

**Minutes of the meeting of Planning and regulatory committee held at Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Wednesday 28 September 2022 at 10.00 am**

**Present:** Councillor Terry James (chairperson)  
Councillor Paul Rone (vice-chairperson)

Councillors: Paul Andrews, Polly Andrews, Dave Boulter, Sebastian Bowen, Clare Davies, Elizabeth Foxton, Mark Millmore, Jeremy Milln, Councillor F Norman, Probert, David Summers and Yolande Watson

**In attendance:** Councillor Christy Bolderson

**Officers:** Lead Development Manager, Area Engineer - Development Control and Lawyer

**35. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors John Hardwick and Tony Johnson.

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

Councillor David Summers acted as a substitute for Councillor John Hardwick.

**37. DECLARATIONS OF INTEREST**

Councillor Jeremy Milln declared an other interest in respect of agenda item no. 7, application 214270, Land South West of Roman Byre; the applicant and one of the objectors were known associates.

**38. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 31 August 2022 be approved.

**39. 193042 - LAND NORTH AND SOUTH OF GRAFTON LANE, HEREFORD, HR2 8BJ**

*(Councillor Paul Rone left the committee to act as local Ward member for the next application.)*

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

In accordance with the criteria for public speaking Mr Ben Doouss and Mr George Hardy, local residents, spoke in objection to the application and Mr Rob Davies, planning agent, spoke in support.

In accordance with the council's constitution the local ward member spoke on the application. In summary, he explained that the application had been amended with the reduction in the number of houses proposed which reduced the impact of the development on the Hereford city skyline. The application met a need for housing close to Hereford City. When the site had

been initially proposed it was intended to be supported through the infrastructure of the southern Link Road. Since the cancellation of that scheme the impact of the application will see an increase in traffic at an already busy location. There had been no objections from statutory consultees but it was important the application was acceptable from a highways perspective. The walking route to the site proposed in the application along the A49 was overgrown. It was noted that buses would serve the development and there were good facilities for children proposed on site. The developer contributions arising from the site were welcomed however it was noted that the proposed allocation of the contributions were to projects outside of the ward where the application site was located. It was important that the homes were future proofed against rising energy costs. The impact of the development on existing properties, currently in open countryside, was raised.

The committee debated the application.

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

A motion that the application be approved in accordance with the case officer's recommendation was proposed by Councillor Mark Millmore and seconded by Councillor Polly Andrews.

The motion was put to the vote and was carried by a simple majority.

**RESOLVED – that subject to either the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, or a condition requiring the completion of an agreement prior to the commencement of development, officers named in the Scheme of Delegation to Officers are authorised to grant Outline planning permission, subject to the conditions below and any other further conditions (or amendments) considered necessary.**

- 1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.**

- 2. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.**

- 3. Approval of the details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.**

**Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with Policy SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.**

- 4. The development shall be carried out strictly in accordance with the approved plans:**

- **Location Plan: CSA 2477/115 Rev C**

**Pre-commencement conditions**

- 5 No development shall commence until a plan has been submitted to and approved in writing by the Local Planning Authority identifying the phasing for the development and shall identify the following:**

- Residential phases
- Timing of delivery of on-site highway works (including but not limited to on-site roads, cycleway)
- Timing of delivery of offsite highways improvements (TRO / S278 / Stopping Up)
- Timing of delivery of public open space
- Delivery of drainage infrastructure

**The development, including the completion and delivery of infrastructure shall be constructed in accordance with the agreed phasing plan, unless an alternative plan is submitted to and agreed in writing by the Local Planning Authority, in which event construction shall be in accordance with the agreed alternative phasing plan**

**Reason: To clarify the delivery of the proposed development (in relation to conditions and RM submissions) and ensure the acceptable phasing of the construction so as to ensure no detriment to the safe operation of the highway network and the timely provision of necessary infrastructure. This is to ensure compliance with Herefordshire Local Plan – Core Strategy Policies SD1, SS4, SS7, MT1, OS2**

- 6 No development shall commence until details of a surface water drainage strategy which attenuates the outfall from the site into Withy Brook to no more than 4.6 litres per second has been submitted to the Local Planning Authority and approved in consultation with National Highways.**

**The Surface Water drainage strategy shall include, but not necessarily limited to:**

- a) a surface water drainage scheme which provides attenuation of a 1: 100 year flood event and includes allowance for climate change: ( details measures to be implemented to control and monitor water quality as it discharges from the development into the Withy Brook.
- b) provides a management and maintenance plan for the lifetime of the development which shall include the arrangements for its adoption/ownership which may include adoption by any public authority or statutory undertaker and any other arrangements to secure the maintenance and operation of the scheme through its lifetime, and
- c) phasing of delivery to be included in the approved drainage scheme

**The works to be carried out in accordance with the approved details.**

**Reason to promote sustainable development, secure proper drainage and manage risk of flooding as required by National Highways**

- 7 Prior to the commencement of the development a Traffic Regulation Order to control the use of existing alignment of Grafton Lane, taking into**

account that a small number of properties will continue to have vehicular access, whilst pedestrians, cyclists and equestrians will continue to have through access, shall be obtained and approved in writing by the Local Planning Authority and the completion of the works shall be in accordance with details as submitted within the 'phasing condition' above (condition 5).

**Reason:** To ensure the A49 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 and in the interests of road safety.

**8** No phase of development shall commence on site until a Construction Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The objective of the plan is to ensure waste management provisions compliment the construction activities on site and that all waste emanating from the development are dealt with in an appropriate manner and follows the waste hierarchy. The Plan shall include, but not be limited to:

- i) a description of the likely quantity and nature of waste streams that will be generated during construction of the development;
- ii) measures to monitor and manage waste generated during construction including general procedures for waste classification, handling, reuse, and disposal, use of secondary waste material in construction wherever feasible and reasonable, procedures or dealing with green waste including timber and mulch from clearing activities and measures for reducing demand on water resources;
- iii) measures to monitor and manage spoil, fill and materials stockpiles, including details of how spoil, fill or material will be handled, stockpiled, reused and disposed of, and locational criteria to guide the placement of stockpiles; and
- iv) details of the methods and procedures to manage construction related environmental risks and minimise amenity impacts associated with waste handling.

**Reason:** To ensure, manage and co-ordinate the protection and enhancement of the Environment in accordance with the requirements of Policies SD1, SD3, SD4, LDI, LD4 of the Herefordshire Local Plan - Core Strategy.

**9** Prior to the commencement of Highway works associated with the development, a scheme for any Statutory undertaker's works and/or diversions required to be undertaken shall be submitted to and approved in writing by the Local Planning Authority in consultation with National Highways.

**Reason:** Reason: To ensure the A49 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 and in the interests of road safety.

**10** No development hereby approved shall take place until a scheme to mitigate the anticipated risk to the Ashley user worked level crossing is submitted to and agreed with the Local Planning Authority in order to

mitigate the anticipated additional risk of trespass and misuse of the level crossing. The scheme will include details of the measures required to prevent trespass and misuse of the level crossing and timescales for its delivery.

Reason: To mitigate the anticipated additional health and safety risk of misuse and trespass on this user worked level crossing.

11 Development (in each phase) shall not begin until details and location of the following have been submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved:

- A method for ensuring mud is not deposited onto the Public Highway
- Construction traffic access location
- Parking for site operatives (including Bike parking)
- Construction Traffic Management Plan
- Travel plan for operatives.
- Siting of site compound / site offices (including stack heights) and storage areas

The development shall be carried out in accordance with the approved details for the duration of the construction of the development

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

12 No development shall commence for that phase, including site clearance or demolition begin or equipment and materials are moved on to site, until details of including where tree protection shall be erected and works within root protection areas is required, equipment or materials moved on to site, a fully detailed Construction Environmental Management Plan (CEMP) and named 'responsible person', including detailed ecological risk avoidance measures based on current site conditions and all protected species known to be locally present (ecological surveys and site assessments under two years old from date of CEMP and also include:

- Hours of working
- Tree protection (and arb report)
- Dust
- Storage of materials

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. 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;

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, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

- 13 No development shall take place on each respective phase of the development 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: The treatment of any potential contamination is a necessary initial requirement before any demolition and/or groundworks are undertaken so as to ensure that the site is satisfactorily assessed and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

- 14 No development on each respective phase of the development shall take place until a potable water scheme to serve the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that the existing water supply network can suitably accommodate the proposed development site. If necessary a scheme to upgrade the existing public water supply network in order to accommodate the site shall be delivered prior to the occupation of any building. Thereafter, the agreed scheme shall be constructed in full and remain in perpetuity.**

**Reason: To ensure the site is served by a suitable potable water supply. No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority**

#### **Pre-occupancy or other stage conditions**

- 15 The Remediation Scheme, as approved pursuant to condition no. (13) above, shall be fully implemented for each respective phase of the development before the development on that respective phase 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: Reason: The treatment of any potential contamination is a necessary initial requirement before any demolition and/or groundworks are undertaken so as to ensure that the site is satisfactorily assessed and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

- 16 No above ground development shall take place on each respective phase until detailed drawings of the drainage system and associated structures that maximise the use of SuDS and that include the location of all manholes and pipes, as well as details of inlets, outfalls and SuDS features (including cross sections with invert levels, maximum water levels, top of bank levels, freeboard);**

**Details shall include, but not limited to**

- a) Confirmation of groundwater levels to demonstrate that the invert level of any unlined attenuation features can be located a minimum of 1m above groundwater levels or demonstration that groundwater ingress can be appropriately be managed.**
- b) Detailed drawings of the proposed surface water drainage strategy that demonstrate the inclusion of SuDS, where appropriate, and location and size of key drainage features**
- c) Detailed drawings of proposed features such as attenuation features and outfall structures.**
- d) Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event. FEH 2013 rainfall data is expected.**
- e) Calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event. FEH 2013 rainfall data is expected • Calculations that demonstrates that the proposed drainage system will have sufficient capacity to cater for up to the 1 in 100 year event and allowing for the potential effects of climate change. FEH 2013 rainfall data is expected.**
- f) Assessment of potential failure of above-ground attenuation features, including assessment of residual risks to downstream receptors, and proposed mitigation and management measures;**
- g) Description and drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system.**
- h) Demonstration that appropriate access is available to maintain drainage features**
- i) Operational and maintenance manual for all proposed surface water drainage features that are to be adopted and maintained by a third party management company**
- j) A detailed foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features and connection to the receiving network.**
- k) Confirmation of agreement in principle of proposed adoption and maintenance arrangements for the surface water and foul water drainage systems**
- l) The surface water shall discharge through a sustainable drainage system subject to final detailed approval of technical design.**

**Reason: To ensure suitable drainage can be achieved on site and in order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2021) and Herefordshire Council Core Strategy (2015) policies SS6, LD2, SD3**

- 17 Prior to the first occupation of each dwelling within any phase of residential development 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**

- 18 The reserved matters submission submitted pursuant to Condition 1 shall be accompanied by an Acoustic Design Statement which demonstrates in full that Stage 2 Elements 1-4 of the above guidance have been met. Within the Acoustic Design Statement supply evidence that internal noise levels outlined within Element 2 of the ProPG Internal Noise Level Guidelines can be met. (Satisfactory noise levels to be achieved in as many noise sensitive rooms in as many houses as possible with the windows partially open). Within the Acoustic Design Statement supply evidence of an external amenity noise assessment in accordance with Element 3 of the ProPG Guidance. (Satisfactory external amenity levels to be achieved are 50dB on a green field site at as many dwellings as possible. Within the Acoustic Design Statement assess all other relevant issues in accordance with Element 4 of the ProPG Guidance. ProPG: Planning and Noise\* Professional Practice Guidance on Planning & Noise New Residential Development Published by the Association of Noise Consultants, the Institute of Acoustics and the Chartered Institute of Environmental Health. The approved scheme shall be implemented before the first occupation or use of the dwellings and thereafter maintained.**

**Reason: In the interests of the residential amenity of future residents in accordance with policy SD1 of The Herefordshire Core Strategy and NPPF 2021**

- 19 Prior to completion of the approved development, a landscape scheme shall be submitted to and approved in writing by the Local Planning Authority.**

**The scheme shall include a scaled plan identifying:**

**Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837: 2012.**

**Trees and hedgerow to be removed.**

**All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.**

**All proposed hardstanding and boundary treatment.**

**Reason: To safeguard and enhance the character and amenity of the area in order to**



**Conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.**

- 20 All planting, seeding or turf laying in the approved landscaping scheme for each respective phase shall be carried out in the first planting season following the occupation of the building or the completion of the development on that respective phase, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.**

**Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.**

- 21 No dwellings to be occupied on the development unless and until such time that Phase 1 of the surface water drainage scheme approved by condition 6 of this planning permission which shall include the attenuated outfall to Withy Brook, has been implemented in accordance with the approved surface water drainage strategy,**

**Reason to promote sustainable development, secure proper drainage and manage risk of flooding**

- 22 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 emission vehicles (e.g. provision of cabling and outside 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, MT1 and SD1 of the Herefordshire Local Plan Core Strategy, to assist in redressing the Climate Emergency declared by Herefordshire Council and to accord with the provisions at paragraphs 108 and 110 of the National Planning Policy Framework**

- 23 Development shall not begin in relation to any of the specified highways works until details (of the works) have been submitted to and approved by the Local Planning Authority in writing following the completion of the technical approval process by the local highway authority. The development on each respective phase shall not be occupied until the scheme has been constructed in accordance with the approved details for that respective phase.**

**Reason: To ensure the safe and free flow of traffic on the highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework.**

- 24 Prior to the first occupation, a Travel Plan which contains measures to promote alternative sustainable means of transport for residents and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved**

details, on the first occupation of the development . A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.

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.

- 25 Proposals for the number, size and type of the tenure for both open market, affordable and the wheelchair accessible unit shall be submitted to the Local Planning Authority for approval either prior to or as part of any reserved matter application(s) relating to Layout. This scheme shall compromise a schedule outlining the number of 1, 2, 3 and 4 + bed dwellings open market and affordable with regard to the affordable housing the tenure mix shall be provided and the overall mix being in general accord with the Council’s Local Housing Market Assessment (or any successor document adopted by the LPA).

Reason: To define the terms of the permission and to comply with Policy H3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

- 26 In addition to any landscaping or green infrastructure that may otherwise be required; prior to any new development above damp proof course levels, a detailed ‘holistic’ biodiversity net gain scheme for the whole development site shall be supplied to the Local Planning Authority for written approval.

The supplied scheme shall include:

- A detailed and specific annotated location plan for proposed biodiversity net gain enhancement features including as a minimum provision for hedgehog homes, bird nesting, and pollinating insect ‘nesting’ opportunities, ecological refugia and other natural features and habitats.

- A detailed legally binding scheme of how the natural features and biodiversity net gain will

be managed and maintained for the lifespan of the development.

- An external lighting and illumination plan clearly demonstrating that all proposed lighting and illumination features will comply with latest and current guidance identified by the

Institute of Lighting Professionals-Bat Conservation Trust.

The approved scheme shall be implemented and fully completed prior to occupation of the 50th dwelling and hereafter maintained unless otherwise agreed in writing by the planning authority.

Reason: To ensure that all protected species are considered and habitats enhanced having regard to the Conservation of Habitats and Species Regulations (2017), Wildlife and Countryside Act 1981 (as amended), Policy SS6 and LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2021) and NERC Act 2006

## **Post occupancy monitoring and management / Compliance Conditions**

- 27 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: 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.**

- 28 Any trees, plants, or hedgerows which within a period of five years from the date of first planting die, are removed, become seriously damaged or diseased, or become (in the opinion of the Local Planning Authority) otherwise defective, shall be replaced in the current planting season or the first two months of the next planting season, whichever is the sooner, unless the Local Planning Authority gives written consent to any variation.**

**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.**

- 29 Prior to completion of the approved development, a vegetation clearance scheme shall be submitted and approved in writing by the Local Planning Authority . The scheme shall include a scaled plan identifying hedgerow, vegetation and maintenance work on the existing footway along A49 to the north of the railway bridge to allow the footpath to regain its full width.**

**Reason: To provide a safe walking route, sustainable travel and ensure pedestrian safety on the footway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework**

- 30 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: The treatment of any potential contamination is a necessary initial requirement before any demolition and/or groundworks are undertaken so as to ensure that the site is satisfactorily assessed and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

- 31 All foul water shall discharge through a connection to the local Mains Sewer network managed through the Welsh Water – Eign (Hereford) waste water treatment works; and no surface water shall be discharged in to any mains sewer or ‘combined mains sewer; unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies SS6, LD2 and SD4. Habitat Regulations**

- 32 The ecological protection, mitigation, compensation and working methods, as recommended in the ecology report by Aspect Ecology dated July 2020 shall be implemented in full as stated 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 Habitats & Species Regulations 2018 (as amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2021) and NERC Act 2006

#### Informatives

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application 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 in 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. This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 261800), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to coordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

4. This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant

can be provided with an approved specification, and supervision arranged for the works. Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

5. No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement
6. Any work involving the removal or disturbance of ground or structures supporting or abutting the publicly maintained highway should be carried out in accordance with details to be submitted to and approved in writing by the Highway Authority or their agent. Please contact Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800).
7. In connection with Condition 24 the applicant is advised that advice on its formulation and content can be obtained from the Sustainable Travel Officer, Herefordshire Council Transportation Unit, PO Box 236, Plough Lane, Hereford HR4 0WZ
8. In connection with Condition 24 the applicant is advised that the annual Travel Plan Review must include a survey of staff/resident travel patterns and attitudes to travel. (For businesses employing less than 50 people and for residential developments of less than 50 units, a travel survey will only be required every two years). For residential developments, the review should also include traffic counts and an assessment of trips by mode. Applicants are encouraged to conduct their own monitoring and review process. However, they may choose to engage outside consultants to manage the process on their behalf. Council officers can also provide monitoring services for Travel Plan reviews and for this a request should be made to the Sustainable Transport Officer, Herefordshire Council Transportation Unit, PO Box 236, Plough Lane, Hereford, HR4 0WZ
9. The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'
10. 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, Otters, Dormice, Crayfish and reptile species 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 advice from a local professional ecology consultant is obtained

- 11 **Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.**
- 12 **All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply: a) Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground b) Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure c) Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.**
- 13 **The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.**
- 14 **Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction. The Developer should contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk). The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.**
- 15 **If not already in place, the Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.**
- 16 **The developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land or structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then they must seek approval from Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access**

to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

- 17 The developers should be made aware that Network Rail needs to be consulted on any alterations to ground levels. No excavations should be carried out near railway embankments, retaining walls or bridges. Network Rail Infrastructure Limited Registered Office: Network Rail, One Eversholt Street, London, NW1 2DN Registered in England and Wales No. 2904587 [www.networkrail.co.uk](http://www.networkrail.co.uk)
- 18 It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.
- 19 Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.
- 20 All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.
- 21 The potential for any noise/ vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of Technical Advice Notes which hold relevant national guidance information. The current level of usage may be subject to change at any time without notification including increased frequency of trains, night time train running and heavy freight trains.
- 22 It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.
- 23 Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.
- 24 Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers' vision on approaching trains. The location and colour of lights

**must not give rise to the potential for confusion with the signalling arrangements on the railway. Following occupation of the development, if within three months Network Rail or a Train Operating Company has identified that lighting from the development is interfering with driver's vision, signal sighting, alteration/mitigation will be required to remove the conflict at the applicant's expense.**

- 25 The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com) The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times**

*(Councillor Paul Rone resumed his seat on the committee.)*

**40. 214270 - LAND SOUTH WEST OF ROMAN BYRE, HEREFORDSHIRE**

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

In accordance with the criteria for public speaking Mrs Hardy spoke on behalf of Callow and Haywood Group Parish Council, a statement was read on behalf of Mr Priddle, a local resident, in objection to the application and Mr Sharp, the applicant, spoke in support.

In accordance with the council's constitution the local ward member spoke on the application. In summary she provided an overview of the application and the proposal. In addition she provided a summary of the detail of the representations that had been received on the application. A number of representations had praised the design of the development however objectors had not considered it suitable in the open countryside. There had been a difference of opinion concerning the application of CH9 in the neighbourhood development plan and whether the development met the requirements of that policy. The proximity of Haywood Lodge and the impact of the application on this heritage building had been referenced in representations. The additional access onto Haywood Lane had also been raised in representations.

The committee debated the application.

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

A motion that the application be refused in accordance with the case officer's recommendation was proposed by Councillor Sebastian Bowen and seconded by Councillor Mark Millmore. The motion was put to the vote was carried by a simple majority.



**RESOLVED – that planning permission be refused for the following reasons:**

- 1. The application site lies outside of any settlement formally identified as being appropriate for residential development and therefore development of the site would undermine the spatial strategy of the development plan at a time when the Council can demonstrate a sufficient supply of housing land and at a Parish level when it can be demonstrated that housing delivery is exceeding growth targets. Accordingly the scheme is contrary to Herefordshire Local Plan – Core Strategy Policies RA2 and RA3 and Callow and Haywood Neighbourhood Development Plan Policy CH9. Time limit for commencement (full permission)**
- 2. In the absence of sufficient information with regards to how the proposed drainage arrangements would be delivered, the local planning authority is unable to establish if there is a suitable policy compliant sustainable foul and surface water drainage solution. As such the proposal fails to protect the integrity of the SAC and does not comply with Policies SD3, SD4 or LD2 of the Herefordshire Local Plan - Core Strategy.**
- 3. Development of the site has been demonstrated to fail to preserve aspects of setting which contribute positively to the significance of adjacent heritage assets, without clear and convincing justification for the identified harm. The proposal does not preserve or enhance positive local character and distinctiveness; does not preserve or enhance heritage assets and is not influenced by the historic and existing character and townscape, contrary to the Herefordshire Local Plan Core Strategy policies SS1, SS6, RA2, LD1 and LD4, Callow and Haywood Neighbourhood Development Plan Policy CH1 and the heritage aims and objectives in Chapter 15 of the National Planning Policy Framework.**
- 4. The design of the proposed dwelling, by virtue of its massing and design has not been positively influenced by the character and appearance of the cluster and as a result would exacerbate the harm identified in reason for refusal 3 in conflict with Herefordshire Local Plan –Core Strategy Policies SD1 and LD1 and Callow and Haywood Neighbourhood Development Plan Policy CH1.**

**41. 214073 - LAND ADJACENT TO ARROW LEA, EARDISLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9BU**

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

In accordance with the criteria for public speaking Ms Connop, spoke on behalf of Eardisland Parish Council, Mr Kirby, local resident, spoke in objection to the application and Mr Smyth spoke in on behalf of the applicant, in support.

In accordance with the Council's constitution the local ward member provided a statement to be read to the committee. In summary he explained that the matter had been referred to the planning committee due to the large number of comments and objections from the community. The village and surrounds of Eardisland were in a floodplain with a high water table and no mains sewage system. Given the circumstances of the application it would be useful to establish a policy determination of the planning authority.

The committee debated the application.

A motion that the application be refused in accordance with the case officer's recommendation was proposed by Councillor Sebastian Bowen and seconded by Councillor Elizabeth Foxton. The motion was put to the vote and was carried unanimously.

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

- 1. The application fails to adequately demonstrate that the proposed means of waste water disposal adequately protects the water quality of the River Wye Special Area of Conservation (a European Site, 'National Network Site' or 'Higher Status' nature conservation site), contrary to Policies SS1, SS6, LD2 and SD4 of the Herefordshire Local Plan – Core Strategy, Policies E1(k) and E9(h) of the Eardisland Neighbourhood Development Plan 2016, the Conservation of Habitats and Species Regulations 2017, the National Planning Policy Framework and the Natural Environment and Rural Communities Act 2006.**
- 2. The proposed development would, by virtue of its location, siting, density, massing, scale and layout, urbanise the rural setting of Eardisland village and be out of keeping with the established settlement pattern, detrimental to local landscape character, contrary to Policies SS6, SD1, LD1 and RA2 of the Herefordshire Local Plan - Core Strategy, Policies E1, E3 and E9 of the Eardisland Neighbourhood Development Plan 2016, and the National Planning Policy Framework**
- 3. The proposed development would, by virtue of its location, siting, density, massing, scale and layout, urbanise the rural setting of the Eardisland Conservation Area, detrimental to the significance of the designated heritage asset, contrary to Policies SS6 and LD4 of the Herefordshire Local Plan - Core Strategy, and Policy E2 of the Eardisland Neighbourhood Development Plan 2016. The scheme's public benefits would not outweigh the identified heritage harm, taking into account the statutory duties under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the weight to be afforded to the asset's conservation as set out in the National Planning Policy Framework**
- 4. With a clear priority being given to pedestrians and cyclists at a national level, a failure to provide an appropriate link for them to the centre of the village, along a stretch of road where it has been demonstrated that vehicle speeds significantly exceed the 30 mph limit, the proposal would result in an unacceptable impact on highway safety, contrary to Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**
- 5. In the absence of an agreed emergency evacuation plan and having regard to the site's high susceptibility to flood risk, the application fails to adequately demonstrate safe access and escape routes for future occupants of the development during a flood event, contrary to Policy SD3(2) of the Herefordshire Local Plan - Core Strategy and paragraph 167 of the National Planning Policy Framework**

**42. APPENDIX TO THE MINUTES - SCHEDULE OF UPDATES (Pages 19 - 42)**

The meeting ended at 1.21 pm

**Chairperson**

## **PLANNING COMMITTEE**

**Date: 28 SEPTEMBER 2022**

### **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

**193042 - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT (WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS), FOOTWAY/CYCLEWAY AND VEHICLE TURNING HEAD, STOPPING UP AND RE-ROUTING OF A SHORT SECTION OF GRAFTON LANE, NEAR THE A49, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS (AMENDED PLANS AND ADDITIONAL SUPPORTING AT LAND NORTH AND SOUTH OF GRAFTON LANE, HEREFORD, HR2 8BJ**

**For: Anderson per Mr Matthew Gray, Suite D, 1st Floor, 220 High Street, Swansea, SA1 1NW**

### ADDITIONAL REPRESENTATIONS

#### Mrs L Burgess by email

- 1) I note multiple documents have been uploaded to your website since 8 September 2020 as follows:-

- Addendum Design and Access Statement 3.12.21 4MB
- Climate Change Checklist Energy Statement and Analysis - 14.7.21 2MB
- Design & Access Addendum 20.04.21 6MB
- S278 Feasibility Drawings 9.4.21 1MB
- R Site Entrance Feasibility Report 9.4.21 2MB
- R Revised Sustainable Transport & Design Report Oct 2020 7MB

- 2) I also note the agent's email of 3 December 2021 re. documents for your website:

Hi Heather, I was reviewing our file and cross referencing with the information published to your website. I noted that that the Revised Development Framework Plan published to your website is Revision E, however our records indicate a Revision G attached, which shows the alternative proposals for the closure of Grafton Lane. The attached DAS also includes this Revised Development Framework Plan at

I also noted that your Highway colleague's response refers to a plan referenced 2477-125-A. I could not see this on the website so also attach.

Have a good weekend.  
Regards Rob Davies –

- 3) I also note that approximately 17 representations have been uploaded to your website since 8 September 2020.
- 4) Public Consultation
- a) May I please ask whether the public should receive a consultation period for any of the documents in 1) and 2) above please?
  - b) May I please ask whether the public should receive a consultation period for any of the approx. 17 representations uploaded to your website since 8 September 2020 please?

Thank-you for your letter notifying me re. the above application being considered on 28 September 2022.

The public consultation ended on the following date (copied and pasted from your website today):

Consultation end date Tuesday 8 September 2020

In July 2021, I read your case officer's update of 23 July 2021, as follows:

"From: Carlisle, Heather Sent: 23 July 2021 11:45

To: 'Rob Davies' <rdavies@asbriplanning.co.uk>

Subject: RE: Grafton Lane, Hereford -193042 case officer update 23/7

Good morning Rob,

Grafton Lane, Hereford - 193042 -Outline

As per my email to your colleague Matthew on the 20th April, I am awaiting receipt of the final archaeology report and as you have updates from Highways England on drainage and the SUDS scheme and outfall. \*I have always maintained that once the updated archaeology and Highways England replies are received I would go out for a two week consultation. This still remains the case. As a case officer, I prefer not to drip feed information on major applications to local residents/councillors but wait for a meaningful Consultation. I would envisage this will be a 14 day consultation starting once the site notices are displayed....."

Consequently, I have been expecting another public consultation prior to this application being considered. Your letter re. the above application being considered on 28 September 2022, was thus completely unexpected. Would you kindly advise why this consultation, which you refer to above, did not take place please?

## **OFFICER COMMENTS**

In respect to consultation. Local planning authorities must undertake a formal period of public consultation before making a decision on a planning application. Statutory notices ensure local residents are informed about applications that affect them and this was undertaken when the application was first validated and following the revised location plan (reduced plan). If an application has been amended it is up to the Local Planning Authority to decide whether further publicity and consultation is necessary in the interests of fairness. In deciding what further steps may be required local planning authorities should consider whether, without re-consultation, any of those who were entitled to be consulted on the application would be deprived of the opportunity to make any representations that they may have wanted to make on the application as amended.

The proposed submitted site location plan drawing has not altered since the last period of consultation. The supporting framework plans which have been submitted are indicative and not including in approved drawings moving forward. Additional information which has been submitted included indicative drawings, amended reports to technical reports and primarily to advice of the reduced number of units and drawings which were part of the overall discussions with National Highway's. There will also be a further opportunity for local residents to make representation in any future reserved matters application when plans are no longer 'indicative' but form a part of a formal proposal

This is not a full application but Outline with access. It is noted that the complainant has put in numerous objections on various matters that have been very carefully considered before reaching a recommendation. Having regard to the issues already raised in representations officers considered that the updated plans and information did not make any material changes that would have required a further period of consultation before determination.

The application and As advised on the website, the local planning authority do take into account views received after the formal period for comments has closed and the case officer has considered all comments that have been received following the display of the initial site

notices. The delay to getting the application to planning committee was ongoing discussions with national Highways. Officers are confident that none of the interest parties have been prejudiced in any way.

**Additional Representation:**

National Highways are content with the amendments to ensure the conditions meet the required tests.

With regard to your condition 29, could ' *The approved works shall be implemented in full in accordance with the approved vegetation clearance scheme*' be added to this condition.

**Officer comments:**

Condition 29

Original condition as per committee report:

Prior to completion of the approved development, a vegetation clearance scheme shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include a scaled plan identifying hedgerow, vegetation and maintenance work on the existing footway along A49 to the north of the railway bridge to allow the footpath to regain its full width.

Reason: To provide a safe walking route, sustainable travel and ensure pedestrian safety on the footway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework

Revised wording for Condition 29:

Prior to completion of the approved development, a vegetation clearance scheme shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include a scaled plan identifying hedgerow, vegetation and maintenance work on the existing footway along A49 to the north of the railway bridge to allow the footpath to regain its full width. The approved works shall be implemented in full in accordance with the approved vegetation clearance scheme.

Reason: To provide a safe walking route, sustainable travel and ensure pedestrian safety on the footway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework

**Officer comments:**

Officers have sought further advice from the Local Highway Authority in regards to

Condition 23:

Original condition as per committee report:

Development shall not begin in relation to any of the specified highways works until details (of the works) have been submitted to and approved by the Local Planning Authority in writing following the completion of the technical approval process by the local highway authority. The development on each respective phase shall not be occupied until the scheme has been constructed in accordance with the approved details for that respective phase.

Reason: To ensure the safe and free flow of traffic on the highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework.

Revised wording for Condition 23:

Development shall not begin in relation to any of the specified highways works until details of the works/Alterations to Grafton Lane have been submitted to and approved by the Local Planning Authority in writing .The development on each respective phase shall not be occupied until the scheme has been constructed in accordance with the approved details for that respective phase.

Reason: To ensure the safe and free flow of traffic on the highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework

**CHANGE TO RECOMMENDATION**

**Amended conditions as recommended above.**

**214270 - PROPOSED SINGLE STOREY DWELLING ('PIPPIN GRANGE') AND ANCILLARY OUTBUILDINGS. TO INCLUDE RENEWABLE TECHNOLOGIES, REINSTATEMENT OF HERITAGE ORCHARD AND BIODIVERSITY ENHANCEMENTS AT LAND SOUTH WEST OF ROMAN BYRE, HEREFORDSHIRE**

**For: Mr & Mrs Sharp per Miss Rebecca Jenkins, 4-5 High Town, Hereford, Herefordshire, HR1 2AA**

**ADDITIONAL REPRESENTATIONS**

Following the Historic Building Officer's comments, the applicants have queried the status of Non-Designated Heritage Assets when referring to the buildings to the north of Haywood Lodge. The Historic Building Officer has provided the following rationale for his assessment:

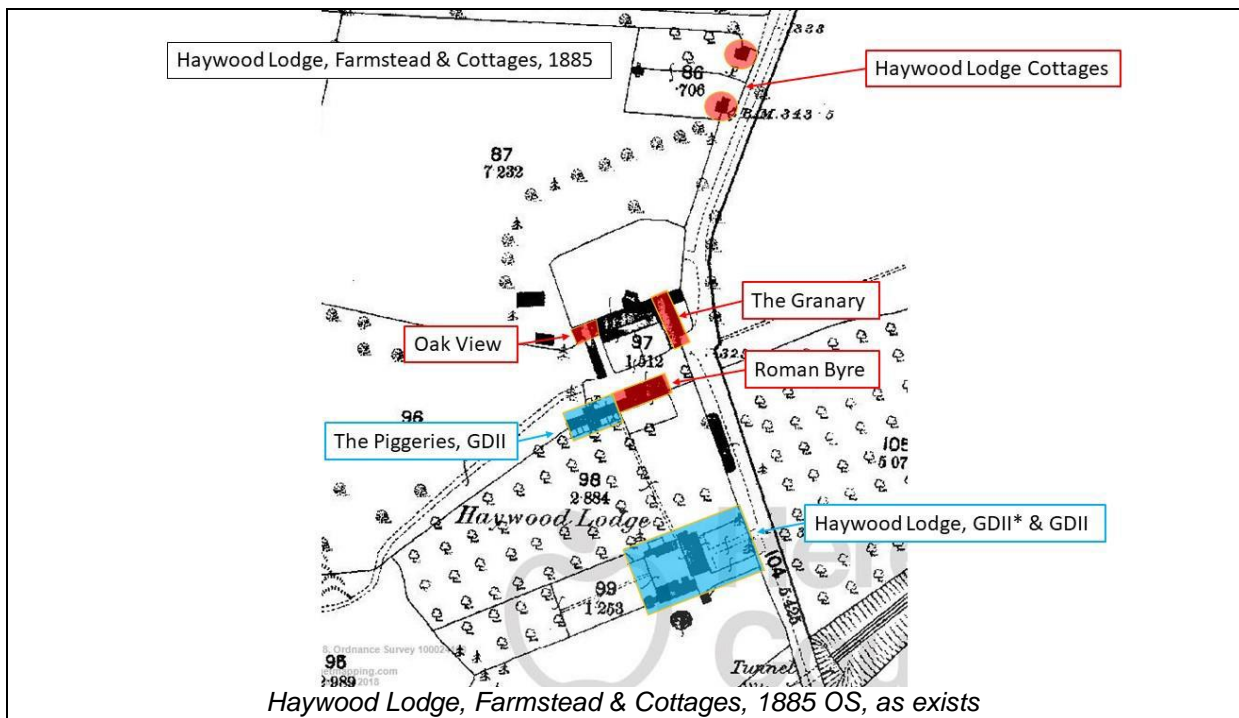
**Non-Designated Heritage Assets adjacent to Haywood Lodge, Haywood Lane, Belmont**

As part of an assessment of setting undertaken to provide heritage comments on a planning application for a new dwelling at land adjacent to Haywood Lodge (214270), a number of former agricultural structures, now dwellings, were identified as having sufficient merit and group value to be considered non-designated heritage assets (NDHA).

Paragraph 040 of Government's Historic Environment Guidance highlights the planning application decision-making process as being a legitimate opportunity to identify NDHA's.

At that point, and on the basis of sound evidence, established criteria set out by Historic England in their Local Listing guidance, and designation guidance notes are employed to evaluate suitability (designation guidance relates the assessment of buildings of national importance and is therefore a higher threshold).

The assessment is consistent with the identification process necessary for NDHAs to be registered on a formal Local List, which Local Authorities are responsible for compiling, rather than Historic England, who only assess statutory nominations.



With regards The Granary, Oak View, Roman Byre and Haywood Cottages, the relevant criteria included the age of the structures; their architectural value in relation to design detailing, material construction, craftsmanship, and distinctive characteristics which evidence their historic function; their group value, identifiable through shared design characteristics and historic associations; and their historic value, identifiable through shared experience, memory of place, and characteristics and functionality which contribute to local and regional identity.

The planning history for The Granary, Oak View and Roman Byre is somewhat complex, with a number of approvals being issued for different schemes over a four year period.

#### **The Granary & Roman Byre:**

Approvals were granted for the conversion of the Granary and Roman Byre on the 1st of February 1993 (SH921423PF & SH921424LA), and other more minor approvals for these properties followed on the 29th June 1993 (SH930587PF), and 21st September 1993 (SH931050PF); and for alterations to the listed Piggeries on 21st October 1993 (SH931181LA).

None of these interventions have resulted in changes which would be sufficient to alter the heritage merits of either property, and their architectural/group/historic value still remains clear.

#### **1 & 2 Haywood Lodge Cottages:**

No.'s 1 & 2 have been the subject of several planning applications for extension and alteration, particularly No.2, but, as with the Granary/Roman Byre, their values remain distinct and the additions have not impacted on their presence within the road-scene, and how the group is experienced from the northern approach.

A 2008 planning application (DCCE2008/2784/F) to extend No.2 was refused, but the officer's evaluation of the property stated the building was, *'an attractive and architecturally interesting dwelling, which remains largely unaltered sitting in a relatively prominent position adjacent to the road.'*

A revised scheme was approved the following year, and the officer concluded that the, *'key changes are sufficient to retain the visual dominance of the original dwelling from the front and side elevations and consequently, the impact of the scale of extensions on the character of the original dwelling is now acceptable.'*

Both cottages are modest gothic-revival in their architectural style, and this is expressed in the steeply pitched roofs and the lancet form of the dormers and doorways; additional



detailing, such as dog-tooth brickwork at eaves level and a stringcourse, ensure a commonality of form which also extends to the later additions.

**Oak View:**

In relation to Oak View, it has been claimed by the present owner, and the owner of Roman Byre, that the building was a completely new build construction, circa-1993, and that the former threshing barn and attached single-storey range at its south-western end were completely demolished prior to Oak View being built.

However, planning permission and listed building consent were granted for the conversion of the threshing barn into three units on the 26<sup>th</sup> September 1994 (SH941013PF & SH941014LA), and this did not include the demolition of any attached structures.

This was followed on the 22<sup>nd</sup> July 1996 (SH960703PF & SH960704LA) by new permissions granted for a kitchen extension and detached garage at unit 3 (Oak View), and a number of other variations to the 1994 approved scheme which related primarily to windows, doors, infilled openings and a balcony; this effectively superseded the 1994 approvals and appears to have been what was ultimately constructed.

A photograph of the site taken prior to any conversion works beginning clearly illustrates the threshing barn with a large lean-to structure at its south-eastern end, but with its formerly attached single-storey range having been demolished by this stage.



*Haywood Farmstead c.1992-1993 – Threshing Barn with Lean-to & Granary behind*

Further photographs were taken when the Granary conversion had been completed and they illustrate the south-eastern lean-to structure having been demolished, leaving the threshing barn as the sole structure which was to be converted under the 26<sup>th</sup> September 1994 approval.



*Haywood Farmstead c.1994 – Threshing Barn, Granary & Roman Byre*



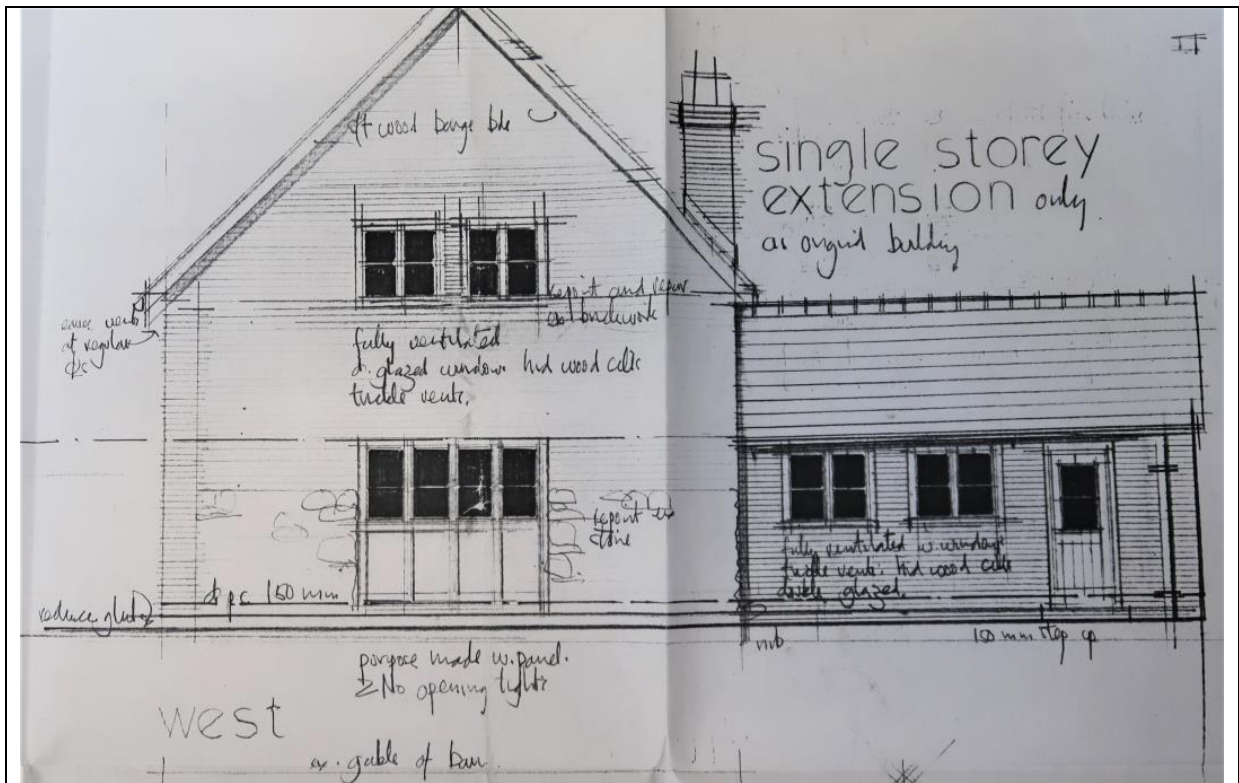
*Haywood Farmstead c.1994 – Threshing Barn, Granary & Boundary Walling*

The owners of Oak View and Roman Byre have provided their interpretation of the building's timeline, but this does not accord with the evidence available within the planning records. The 1994 approval was for conversion of the threshing barn into three units, with the westernmost bay being a single two-storey unit, the former threshing bay functioning as vehicular access between both sides of the building, and the eastern bays of the barn accommodating the other two units.

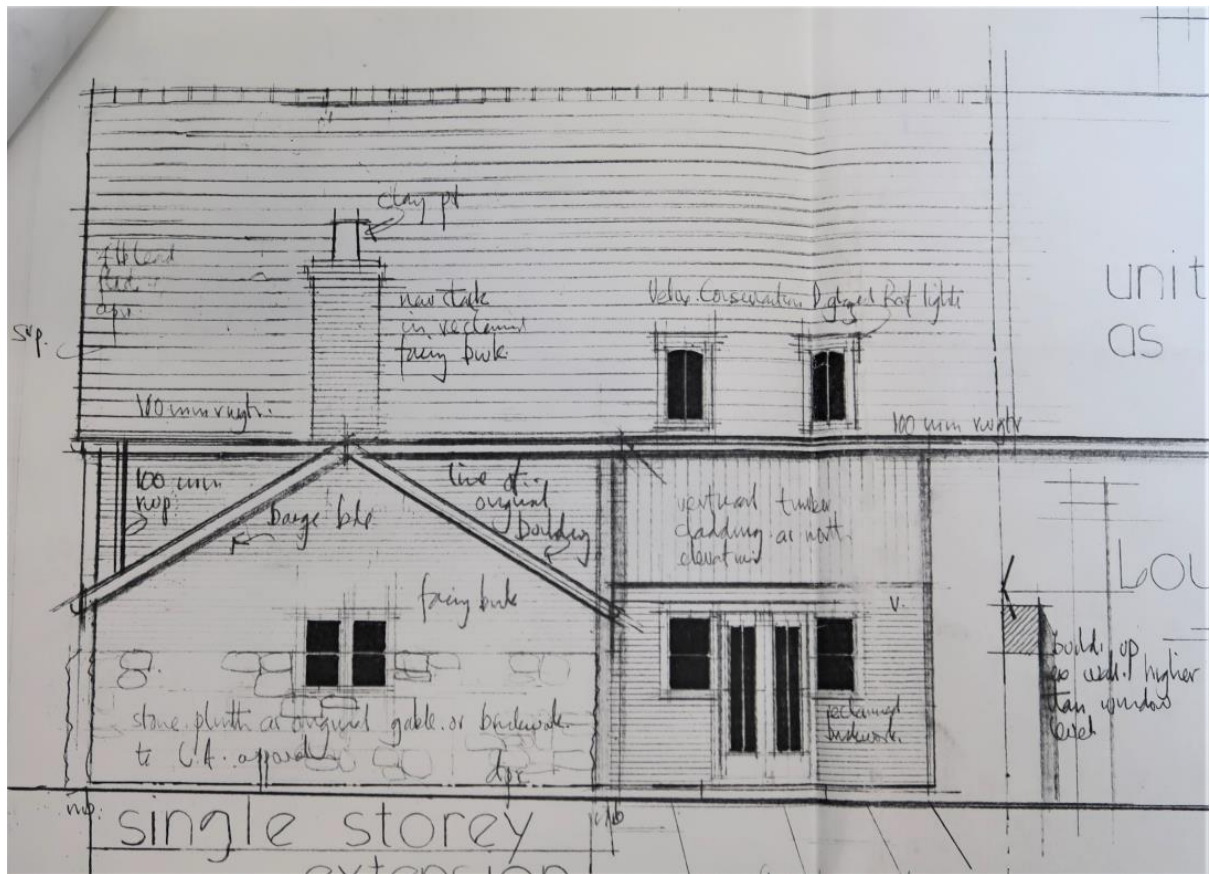
By 1996 this was altered so that the western bay and threshing opening formed one unit (Unit 3), whilst approval was granted on the 19<sup>th</sup> of July 1996 (SH960631PF) for the eastern bays of the threshing barn to be demolished and a new double garage constructed in its place.

So the westernmost bay (Oak View) was retained in its entirety, converted, and then extended in 1996 with a single-storey kitchen extension.





Oak View Conversion & Extension 1996 – note re-point & repair existing stone/brick annotation

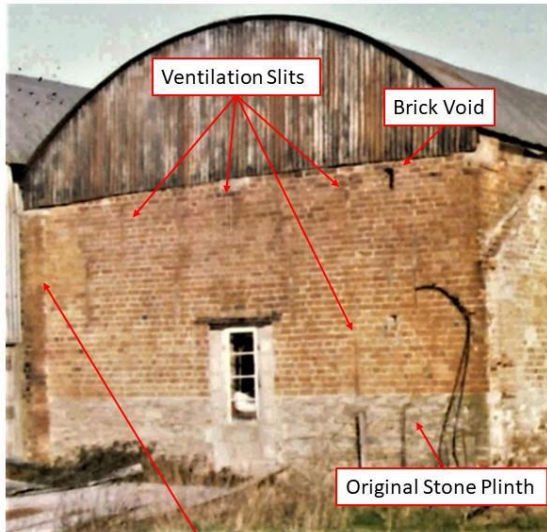


Oak View Conversion & Extension 1996

The earliest image clearly illustrates identifiable gable-end features which remain visible today, and in addition to the brickwork, these include a brickwork strip at the northern side, infilled ventilation slits, and a distinctive three-brick slot at wall plate level.

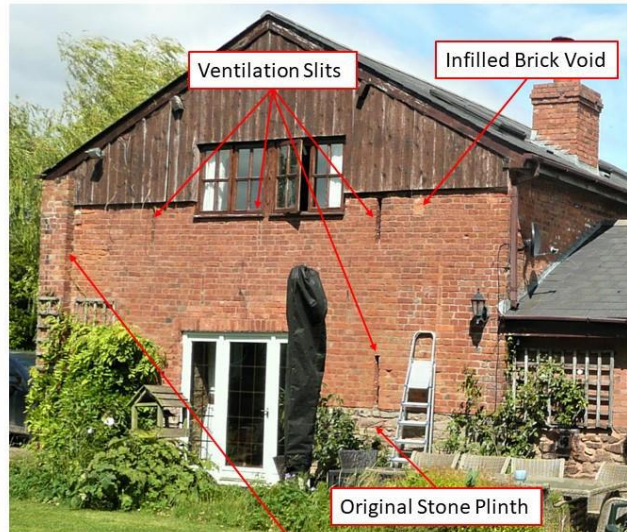


Threshing Barn Pre-Oak View Conversion, c.1993



Original Brickwork & Vertical Brick Pier

Threshing Barn Post-Oak View Conversion, 2022



Original Brickwork & Vertical Brick Pier



Whilst Oak View's heritage merits are less obviously expressed than those at The Granary or Roman Byre, the evidential features which remain clearly enable the structure to be read as part of a converted threshing barn, and as such, maintain its architectural/group/historic value.

The fact all three buildings have been subject to domestic conversion will not necessarily have any direct bearing on their heritage value, in the same way that listed agricultural buildings don't lose their statutory status as a result of being converted.

**Conclusion:**

Based on the heritage evaluation undertaken to determine the setting of Haywood Lodge the former farmstead buildings and farm cottages were identified as meriting NDHA status; the justification for this has been outlined above, and that assessment remains valid.

**Planning History:**

SH921423PF & SH921424LA - 1st of February 1993:

Permission was granted for the 'Change of use from obsolete farm buildings to form one detached & two semi-detached dwellings barns adjacent to Haywood Lodge, Haywood Lane, Belmont'.

This approval related to the properties now known as The Granary, and Roman Byre.

SH930587PF - 29th June 1993:

Permission was granted for amendments to aspects of the Roman Byre approval, including the addition of a gazebo structure.

SH931050PF - 21st September 1993:

Permission was granted for the addition of a 'Small Utility Room' to The Granary.

The Block Plan provided with this application illustrated the land within the ownership of the Granary at that time included the former threshing barn and stable block or loose box range attached to its south-western end.

SH931181LA - 21st October 1993:

Permission for 'Alterations for use of pig cotts as a studio'.

SH941013PF & SH941014LA - 26th September 1994:

Permission was granted for the 'Conversion/alterations to form 1 No 3 bed and 2 no 2 bed cottages barn adjacent to the granary'.

This permission related to the former threshing barn, but did not reference the attached stable/loose box structure, and the 'as existing' elevations did not indicate its presence, nor that of a large lean-to structure at the eastern end of the southern elevation (see photo).

However, they did illustrate the eastern end of the barn as being two-storey in height and clad with what appears to represent horizontal timber. Approval was granted for this end to be reduced to single storey proportions.

It would appear that the scheme was not executed as approved as the elevations bear no resemblance to in relation to openings.

It is interesting to note that a confirmatory letter dated 10th February 2008, from the Council Planning Department to Carver Jones Solicitors, Hereford, confirmed that none of the conditions attached to the approval had been discharged.

SH960417PF - 22nd May 1996:

Permission was refused for, 'Two-storey extension and double garage & revisions to Unit 3 the barn adjacent to the granary'.

SH960631PF - 19th July 1996:

Permission was granted for 'Part demolition of ex barn to form double garage' to be associated with The Granary.

SH960703PF & SH960704LA - 22nd July 1996:

Permission granted at Unit 3 the Barn for, 'Double garage and single storey extension to form kitchen'.

SH961399PF - 4th January 1997:

Permission granted at the Granary for 'Covering of 1 window to front east elevation'.

The applicants have provided a rebuttal to these comments as follows:

Dear Mr Withers,

Thank you very much for your email with a report attached from the Building Conservation Officer, we assume from Mr Rutledge.

We were sorry to see some of our comments in our 8th September email still have not been addressed. It would be helpful to have clarity on all the issues and we respectfully ask that an urgent independent review is undertaken as we refute the Building Conservation Officer's personal opinion that the group including Oak View, The Granary, Roman Byre and Haywood Cottages ('the group') should be listed as NDHAs. Please advise how and when this independent review will take place.

In the meantime, we would like comments on the following unresolved matters:

1. Whilst we appreciate an NDHA may be discovered during a planning application submission, it must be noted that Mr Rutledge and his colleagues in the Historic Building Conservation department have commented on many, many planning applications over the decades – including very recent applications – and yet have only now decided 'the group' has an historic interest. We ask once again, why the NDHA is warranted in 2022, when it has not ever been considered in any report in the past.

2. Since conversion in 1993, Roman Byre, for example, has had the following planning applications granted:

Two detached garages

A pagoda

Mounting of solar panels to Roman Byre and to the listed Piggery

An extension (for a third bedroom and ensuite) to Roman Byre

Change of use to holiday let (Piggery)

A new access

No mention was made of an NDHA in any of the applications (above) with the most recent, for the new access, granted in 2021. Mr Rutledge confirmed that he had visited the site (but admitted it was from the roadside only) and had allegedly considered the setting of properties from his car. At no time was an NDHA mentioned in this or any other report until his visit to Haywood Lodge in April 2022. We ask for clarity on this unexpected evaluation to label our properties as NDHAs when clearly the idea wasn't justified even as recently as two years before.

3. An Appeal Inspector visited Roman Byre under application number 191142 and ruled in the Decision of October 2020 that, 'Based on historic mapping, there would have been a distinction between the formal Lodge and the working farmstead'...'However, Haywood Lodge now functions as an independent dwelling and is physically separated by boundary treatments.' The Appeal Inspector went on to explain that common land features between the sites 'have been largely eroded', and as a consequence, the significance of any heritage assets 'is largely defined by their individual architectural value, along with the group value associated with those listed buildings and features within the grounds of Haywood Lodge.' In other words, the Inspector has already concluded that the heritage assets of Haywood Lodge are largely confined to the listings and features within the grounds of the Lodge and any relationship between Roman Byre, The Piggery, The Granary and the Cottages have been lost over time, due in most part to the domesticity and boundary treatments of the properties.

We respectfully ask why the Building Conservation Officer has ignored the conclusions of the Inspector who actually visited the site and considered the 'setting' in person and in great detail informed by his visit.

4. Government guidance on identifying NDHA's was updated in 2019 and the PPG and

NPPF were amended to remind local authorities that the **identification of an NDHA is a rarity** rather than a common occurrence. Further, we learn that if a NDHA has been identified, it should have sufficient justification and plausibility based on sound evidence. We understand the Building Conservation Officer's *very recent opinion* is that 'the group' of buildings evidence some historic function identifiable through shared design characteristics and historic associations. This is not borne out by the Inspector. Further, over time, the aforementioned buildings have their own identify (domestic residences with boundary treatments that separate one from the next).

Please see the photos attached of the buildings to understand there is no 'historic connection'.

- Roman Byre and The Piggery are stone-built single storey dwellings.
- The Granary is a red brick two storey building, extended in 1993 to double the roof area, re-clad in modern roof tiles.
- Oak View is a relatively new build cobbled together from just one existing wall of the threshing barn and parts of the other two with modern extensions added in 1996.
- Haywood Lodge Cottages are modest 'Gothic Revivals' with many extensions added (particularly to no.2 which has had '*numerous extensions in the past which have altered the appearance of the dwelling from a modest cottage to a larger property*' (2018 delegated report, page 3, P181586/FH).

We seek clarity on why the LPA Officer concludes that the 'relevant criteria' have been met when clearly there is **no group value, identifiable through shared design characteristics**

5. Further, aside from there being no shared design characteristics, any historic associations have been eroded over time. Boundary treatments, including the vast 40ft boundary hedges that surround Haywood Lodge, have severed any ties to the farmstead buildings.

6. The Church (who originally owned all the land) sold the agricultural land (including 'the group') in 1993. Haywood Lodge wasn't sold off until 1996. The Church therefore severed the ties between house and the farm and each plot has existed separately ever since.

7. See plan attached that evidences how much of the original functionality has been lost (in red) and additions (in yellow) to the domestic properties and light industrial additions which have altered how the setting of Haywood Lodge can be understood on the ground.

8. There are 3589 historic farmsteads recorded for the county; Haywood Farm is therefore not unique (Herefordshire Historic Farmsteads Characterisation Project Report (Stage 1 Baseline Mapping)). We wish to challenge the idea that just because a farm may have once been 'historic' it does not follow that each one should have an NDHA. If that were the case, there would be 3589 NDHAs for each historic farmstead. Please confirm if that is the case.

9. The LPA refer only to a 'Haywood Farmstead' and we are unclear which farm they mean. 'Haywood Farm' is located off Tram Inn Lane and although it too appears on The 2008 Farmstead Characterisation Project Register, it is still a working farm, also with listings, although as far as we can tell, without an NDHA.

When 'Haywood Lodge' and the surrounding buildings were sold off into plots (with the majority of original farm buildings demolished in 1993) a new 'Haywood Lodge Farm House' was built in 2001 with a new dominant access, roadside frontage and modern tarmac driveway that essentially severed the Granary from the Cottages (shown in red below).





Haywood Lodge



The new Haywood Lodge Farm House continued to work the surrounding fields that had been separated from Haywood Lodge in 1993 but, the land was further split between Haywood Lodge Farm and Broadmeadow Farm, thus the land and setting experienced great change in 1993 and again from 2001.

New, modern, light-industrial units, commercial warehouses and storage buildings were erected within the 'historic building group' (where the old agricultural buildings used to belong) and new gates, fences and boundaries have all but succeeded to erode any trace of an association with Haywood Lodge (see below the new Haywood Lodge Farm, driveway and commercial buildings within 'the group').



Vast road side frontage, access and driveway to the new Haywood Lodge Farm House and commercial buildings set in 'the group' separating The Granary from the Cottages and recalibrating the reading of the farmstead.



10. Lastly, there is the question of compensation. If we are unsuccessful in our challenge, the NDHA will affect our property in a way that will hamper any future development and may discourage any potential purchasers. Had we known of the NDHA eight years ago when we purchased Roman Byre, we may have thought twice about it. Certainly, the owners of Oak



View and No. 1 Haywood Lodge Cottages, who moved to the hamlet less than two years ago, have seen their properties de-value overnight. We ask what measures are in place to compensate the properties in this NDHA.

We look forward to your comments about these points together with information about an independent review of the NDHA allocation.

Yours sincerely,

Kate and Sandy Shar

**Photos of 'the group' evidencing no 'shared design characteristics'.**



Roman Byre and The Piggery



Oak View



1 Haywood Lodge Cottage



2 Haywood Lodge Cottage



3-4 Haywood Lodge Cottage



The Granary

**Plans Showing Changes**



Original farmstead circa 1960

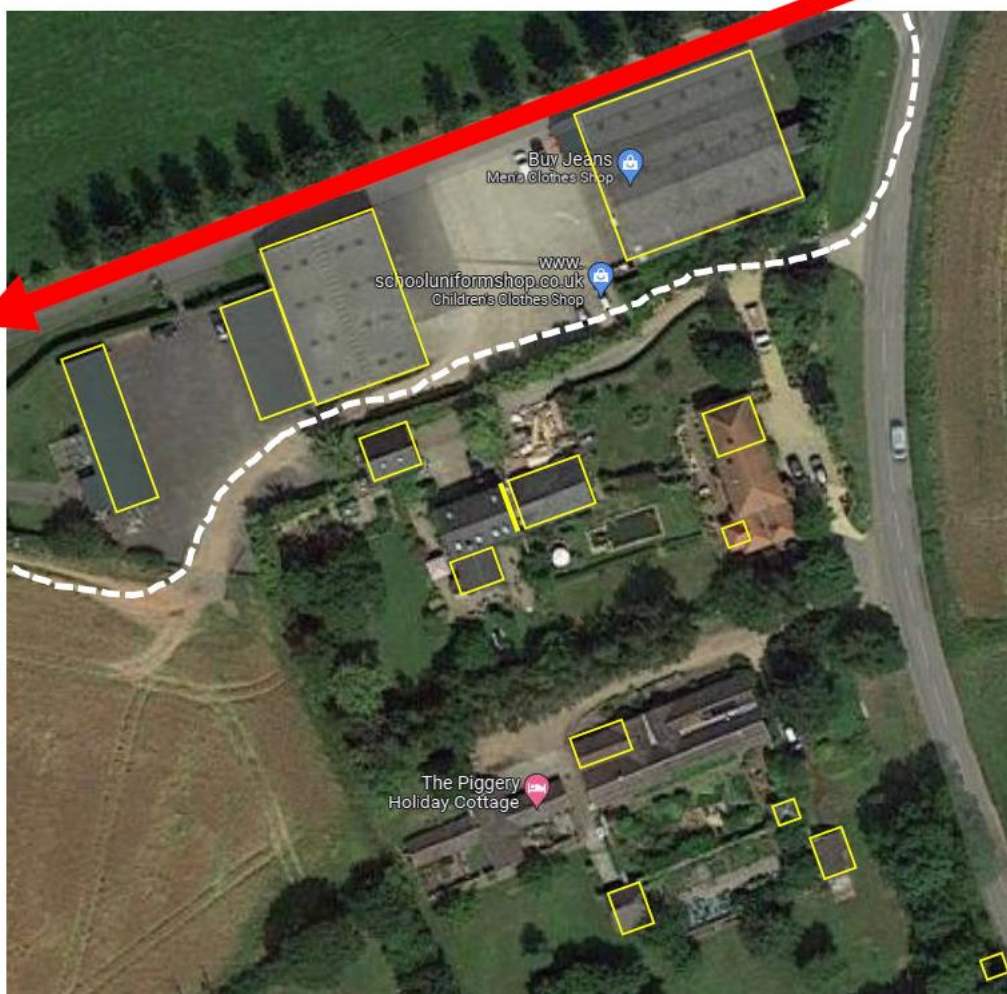


Buildings demolished since 1993 – in red.



Additions since 1993 – edged in yellow.

New access and driveway to Haywood Lodge Farm House



Extensions and applications for new buildings (outlined in yellow) that have changed the setting to a light industrial / domestic setting. There was no mention by the Historic Building Conservations Officers of NDHAs in any of the representations to any of the planning applications.

New access, roadside frontage and driveway to Haywood Lodge Farm House (in red).

Two business / light industrial units / warehouses and one storage unit at Haywood Lodge Farm House (in the white dotted line)

Oak View 'conversion' utilising part of one original wall

Oak View garage

Oak View single storey kitchen extension

The Granary second storey extension and new roof

The Granary porch extension

The Granary single story garage

Roman Byre – two garages and one pagoda

Roman Byre third bedroom extension

Roman Byre new access

Several other additions to 1,2 and 3-4 Haywood Lodge Cottages (not shown on photo)

In response to the recommendation (and specifically recommended refusal reason 2), the applicant has commissioned the submission of a revised plan which was received on 26 September 2022. The Council's drainage consultant has been contacted for further comments and a further update will be provided.

Further representation was received on 26 September 2022 stating the following:

*"I am greatly in favour of eco builds and I support this application."*

Schedule of Committee Updates

*I have read that the parish council support this application too.*

*I note the parish councillors considered the effect of the eco-home on neighbouring properties and were comfortable its location should not have a negative impact on them.*

*Thank-you for considering my above supportive representation.”*

## **OFFICER COMMENTS**

The comments have been taken into account, however Officer`s consider that the advice provided by the Council`s Building Conservation Officer with regard to nearby Non-Designated Heritage Assets is sound. Notwithstanding this and contrary to the view expressed by the applicant, it is considered that whether the cluster of buildings is considered a Non-Designated Heritage Asset or not, does not change the assessment of the scheme as laid out in the Officer`s Report. Nor does it alleviate the impact identified on designated heritage assets and their settings as raised by Historic England and the Building Conservation Officer.

Furthermore, it is recognised that there is an error stating that the site is within Callow Parish, when it is within Haywood Parish. Again, this does not change the assessment of the scheme, both parishes being within the Haywood and Callow Neighbourhood Area and therefore sharing the same Neighbourhood Development Plan. Furthermore, it does not change the policy interpretation as laid out in paragraphs 6.5 to 6.15 of the Officer`s Report, the site not being within the named settlements defined at paragraph 4.1.12 of the NDP.

In relation to the additional drainage information provided and particularly given the limited time available to secure technical advice, a change to the recommendation is advised.

The additional representation has been reviewed and are not considered to raise any new planning considerations which are not otherwise considered in the report.

## **CHANGE TO RECOMMENDATION**

Prior to the issuing of any decision in relation to this application, and in order to enable receipt of updated technical advice if this is necessary, that the further comments of the land drainage consultant are received and that officers are authorised by the Scheme of Delegation to Officers to amend/remove refusal reason 2 based upon the updated advice

**214073 - 6 NO. DWELLINGS WITH GARAGES AT LAND  
ADJACENT TO ARROW LEA, EARDISLAND, LEOMINSTER,  
HR6 9BU**

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

## **ADDITIONAL REPRESENTATIONS**

The following email was received from the applicant`s agent at 12:53pm on 27 September 2022:

Having read your Officer`s Report I find the reasons for refusal misleading and in some instances based on out of date information. I have set out below my comments on the Schedule of Committee Updates

refusal reasons 1-5. You may consider, having read the comments below, that you might want to withdraw the application from the meeting tomorrow and reconsider your report.

#### Refusal Reason 1

1. The officer's report appears to be based on out of date information. It takes no account of the lengthy response from Corner Water Consulting Ltd. dated 13<sup>th</sup> July 2022. No response from the Council's engineer has been received or appeared on the website. To base the report on out of date information is highly misleading and unreasonable. All the officer's comments are based on knowingly out of date consultations.
2. Welsh Water's comments have been satisfied and agreed by the Environment Agency who have now recommended a Condition.
3. The Council now agree a drainage field cannot be gravity fed because it would put the drainage field in zone 3 land.
4. A management agreement will cover the maintenance of the pumps, treatment plant, drainage system and access arrangement and this agreement is not normally part of the planning process.
5. Pumping stations are approved and adopted by the Water Boards.
6. The foul drainage solution is in accordance with building Regulation Part H and BS6297. It also follows BRE 478 Drainage Mounds guidance.
7. Balfour Beatty, now the Council's drainage engineer, increased their opposition to pumping systems around May 2022, but have since returned to a position that reflects National Policy, i.e. pumping stations are not preferred, but are acceptable when required. The 14/6/2022 BBLP comments (made on 16/6/22) agree with this approach, i.e. BBLP Overall Comment – the pump station is a less sustainable solution, not that it must be removed.
8. All foul drainage does not need to be on communal land. We agree elements will require replacement in due course but the Management Agreement will cover access to carry this out.
9. There is no public foul drainage system in Eardisland. All properties in the village are on septic tanks or treatment plants with soakaways in the gardens.
10. As far as we are concerned all issues raised by the Council's own Engineer, Welsh Water and the Environment Agency have been overcome and there is no reason why drainage should be raised as an issue for refusal.

#### Refusal Reason 2

1. All dwellings and the access road are on zone 1 land.
2. It is accepted by the Council that the layout does not affect the amenity of neighbouring properties Arrowlea and The Old Barn.
3. The site is adjacent to the village boundary. Both the PC and Officer in this report have said the site is suitable for development of up to 5 dwellings. However NPPF at para 119 says "decisions should promote an effective use of land" so 6 No. dwellings on 0.65h is making a more effective use of the site and provides some lower cost dwellings.



4. Policy RA2 states development will be permitted within and adjacent to the boundary. This is confirmed in the report at 6.8 which says "The principle of developing the site with housing is therefore accepted".
5. I had the same argument of urbanisation put forward at Yarpole. The Inspector there did not agree and awarded costs against the Council. The Committee are welcome to inspect that site which is nearly completed.
6. The amended layout of the 3 No. cottages was put forward for discussion and to demonstrate that it was a poor alternative. It had more impact on Arrowlea. The garage layout and parking became cramped. The amenity areas were on the north side of the building. There would be parking at the front of the properties and an area of ground against the road which would be in multiple ownership and probably neglected. There was no improvement achieved. It did not work, unfortunately. No discussion ever took place. I was only asked if the drawing was submitted as an amendment which it was not.
7. The NP allocates 18 dwellings in Eardisland and Policy RA2 states development will be permitted within and adjacent to the boundary. This is confirmed by the report at 6.8 which says "The principle of developing the site with housing is therefore accepted". Only 2 dwellings have been built in Eardisland since the adoption of the NP in 2016. Neither was on zone 1 land.
8. The Environment Agency have now agreed the finished floor levels and flood risk resilience and withdrawn their objection.

### Refusal Reason 3

1. Natural England have not objected.
2. The concept of the proposal was to maintain View 1 but to provide a design which would actually enhance the approach into the village. The row of 3 small cottages in vernacular design with an arched opening to service the rear and remove all parking and garages from sight, it was believed would enhance the approach, i.e. would be an improvement on what is there now. It still is believed to be the case.
3. A photograph of a similar 3 No. cottages built by the agent 25 years ago in Shropshire which was submitted to illustrate how the approach would look, has not been produced in the report even though it appears on the website. Could it now be shown to the Committee please?
4. Materials chosen are timber, brick, stone and render with traditional steeply pitched roofs in slate and clay tiles. The properties are designed to complement the established local character of the village.
5. The Conservation Officer has stated that the proposal will result in less than substantial harm to an interest of acknowledged importance.
6. The principal elements of heritage significance in Eardisland are focused on the vicinity of the bridge.
7. The relatively small scale of the proposal extending away from the road with its vernacular character and many similar elevational treatments as within Eardisland ensures that a gentle transition occurs between the buildings and the rural landscape beyond. The group of 3 cottages gives a mix of dwellings and an appearance of 4 units set back behind Arrowlea.

8. The traditional design and detailing of vernacular character will require established craftsmen to undertake the work supporting a local skill base essential to protect the recognised character of local properties.
9. The proposed development site constitutes an additive change on the fringe of the settlement which does not impact upon the core elements of the village and being an adjunct to the built edge of the community alters yet maintains its overall relationship with the open rural area beyond.
10. To re-orientate the row of cottages might seem an improvement to the Conservation Officer but would not be to the occupiers of the dwellings. The disadvantages are the back gardens would be facing north, the parking and garages are too cramped so parking on the front of the dwellings would be unavoidable.
11. Who is going to be responsible for the large area along the roadside View 1?

#### Refusal Reason 4

1. The access is an adaptation of the existing field access to comply with Highways Regulations.
2. The Highways Officer confirms that none of the traffic related matters such as access, egress, parking, turning or traffic generation are considered unsatisfactory.
3. The Highways Engineers only objection appears to be that there is no pavement into the village. The applicant has offered to restore the verge on the south side of the road which in places has become overgrown due to neglect and which his traffic consultant says in his report provides a safe step off the road which is normally accepted in rural situations where a pavement would introduce a detrimental suburban element.
4. The Highways Engineer should be reminded that NPPF para 111 says "Development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road would be severe".

#### Refusal Reason 5

1. The reason given by the planning officer is a total misrepresentation of the Emergency Planning Officer's consultation reply and wholly unreasonable.
2. The Emergency Planning Officer did not OBJECT.
3. What the Emergency Planning Officer actually said was that in the event of permission being given he would request a Condition requiring a "Flood Evacuation Management Plan" to be included.
4. This misrepresentation is disgraceful behaviour. In my opinion, the whole report appears to have been written to mislead.

#### Other Matters

The case officer has been advised that the alternative pedestrian route referred to at paragraph 6.36 in the report is not a viable option for pedestrian use. A significant section of the route shown in red in the report is on private highway and therefore is not available for public use without the agreement of the landowner. It is understood that no such agreement has been reached.



## OFFICER COMMENTS

In response to the email received from the applicant's agent, the following comments are provided:

### Reason 1

The email misunderstands the grounds for refusal. It is not based on the efficacy of the proposed drainage arrangements per-se, but rather the fact that the proposal lies within the River Lugg sub-catchment of the River Wye SAC and that it has a failing status. The scheme has failed to demonstrate compliance with the criteria as set out in the Council's Position Statement for development within the River Lugg catchment. The Planning Committee is well-versed on this matter and it will be aware that a positive determination of the application cannot be made unless the proposal can demonstrate nutrient neutrality or betterment. In this case it would require the purchase of phosphate credits. If the proposal is deemed to be acceptable in all other respects then the committee could resolve to approve the application subject to nutrient neutrality being demonstrated.

The comments appear more to be aimed at the consultation response provided by the Council's Land Drainage Engineer. The comments referred to at point 1 have been published to the website. A further response to them has not been received from the Council's Land Drainage Engineer but on the basis of the advice given above officers do not consider that this compromises the ability of the committee to make a decision.

### Reason 2

The comments do not really address the fundamental thrust of the reason, which is that the proposal is out of keeping and does not respect the established settlement pattern of the village.

The reference to a scheme in Yarpole at point 5 is not material to the determination of this application. Each should be determined on its own merits.

The alternative indicative layout referred to does not form part of the determination of this proposal. The officer's report is quite clear on this at paragraph 1.10

### Reason 3

The comments provided simply counter those put forward by the case officer and the Council's Historic Buildings Officer in respect of the perceived harm to the setting of the conservation area. Officers accept that the harm to the conservation area (the heritage asset) is less than substantial. In accordance with the test set out at paragraph 202 of the NPPF, the less than substantial harm to the significance of the heritage asset should be weighed against the public benefits of permitting the scheme. Officers have applied this approach and find that the harm is not outweighed by the benefits.

### Reason 4

Restoration of the verge does not amount to the provision of a public footpath. The applicant's agents comments singularly fails to recognise the hierarchy of road users that paragraph 112 of the NPPF sets out; re-produced at paragraph 6.37 of the report. Paragraph 111 of the NPPF does indeed suggest that developments should only be prevented or refused on highway grounds "*...if there would be an unacceptable impact on highway safety...*" Officers are of the view that the lack of adequate provision for pedestrians amounts to an unacceptable impact on highway safety.

### Reason 5

At no point does the officer's report refer to an 'objection' from the Emergency Planning Officer, rather at paragraph 6.54 the appraisal says that the matter of safe access during a flood event has not been adequately addressed. In the absence of any additional information to address this matter officers have little option but to include this as a reason for refusal. The suggestion of a condition by the Emergency Planning Officer is not a tacit agreement to the acceptability of the proposal, rather that it covers the possibility that planning permission might be granted.

The Planning Committee will take their own view on whether the report is misleading. However, officers consider that it sets out all of the matters that are material to the determination of the application. The responses of technical consultees are included and are available to view in full on the website and the reasons for refusal clearly reflect the comments that have been received.

#### Other Matters

The availability or otherwise of the route for pedestrians was not crucial to officers consideration of the proposal in respect of highway safety matters. The option shown, and now to be disregarded, provided a convoluted route for pedestrians that would not be likely to be used to walk to the centre of the village. Officers remain of the view that the proposal is unacceptable in terms of highway safety.

#### **NO CHANGE TO RECOMMENDATION**