is, quite simply, an irrelevant building which is not even needed. The applicants already enjoy a spacious home which has grown and grown over the years. The Three Rivers Ride crosses the land on which it is to be built which will provide an uneasy mix of walkers, horse riders and vehicles to and from The Flow House. It simply does not meet the government's requirements for a house built in open countryside. It is not of outstanding design. It does not enhance the landscape. On those two criteria alone the house does not meet the (rightly) restrictive planning laws for the countryside. To allow The Flow House to be built will be a serious planning misstep which is almost certain to lead to a legal challenge. It sends out totally the wrong message that at a time when much needed low income housing is vitally needed the council will be seen to be favouring a single house. I very much hope common sense will be applied to the overwhelming feeling of both villagers and the wider public. Open countryside, especially now, is for everyone, not the few."*

## **OFFICER COMMENTS**

In respect of the comments raised by the British Horse Society, the agent has confirmed to officers that the proposals do not include any change to the PROWs, including the Three Rivers Ride. That surface would remain as is and all new gates are as clearly included within the proposed plans. Members are referred to condition 6 of the recommendation in respect of a condition requiring the submission of a Construction Management Plan prior to commencement of works.

The only new consideration raised in the two local letters of representation refers to site notice procedures. The Council erected site notices adjacent to the public highway at the site entrance, as well as surrounding the site, where possible. The application had also been placed in the local press. Hence, the Council is satisfied that it has fulfilled its statutory duty to inform any interested party publically about this application.

Finally, at paragraph 2.1 of this agenda item, it needs to be confirmed that the Core Strategy is now in review. This should read as follows: *"The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. From reviewing those policies most pertinent to the determination of this application, they are viewed to be entirely consistent with the NPPF and as such, significant weighting can be afforded to these policies."*

## **NO CHANGE TO RECOMMENDATION**

