

# Agenda

## Planning and Regulatory Committee

Date: **Wednesday 4 June 2025**

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Time: **10.00 am**

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Place: **Herefordshire Council Offices, Plough Lane, Hereford,  
HR4 0LE**

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

For any further information please contact:

**Matthew Evans, Democratic Services Officer**

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If you would like help to understand this document, or would like it in another format, please call Matthew Evans, Democratic Services Officer on 01432 383690 or e-mail [matthew.evans@herefordshire.gov.uk](mailto:matthew.evans@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the meeting of the Planning and Regulatory Committee**

## **Membership**

<b>Chairperson</b>	<b>Councillor Terry James</b>
<b>Vice-chairperson</b>	<b>Councillor Clare Davies</b>

**Councillor Polly Andrews**  
**Councillor Bruce Baker**  
**Councillor Jacqui Carwardine**  
**Councillor Simeon Cole**  
**Councillor Dave Davies**  
**Councillor Matthew Engel**  
**Councillor Catherine Gennard**  
**Councillor Peter Hamblin**  
**Councillor Stef Simmons**  
**Councillor John Stone**  
**Councillor Charlotte Taylor**  
**Councillor Richard Thomas**  
**Councillor Mark Woodall**

## Agenda

	Pages
<b>PUBLIC INFORMATION</b>	
<b>GUIDE TO THE COMMITTEE</b>	
<b>NOLAN PRINCIPLES</b>	
<b>1. APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
<b>2. NAMED SUBSTITUTES (IF ANY)</b> To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
<b>3. DECLARATIONS OF INTEREST</b> To receive declarations of interests in respect of items on the agenda.	
<b>4. MINUTES</b> To approve the minutes of the meeting held on 7 May 2025.	13 - 16
<b>5. CHAIRPERSON'S ANNOUNCEMENTS</b> To receive any announcements from the Chairperson.	
<b>6. 231806 - HILLCREST, FOY, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6RD</b> Proposed siting of 12 no. holiday lodges for use as tourist accommodation on land within the established planning unit.	17 - 44
<b>7. 240349 - LAND AT RAMBLERS WAY, WINFORTON, HEREFORD, HR3 6EP</b> Proposed development of 9 dwellings (6 x open market and 3 x affordable).	45 - 104
<b>8. DATE OF NEXT MEETING</b> Date of next site inspection – 29 July 2025 Date of next meeting – 30 July 2025	



# **The Public's Rights to Information and Attendance at Meetings**

## **YOU HAVE A RIGHT TO: -**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

## **Recording of meetings**

Please note that filming, photography and recording of this meeting is permitted provided that it does not disrupt the business of the meeting.

Members of the public are advised that if you do not wish to be filmed or photographed you should let the governance services team know before the meeting starts so that anyone who intends filming or photographing the meeting can be made aware.

The reporting of meetings is subject to the law and it is the responsibility of those doing the reporting to ensure that they comply.

The council may make an official recording of this public meeting or stream it live to the council's website. Such recordings form part of the public record of the meeting and are made available for members of the public via the council's web-site.

## **Travelling to the meeting**

The Herefordshire Council office at Plough Lane is located off Whitecross Road in Hereford, approximately 1 kilometre from the City Bus Station. The location of the office and details of city bus services can be viewed at: <http://www.herefordshire.gov.uk/downloads/file/1597/hereford-city-bus-map-local-services>. If you are driving to the meeting please note that there is a pay and display car park on the far side of the council offices as you drive up Plough Lane. There is also a free car park at the top of plough lane alongside the Yazor Brook cycle track.



### Guide to Planning and Regulatory Committee

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

Councillor Terry James (Chairperson)	Liberal Democrat
Councillor Clare Davies (Vice Chairperson)	True Independents
Councillor Polly Andrews	Liberal Democrat
Councillor Bruce Baker	Conservative
Councillor Jacqui Carwardine	Liberal Democrat
Councillor Simeon Cole	Conservative
Councillor Dave Davies	Conservative
Councillor Matthew Engel	Independents for Herefordshire
Councillor Catherine Gennard	The Green Party
Councillor Peter Hamblin	Conservative
Councillor Stef Simmons	The Green Party
Councillor John Stone	Conservative
Councillor Charlotte Taylor	Independent for Herefordshire
Councillor Richard Thomas	Conservative
Councillor Mark Woodall	The Green Party

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

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

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

### **Who attends planning and regulatory committee meetings?**

The following attend the committee:

- Members of the committee, including the chairperson and vice chairperson.
- Officers of the council – to present reports and give technical advice to the committee
- Ward members – The Constitution provides that the ward member will have the right to start and close the member debate on an application.

(Other councillors - may attend as observers but are only entitled to speak at the discretion of the chairman.)

### **How an application is considered by the Committee**

The Chairperson will announce the agenda item/application to be considered. The case officer will then give a presentation on the report.

The registered public speakers will then be invited to speak in turn (Parish Council, objector, supporter). (see further information on public speaking below.)

The local ward member will be invited to start the debate (see further information on the role of the local ward member below.)

The Committee will then debate the matter.

Officers are invited to comment if they wish and respond to any outstanding questions.

The local ward member is then invited to close the debate.

The Committee then votes on whatever recommendations are proposed.

### **Public Speaking**

The Council's Constitution provides that the public will be permitted to speak at meetings of the Committee when the following criteria are met:

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



- h) on completion of public speaking, councillors will proceed to determine the application
- i) the chairperson will in exceptional circumstances allow additional speakers and/or time for public speaking for major applications and may hold special meetings at local venues if appropriate.

*(Note: Those registered to speak in accordance with the public speaking procedure are able to attend the meeting in person to speak or participate in the following ways:*

- *by making a written submission (to be read aloud at the meeting)*
- *by submitting an audio recording (to be played at the meeting)*
- *by submitting a video recording (to be played at the meeting)*
- *by speaking as a virtual attendee.)*

### **Role of the local ward member**

The ward member will have an automatic right to start and close the member debate on the application concerned, subject to the provisions on the declaration of interests as reflected in the Planning Code of Conduct in the Council's Constitution (Part 5 section 6).

In the case of the ward member being a member of the Committee they will be invited to address the Committee for that item and act as the ward member as set out above. They will not have a vote on that item.

To this extent all members have the opportunity of expressing their own views, and those of their constituents as they see fit, outside the regulatory controls of the Committee concerned.



**The Seven Principles of Public Life  
(Nolan Principles)**

**1. Selflessness**

Holders of public office should act solely in terms of the public interest.

**2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**4. Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**5. Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**6. Honesty**

Holders of public office should be truthful.

**7. Leadership**

Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.



**Minutes of the meeting of Planning and Regulatory Committee held at Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Wednesday 7 May 2025 at 10.00 am**

**Present:** Councillor Terry James (chairperson)

**Councillors:** Polly Andrews, Bruce Baker, Jacqui Carwardine, Simeon Cole, Dave Davies, Matthew Engel, Catherine Gennard, Stef Simmons, Charlotte Taylor, Richard Thomas and Mark Woodall

**Officers:** Development Manager Majors Team, Highways Adviser and Legal Adviser

**63. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors Clare Davies and Peter Hamblin.

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

There were no named substitutes.

**65. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**66. MINUTES**

A correction to the minutes of the 9 April 2025 was raised. References to the prod required amendment to 'pod' in the recording of the consideration of application 243062.

**RESOLVED:** That the minutes of the meeting held on 9 April 2025 be approved.

**67. 242157 - LAND AT ASHLEY FARM, GRAFTON COURT CLOSE, GRAFTON, HEREFORD, HEREFORDSHIRE**

*Councillor Jacqui Carwardine acted as the local ward member and Richard Thomas acted as the adjoining local ward member for the application below.*

The principal planning officer provided a presentation on the application.

In accordance with the Council's constitution the local ward member spoke on the application. In summary, she explained that the development provided a valuable community asset for local families and children. The application was supported.

In accordance with the Council's constitution the adjoining local ward member (Wormside) spoke on the application. In summary, he explained that he supported the application.

In accordance with the council's constitution the adjoining local ward member (Redhill) provided a statement which was read to the committee. In summary, he explained that he supported the application which advanced the principle of inclusion in sport and the

local community. The addition of the floodlights would ensure that the facility could be used throughout the year and the application demonstrated how the development supported biodiversity and took account of climate change.

The committee debated the application. The committee felt that the application had addressed concerns regarding local wildlife with the provision of additional habitat. Concerns regarding the light spill from the floodlights and the concerns of the landscape officer had also been addressed.

The Development Manager and Highways Adviser provided clarification regarding the provision of car parking and access to the changing rooms.

The local ward member and adjoining ward member (Wormside) were given the opportunity to close the debate.

Councillor Bruce Baker proposed and councillor Stef Simmons seconded a motion to approve the application in accordance with the case officer's recommendation.

The motion was put to the vote and was carried unanimously.

**RESOLVED:**

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

**1 Time limit:**

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

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

**2 Approved Drawings:**

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

- **Cabin and Container Location Plan: Dwg: PL120**
- **Cabin and Container Site Plan: Dwg: PL121**
- **Cabin and Container Floor Plans: Dwg: PL122**
- **Cabin and Container Elevations Plan: Dwg: PL123**
- **Site Location: Lighting and Cabins: Dwg: PL002**
- **Site Plan: Lighting and Cabins: Dwg: PL021**
- **Elevations: Dwg: MCA-MUK 3228-10**
- **Proposed Scheme: Dwg: MCA-MUK 3228-02 Rev C**
- **Proposed Pitch Layout: Dwg: MCA-MUK 3228-03 Rev B**
- **Lighting Impact-02 Vertical a2407-01**
- **Lighting Impact-01 Horizontal a2407-01**

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

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

### **3 Colours of floodlight columns and storage building:**

The floodlight columns hereby approved shall be powder coated prior to their installation in dark green (RAL 6007) or an alternative colour which has been submitted to and approved in writing by the Local Planning Authority. Details of the RAL colour for the storage building shall also be submitted to and approved in writing by the Local Planning Authority. Thereafter the columns and container shall be retained in that colour.

**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 and the National Planning Policy Framework

### **4 Hours of use of Floodlights:**

The floodlights hereby approved shall not be illuminated outside the following times: 15:30 to 22:00 hours on any day.

**Reason:** To minimise the impact of the floodlights and protect the residential amenities of nearby dwellings in accordance with policies SS6 and SD1 of the Herefordshire Local Plan – Core Strategy and requirements of the National Planning Policy Framework.

### **5 Surface Water:**

Surface water flows from the development shall only communicate with the public (combined sewer / surface water sewer) through an attenuation device that discharges at a rate not exceeding 2l/s.

**Reason:** To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment as requested by Welsh Water.

### **INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. 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) and the Habitats and Species Regulations (2019 as amended), with enhanced protection for special “high status 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. If any protected species or other wildlife is found or disturbed during works then all works should stop and the site made safe until professional ecology advice and any required 'licences' have been obtained. Any additional lighting should fully respect locally dark landscapes and associated public amenity and nature conservation interests

3. 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. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

In accordance with National Planning Policy Framework (Edition 12) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements

The meeting ended at 11.41 am

Chairperson



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>4 JUNE 2025</b>
<b>TITLE OF REPORT:</b>	<b>231806 - PROPOSED SITING OF 12 NO. HOLIDAY LODGES FOR USE AS TOURIST ACCOMMODATION ON LAND WITHIN THE ESTABLISHED PLANNING UNIT AT HILLCREST, FOY, ROSS-ON-WYE, HR9 6RD</b>  <b>For: Mr Sutton per Mr Ed Thomas, 13 Langeland Drive, Hereford, Herefordshire, HR4 0QG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231806">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231806</a>
<b>Reason Application submitted to Committee – Redirection</b>	

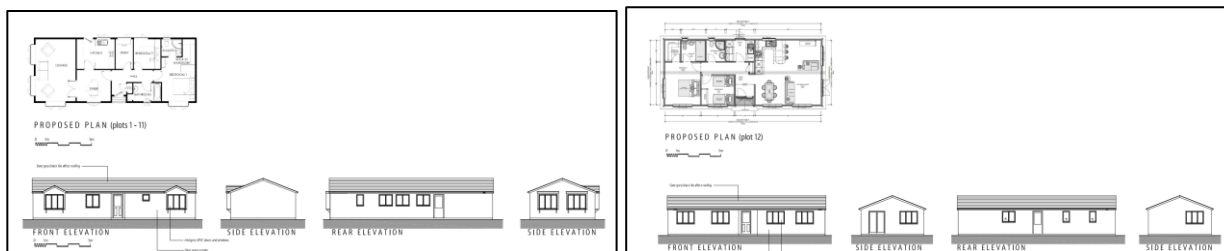
**Date Received: 12 June 2023****Ward: Old Gore****Grid Ref: 359947,228978****Expiry Date: 31 March 2024**

Local Member: Cllr Barry A Durkin

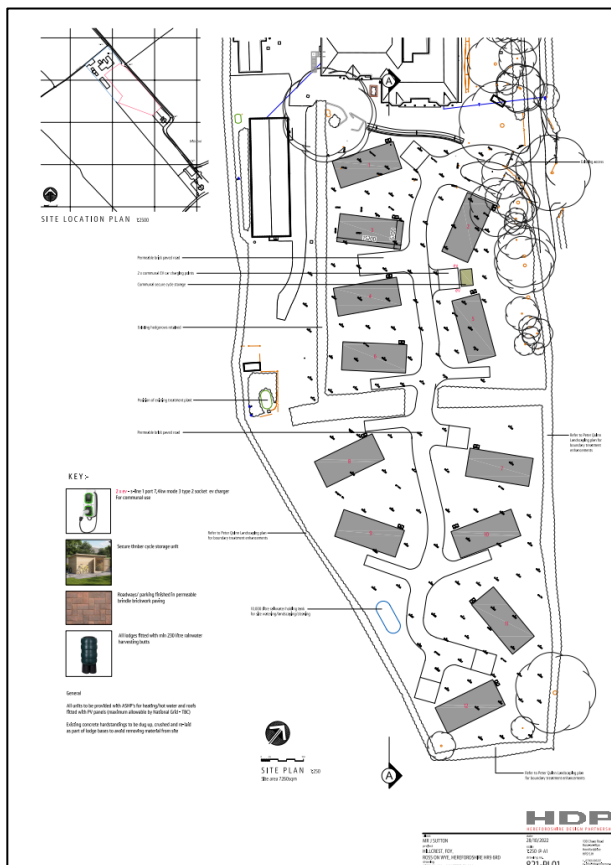
## 1. Site Description and Proposal

- 1.1 The application site is located to the northeast of Foy, approximately 4.3 kilometres from the town centre of Ross-on-Wye, within the Wye Valley National Landscape. It is situated within Flood Zone 1. The site is accessed via a private road that leaves the north side of the U71006, passing between the residential properties Stephlands Cottages and Whitewalls and which ends at Underhill Farm. The site exhibits a pronounced slope towards the southeast and is enclosed by substantial vegetative boundary treatments. The accompanying Landscape and Visual Appraisal (Peter Quinn Associates) provides a detailed assessment of the site and surrounds.
- 1.2 The site was previously utilised for the purposes of recreational activities offering accommodation for children (former PGL site known as Hillcrest). The Design and Access statement provides details of the planning history of the site and advises that Hillcrest has become surplus to requirements *‘and mindful of the lawful use of the site and its discrete nature within the AONB, the applicant seeks to continue, in a proportionate matter. The residential occupation of the site by tourist but via lodges, which meet the definition of ‘caravans’*
- 1.3 The application therefore seeks approval for the construction of twelve self-contained, two-bedroom holiday accommodation units (within the definition of a caravans) situated to the southeast of the site. It is identified that each unit is proposed to have a footprint of 101.8 square metres, with dimensions of 15.2 metres in length and 6.7 metres in width, and a ridge height of 3.7 metres. The proposal also includes associated landscaping works.

Extracts from the Amended proposed plans are provided on the next page for ease:



*Extracts - Proposed Plans – Drawing number 821-PL06*



*Extract – Drainage 821-PL01 Rev D – Site Plan – Master Plan / Location Plan*

1.4 The application has been amended during the course of the application and the amended plans have been subject to re-consultation in Feb/ March 2025.

## 2. Policies

### 2.1 The Herefordshire Local Plan Core Strategy (CS)

- SS1 - Presumption in Favour of Sustainable Development
- SS4 - Movement and transportation
- SS5 - Employment provision
- SS6 - Environmental quality and local distinctiveness
- SS7 - Addressing climate change
- RA6 - Rural Economy
- E1 - Employment provision
- E4 - Tourism
- MT1 - Traffic Management Highway Safety & Active Travel
- LD1 - Landscape and Townscape

- LD2 - Biodiversity and Geodiversity
- SD1 - Sustainable Design and Energy Efficiency
- SD2 - Renewable and low carbon energy
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Wastewater Treatment and River Water Quality

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

[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

## 2.2 Brampton Abbots and Foy Neighbourhood Development Plan (BAFNDP)

<https://www.herefordshire.gov.uk/downloads/file/25426/draft-neighbourhood-development-plan-may-2023>

The Brampton Abbots and Foy Group Neighbourhood Development Plan was made on 7 June 2021. It now forms part of the Development Plan for Herefordshire

- Policy BAF2 – Good Quality Design
- Policy BAF4 – Landscape and Scenic Beauty
- Policy BAF5 – To Support the Growth of Small-Scale Rural Businesses
- Policy BAF8 – The Management of Traffic Safety around The Neighbourhood Development Plan Area

## 2.3 National Planning Policy Framework (NPPF)

- Chapter 2 – Achieving sustainable development
- Chapter 6 – Building a strong and competitive economy
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

- 2.4 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020 and the review process is currently underway. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the most relevant policies of the CS – which are considered to be those relating to meeting housing needs, guiding rural housing provision, highways safety and safeguarding features of environmental value (amongst others) – have been reviewed and are considered to be consistent with the NPPF. As such, it is considered that they can still be attributed significant weight.

## 3. **Planning History**

- 3.1 The planning history of the site is described within the submitted Design and Access statement and is summarised below:

<b>Application No.</b>	<b>Description of Development</b>	<b>Decision</b>
P250394/F (adjoining)	Change of use of Hillcrest to 2 no. self-build C3 dwelling houses and continued use of staff accommodation as two dwelling houses (part retrospective).	Approved with Conditions 9 <sup>th</sup> April 2025

P213789/F	Proposed extension to manager's accommodation, activity pond, parking area, internal road alterations and external shelters.	Withdrawn
P201722/F	Change of use of former residential adventure centre to residential dwellings with no internal or external alterations	Refused
P200927/F	Change of use of former residential adventure centre to two residential dwellings.	Withdrawn
SE1999/3076/F	Erection of Staff Accommodation	Approved
SE2001/2642/F	Retrospective application for erection of a replacement climbing and abseil tower	Approved
SE1999/1990/F	Erection of staff accommodation facilities	Withdrawn
SH931163PF	Staff Bathroom Extension	Approved
SH911063PF	Siting of 8 Caravans to be used by staff during March- September	Refused
SH880087PF	New Sewage Treatment Plant	Approved
SH85015PF	Erection of a Scaffold Abseil Tower	Approved

#### 4. Consultation Summary

##### 4.1 Area Engineer Team Leader comments (March 2025):

The local highways authority has considered the amended drawings and makes the following comments.

The proposal is the same as previously submitted but the layout has improved the traffic movements on site. There is now EV charger supplied on site as well as secure cycle storage which is welcomed to promote sustainable modes of transport.

The previous comments supplied and conditions suggested are still relevant and should be considered when deciding the application.

##### 4.2 Area Engineer Team Leader comments (July 2023):

The proposals seek to develop 12 holiday lodges along a private lane and as such does not feed directly onto the surrounding local highway network.

The access to the site is as existing. However, it is noted that the width of the internal access road is identified to be 4 metres. This would not facilitate passing manoeuvres and as such should be widened to a minimum width of 4.1 metres to allow for the passing of two cars in accordance with Manual for Streets guidance. It is considered that this can be conditioned.

In addition, there also seems to be a pinch point at the existing access. It is noted that this is under the canopy of a number of trees. This pinch point could result in conflicts between vehicular movements accessing and egressing the site. The applicant should ensure that the width of the internal access road is consistent throughout the proposed development.

No details with regard to car and cycle parking on site have been provided. It is however noted that there is sufficient space on site to accommodate one space per holiday lodge and as such this can again be conditioned.

The local highway authority therefore have no objections to the development proposals subject to the following conditions.

1. Prior to the first occupation of the holiday lodges hereby approved an area shall be laid out within the curtilage of the lodges for the parking of one car per lodge. This shall be properly consolidated, surfaced and drained in accordance with details to be submitted to and approved in writing by the local planning authority and that area shall not thereafter be used for any other purpose than the parking of vehicles.

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

2. Development 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
- Construction Traffic Management Plan

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.

3. Prior to the occupation of the development hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage of the site shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the occupation of any of the holiday lodges hereby permitted. Thereafter these facilities shall be maintained;

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform to the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. Development shall not begin in relation to the provision of road and drainage infrastructure until the following details are submitted to and approved in writing to the local planning authority:

- Design of the internal access serving the holiday lodges to a minimum width of 4.1 metres.
- Surface finishes
- Drainage details
- Future maintenance arrangements

The development shall be carried out and thereafter maintained in accordance with the approved details.

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

#### 4.3 Environmental Health Officer- Noise and Nuisance (06/12/24)

This is a proposal for 12 self-catered, 2-bed holiday units and associated works.

I have some concerns with the potential for noise from the proposal having an adverse effect on the local community. The nature of the area means that background noise levels will be low and there is potential for noise to impact on nearby local residents, especially those that live immediately next to the site.

Therefore, whilst this department does not object to this application, it is on the proviso that the following condition is added to any permission granted:

Prior to first commencement of the use hereby permitted, a noise management plan shall be submitted to, and approved in writing by the Local Planning Authority.

The noise management plan should address the following headings:

- statement of intent
- brief summary of the premises / site / activities
- location / site plan
- inventory of potential noise sources
- details of noise controls and limits (e.g. site rules)
- site noise monitoring and / or evaluation
- responding to complaints (including actions to be undertaken and recorded)
- management command, communication, and contact details
- periodic NMP review

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

#### 4.4 Natural Environment Officer (Landscape) (19/03/2025)

I note that the latest site plan (dwg no 821-PL01 rev D) now shows the vehicle access road as being block paving, which was previously shown as gravel (dwg no 821-PL01 rev C). Block paving has a more suburban and permanent appearance, than that of gravel which is regularly found on rural farm tracks.

Comments in my previous response still stand (dated 16/07/2024).

#### 4.5 Natural Environment Officer (Landscape) (16/07/2024)

I welcome the revised layout, increased proposed planting and the levels information.

I remain unconvinced however that the site can accommodate the number of proposed caravans without significant detriment to the overall landscape character, including the remoteness and tranquillity, due not only to the built form and infrastructure, but the general increase in noise, movement, colour and light that does not currently exist in the area.

I would support the proposals for the northern 6 caravans. These are located on the flatter ground and require less earthworks, as now clearly demonstrated on the site plans and section. There is also more established trees and hedgerows in this northern half, which can be adequately added to as demonstrated in the latest landscape layout. The caravans would be seen and experienced in close proximity to the existing built form adjacent to the northern boundary. The appearance of the caravans could still be improved if they have a range of external colours / finishes, to include



different shades of green or timber cladding, rather than just a single treatment. The re-aligned track is welcome, giving a less urban feel to the site, however it is questioned from a landscape point of view whether the concrete kerb edging is required or whether a softer edge would be suitable if it were serving 6 caravans instead of 12.

I maintain my objection to the southern 6 caravans. This area does not have the same context of existing built form. It is far more steeply sloping, from 67.33 in the north east corner, down to 62.56 in the south west. The provided site section shows the outline of the cut into the slope that would be required for each caravan – material which would need to be removed from site or spread elsewhere, permanently altering the natural topography of this undeveloped field. Retaining this lower, sloping half of the site as an open, recreational field for the use of 6 caravans would be a more appropriate landscape response. This southern half of the proposals do not demonstrate that the character of the landscape has positively influenced the scale of the development and does not conserve and enhance the natural, historic and scenic beauty of the AONB. This part of the application is contrary to Core Strategy Policy LD1.

If the application were to be approved, then pre-start conditions should be added to provide a detailed landscape scheme, a landscape management plan to ensure plant establishment and a site management plan to demonstrate sustainable long term use of the site

#### 4.6 Natural Environment Officer (Landscape) (07/02/2024)

I welcome the submission of the Landscape and Visual Appraisal by Peter Quinn Associates. It does not, however, fulfil all the missing information, previously identified, that would allow a full assessment of the impact, particularly on landscape character.

As stated at LVA para 3.2 no levels information is provided – however the sloping ground is a key characteristic of the site and surrounding area. The construction would likely include some earthworks to create level parking areas and drainage and the lodges / caravans would require steps / retaining structures to make them level on the site.

I disagree with LVA para 5.2, which states that the site contributes little to the AONB in terms of character and views and has a low-moderate landscape value. My conclusion would be that the undeveloped nature of the two fields making up most of the site makes a positive contribution, particularly to the picturesque, extensive and dramatic views and the overall view of arable, mixed farming and orchards and hedgerows that define field boundaries. This is demonstrated in the distant view points 9 -13, where the site forms a subtle feature in the wider landscape – it is not negative or degraded and does not draw the eye in conflict with the surroundings.

I draw attention to the text set out in para 4.6 of the LVA, stating that there would be an adverse effect on landscape quality and character at close quarters. This notes that there will be some light spill, particularly on winter nights. There are very few details in relation to the actual design of the lodges / caravans, but it is clear in this paragraph they do not reflect local distinctiveness or architectural detailing and materials. The intensity of numbers and parking on the site will introduce a clustered settlement pattern that would appear incongruous at this point in the landscape. There would be an increase in visual uniformity through the introduction of 12 structures that are of the same design and scale.

The viewpoints selected are appropriate and suitably presented. It is agreed that it is the southern half of the site that is generally more visible. It is agreed that in distant views there would be a slight **adverse** visual impact. It is also agreed that in close / adjacent views there would be a moderate **adverse** visual impact.

The mitigation proposals are suitable, however I disagree that even in the long term their impacts would reduce the overall effect to be neutral. This is particularly due to the sloping ground, which would likely have some permanent alterations and the character impact of the intense and uniform

use across a currently green and undeveloped area. The planting proposals set out on the Landscape Mitigation and Enhancement Plan (Appendix A2) are suitable, were other issues to be overcome.

If the application is to be considered further, I request that information is provided, as per my previous response and where details are lacking within the LVA. This particularly relates to the design of the lodges / caravans, associated paraphernalia (bins stores, bike stores, etc) and the impacts on the levels. Ideally the intensity of use on the lower field would be reduced to 2 or 3 units, therefore protecting more open space as per the existing and surrounding conditions. The layout of the lower field could also be of a more bespoke design (removing the repetitive pattern of units 8, 9, 11 and 12) if it is based on a topographical survey and therefore demonstrates that it informed by the existing landform.

#### 4.7 Natural Environment Officer (Ecology) –(01/04/2025)

Ecology have no comments to make in regard to the amended site plans. All conditions suggested in previous response remain relevant

#### 4.8 Natural Environment Officer (Ecology) 03/08/2023

Notes in respect of Habitat Regulation Assessment (River Wye SAC)

The proposal includes new additional foul and surface water. The proposal is for the creation of 12 no. holiday lodges for use as tourist accommodation.

- The River Wye SSSI has been declared as unfavourable declining and the LPA has a duty to ensure developments do not make this situation worse or hinder the improvement of the condition of this SSSI.
- The proposal will be discharging to an existing package treatment plant that has been suitably sized.
- The Drainage report by Ekoflow shows the package treatment plant system on site is fully operational and serviced and is able to cope with the proposed holiday homes on site.
- The proposal will lead to additional surface water to be created.

The drainage inspection report by Ekoflow proposed that the system on site is fully operation and able to accept additional population.

No other potential effects on the River Wye SAC are identified for this proposed development at this location.

As all mitigation measures are clearly embedded into the proposed development and plans supplied and approved this application can be considered as ‘screened out’ at Stage 1 of the HRA appropriate assessment process and no formal consultation with Natural England is triggered for this specific application.

Notes in regards to ecology

The site is within the Wye Valley AONB and less then 1km from the River Wye SSSI. The PEA by Wilder Ecology dated 8 March 2023 classed the site as semi-improved grassland habitat. Site habitat boundaries will not be impacted and the site has negligible suitability for use of protected species. From information supplied and images available there are no immediate ecology related concerns with this proposal. There are no ecological records of important or Protected Species in the immediate locality to the site. We offer no further ecology comments but require the following conditions to be adopted.



### Conditions

The site is in an area with an intrinsically dark landscape that benefits local amenity and nature conservation, including nocturnal light sensitive species known to be present in the area. A condition to ensure all external lighting is kept to the essential minimum and any systems installed compliant with current best practice is requested:

### Lighting

- a. At no time shall any external lighting be installed on the site without the written approval of this local planning authority.
- b. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.
- c. No external lighting should illuminate any enhancement or boundary feature.

Reason: To ensure that all species and Dark Skies are protected 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 SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/18)

### Ecological Protection & Protected Species

The ecological protection, mitigation, compensation and working methods scheme including recommended Biodiversity Enhancement, any required European Protected Species Licence, and the mitigations mentioned in the PEA by Wilder Ecology dated 8 March 2023 shall be implemented in full as stated, and hereafter maintained, unless otherwise approved in writing by the local planning authority and Natural England as relevant to the protected species licence.

Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement 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 (2015) policies LD1, LD2 and LD3.

#### 4.9 Natural Environment Officer (Ecology) (06/07/2023)

The site is within the River Wye SAC catchment and is directly adjacent to the River Wye SAC-SSSI; and this proposed development triggers the legal requirement for a Habitat Regulations Assessment process to be carried out by the LPA, the final HRA 'appropriate assessment' completed by the LPA must be formally approved by Natural England PRIOR to any future planning consent being granted.

Sufficient and detailed information will be required to be submitted with any future outline or full applications to allow the authority to assess the proposal through its Duty of Care under NERC Act and Habitat Regulations. Natural England will also need to be a statutory consultee and will require sufficient information, like ourselves, to formally undertake a Screening Assessment for 'Likely Significant Effects' and then subsequently undertake a relevant Appropriate Assessment to determine and recommend relevant and appropriate Conditions to secure that the development(s) will have NO 'likely significant adverse effects' on the relevant SAC.

This HRA process needs to be completed based on all current requirements and considerations and on information supplied in support of this specific application and that is sufficiently detailed to allow any relevant conditions to be secured.

The HRA process must be completed with legal and scientific certainty and using a precautionary approach.

## Notes in respect of HRA

- The proposal is for TWELVE Holiday Lodges with associated foul water flows created.
- The River Wye SSSI has been declared as unfavourable declining and the LPA has a duty to ensure developments do not make this situation worse or hinder the improvement of the condition of this SSSI.

The application form and D&A Statement refer to a drainage report by Ekoflow to demonstrate that the existing foul water management system has capacity and that additional flows created will not lead to any effects on the River Wye SAC-SSSI (or SSSI condition status). This report does not currently appear to be available for consideration by the LPA and use in required HRA process (and consideration of effects on River Wye SSSI).

Once this additional information has been supplied the required considerations and processes can potentially be progressed and further general ecology comments also made.

## 5. Representations

### 5.1 Brampton Abbots and Foy Parish Council (1.4.2024)

Further to the approved extension of time for comments, the parish council considered the amended drawings provided for this application at their meeting last evening.

Whereas they acknowledge that the proposed layout may have changed, this does not deal with the concerns raised previously by the parish council, and as such, the council continues to object to the proposals on the following grounds:

Impact on the local area: This is an AONB and should be protected from inappropriate and unnecessary development that will detract from its beauty and rural, uncluttered aspect. The lodges are very big – the size of small family homes – and having 12 identical large units can only have an adverse visual effect and the minor alterations to the layout makes little difference in this regard.

Traffic : There is no road leading to the site, only a track, the rubble and mud that will run into the public highway with the increased traffic usage will have a significant detrimental impact on the parish roads. Additionally, the number of vehicles likely to be attending will be significant given that each lodge is proposed to have 2 bedrooms and the road network simply does not support this level of increased constant usage.

Existing structure: It is of extreme concern that the planning department has not determined what the existing house will be used for, and the effects of such usage, and that the applicant has not seen fit to volunteer this information. The parish council strongly believes that until such time as the future use of the existing house is clarified / formalised along with the impact on the parish and its residents, no further development should be considered at the location

### 5.2 Brampton Abbots and Foy Parish Council (15.2.2024)

Further to the re-consultation for the above planning application, the newly uploaded document on the planning website page has been reviewed by councillors.

The PC recognises that the document deals with distant views but it does not deal with the PC's objection due to the effect on the track and PROW.

There also continues to be no mention of the existing structures or how they will be used. In short, the PC does not consider that the new document resolves any of the issues previously raised in

their objection of 26th July 2023 and as such all their original objections remain valid and still stand.

### 5.3 Brampton Abbots and Foy Parish Council (26.7.2023)

The Parish Council objects to this application on the following grounds:

- The number and type of lodges represents an entirely inappropriate development within the rural area in the AONB. It is entirely at odds with para 176 of the NPPF and offers no benefit locally, either to the parish as a whole or the landscape / visual amenity. It is essential that the beauty of the AONB is not eroded by inappropriate and unnecessary development.
  - The parish council is of the opinion that the site is visible from the PROW despite statement to the contrary within the application papers
  - There is no proven need for additional tourist / holiday developments in the parish, indeed anecdotally, there appears to be evidence that there is already over provision. Further, if a need were to be proved, it should / could be accommodated within the existing buildings on the site with no additional impact on the AONB.
  - The application is lack in detail, with no mention of parking provision (24 cars?), facilities, storage etc.
  - The proposal will result in a significant increase in vehicles, along a track that is not suitable, with access / egress into the public highway that will adversely impact on existing users of the road. The access lane is not adopted and has no drainage, already causing regular flooding and mud run off which would increase if its use was increased.
  - The parish council agrees wholeheartedly with the submission from the AONB officer
  - A similar application was made some time ago, and permission was refused as it was not considered appropriate development within the AONB. As all the original issues remain, this application should also be refused.
- Additionally
- The yellow notice (s) were not placed in a visible location The PC has been advised that:
    - Initially there was no notice
    - A notice was later spotted on the private track (not visible from the public highways)
    - Some time later, a notice was placed on a telegraph pole on the public highways
  - The reference to PGL within the application is inappropriate as they no longer own the site and the application has nothing to do with them.
  - Two caravans have been on site for some considerable time, to our knowledge without planning permission and no action has been taken by the Council

### 5.4 Sellack Parish Council (14/2/2024)

The Parish Council has no further comment to make but would like to restate it's infrastructure comments, made under the initial consultation. The consultation responses can be viewed on the Council's website

### 5.5 Sellack Parish Council (07/2023)

Concern was raised re: the amount of traffic on the single track road leading to this property. There is a caravan site along this road too, so traffic may increase. We suggest traffic management notices from the A49 to the site may assist within this and ask that this be considered by Herefordshire Council as potential infrastructure support

## 5.6 Wye Valley National Landscape Team comments (18/7/2023)

The site lies within the Wye Valley Area of Outstanding Natural Beauty (AONB), designated for its outstanding national landscape. As per NPPF (July 2021) paragraph 176, great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations. The scale and extent of development within these designated areas should be limited.

Having reviewed this submission, we have considerable reservations. The permanence of the proposals will create a persistent and dominant feature which will be out of keeping in the Archenfield Lowlands Landscape Management Zone LMZ06, as identified within the Wye Valley AONB Management Plan 2021-2026 of the AONB, damaging several Features and Special Qualities, including through high levels of inevitable noise and/or light pollution. You will be aware of the Wye Valley AONB Management Plan 2021- 2026, adopted by Herefordshire Council as a statutory document. This sets out the vision for the AONB and the priorities for its management over a 5-year period. It is a material planning consideration. We make the following comments:

### Landscape Assessment

We have concerns and question the veracity of the landscape assessment, including the methodology and conclusions drawn. It has not been undertaken in accordance with the principles of the Guidelines for Landscape and Visual Impact Assessment Edition (GLVIA3). Landscape Character Assessment (LCA) profiles, a basic premise of background research, is not reported and it is difficult to appreciate whether this site is representative of the LCA or a transition site. No assessment of Historic Landscape Character has been undertaken, which often leads to underreporting landscape character effects.

The Wye Valley AONB Management Plan nor Features or Special Qualities of the AONB relevant to the application site, are also not referred to in the application. We especially find it perplexing that the assessment has not even placed a high landscape value on the Wye Valley AONB. By underplaying landscape value, it will underreport any conclusions drawn. No discussion has also taken place about the effects on air, water, noise, fauna and flora, and climate. No details of levels have been provided, despite this being a sloping site, nor an arboricultural survey.

Viewpoints appear selective and it is unclear how they have been arrived at. They should be evidently informed through background studies to inform baseline condition and mapping out all site constraints.

Importantly, views of the application site from the Herefordshire Trail (PROW: FY4) have not been considered, as seen on the next page:



The Herefordshire Trail is a long-distance walking trail which loops Herefordshire, taking in the five historic market towns, undulating meadows, ancient orchards, steep hills and glorious river valleys. It would appear to be a representative and important medium distance view of the site, a key Feature of LMZ06, which in turn links to Special Quality 11: 'Picturesque, extensive & dramatic views.' We believe a genuinely more robust assessment is needed, particularly given that worst case winter views and the possible light coloured finish of the lodges has also not been contemplated.

### **Planning Implications**

It is noted each lodge would have limited private space and opportunity to enjoy any sense of peace and tranquillity one would associate with this form of accommodation and location. The extract from the proposed plans shows how little regard to the sites context or a 'countryside experience' is made and how a high density is proposed contrary to the appropriate scale requirements of the AONB. In relation to WVD2, from the information supplied, there is little detail that the proposed development uses high standards of design, materials, energy efficiency and drainage. The development relies on a standard cabin design and private vehicle use for all future occupiers which does not ensure greater sustainability and decarbonisation.

Presence of existing vegetation and natural boundary treatments provide an attractive feature of the site, and which itself exhibits a verdant quality. The application however relies heavily on the screening of the lodges by existing vegetation, supplementary planting and the sloping topography. Existing built development within Foy is generally not well screened, with low, well-maintained boundary hedges and stone walls being the common features. Even if a site is visibly limited from public views, this does not necessarily mean that it would have no distinct impact to the character of a settlement. In this instance, the siting of 12 lodges within this plot of land along with associated development would lead to a harmful erosion of the open countryside which would lead to a tangible change in the pattern and grain of development within the area and thus, the character of the area.

The scheme would result in the introduction of permanent built development within the site, fundamentally altering the site and introducing a discordant addition, eroding the rural aspect that defines this location. Given the proximity of surrounding residential development, the loss of this green area given the existing use of the site as solely pitches rather than permanent lodges, would be particularly injurious to the character of the area. The impact is not solely from the proposed lodge/huts but also the domestic paraphernalia, such as seats and tables and parked cars, but visitors and activities on site, none of which has been shown on the plans. At night, there will be inevitable lights on inside the lodges. We acknowledge that a planning condition could

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Further information on the subject of this report is available from Mr Joshua Evans on 01432 260327



control the use of external lighting and that there is mature landscaping around some of the boundaries of the site and considering the distance from the public highway the structures would not be visible from the road, although will likely be visible from the public right of way FY4 shown above. While the submission states that public views of the proposed development would be limited by an enclosed visual envelope, the site cannot be divorced from the surrounding area, nor from the fields within the wider area.

### **Parking / Erosion of Tranquillity**

We have concern in relation to the impact of the additional car journeys on the tranquil character of this part of the AONB, noting the all-year round nature of the proposed use. Even though the site is in an open countryside location, there will be appreciable noise emanating from site, near the entrance to the access drive and also through site where users will be using PROWs which run through the site itself. We acknowledge that this noise may be absent at other times where there may be low-occupancy at certain times of year although given the permanent nature of the development sought, the area will not be tranquil for much of the year. Considering the amount of trips to and from site, the noise and disturbance from those trips will still be significant. As such the noise and disturbance would result in harm to the overall character of this part of the AONB. We would also request that clarification on parking arrangements be provided given this has not been provided.

### **Mitigation**

Whilst planting should be used, where appropriate, 'screening' should in no way be used to hide inappropriate development. Good building design is always essential. In referring to Section 4.35 of GLVIA3, 'enhancement' is proposals that seek to improve the landscape resource and the visual amenity of the proposed development site and its wider setting, over and above its baseline condition. It is a shame that there are no genuine proposals to enhance the site. Incursion of the proposed development on the site would appear as a suburban form of development that would detract from the otherwise largely unspoilt, undisturbed character and the quiet feel. Whilst the development would be to some extent screened by landscaping, this would only partially mitigate against the harm from the proposal.

### **Planning Policy**

For the purposes of paragraph 177 of the NPPF, whether a proposal is 'major development', is a matter for the decision-maker, considering nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

No exceptional circumstances exist which justifies approval of a development of this size in this area of the AONB, in that the quantum of development relative to the size of the area, and particularly the parish, would be of a significant scale in this part of the AONB, effectively creating a small settlement. The planning statement, in terms of justification, casts doubt as to whether there is sufficient evidence of being representative to establish the existence of a specific and clearly identified unmet overnight accommodation need. There is no sufficient and unequivocal need presented for the provision of additional overnight accommodation in this location.

### **Gravesham Test & Caravan Act**

Given the indicative layout of the lodges, this would still effectively allow for self-containment and encompasses all the features of a dwellinghouse, it should therefore be assessed on that basis in accordance with Herefordshire Council's housing policies. There is no definition of dwellinghouse under

the planning acts, but in *Grovesham BC v SSE and O'Brien* [1983] JPL 306 it was accepted that the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it the facilities required for day-to-day private domestic existence. It did not lose that characteristic if it

was occupied for only part of the year, or at infrequent intervals, or by a series of different persons. Consequently, holiday accommodation that meets the Gravesham test should be treated as a dwellinghouse for the purposes of applying planning policies and not as a commercial or leisure use, even if occupation is restricted by condition. Insufficient information has also been provided to fulfil the Construction, Mobility and Size Test of Section (1) of the Caravan Sites and Control of Development Act 1960; Section 13 (1) of the Caravan Sites Act 1968; and the amendment of the Definition of Caravan 2006, strengthening this reservation further.

## Summary

In the absence of sufficient information, we view the application to conflict with WV-D2 and WV-D3 of the Wye Valley AONB Management Plan 2021-2026, and object. The proposal, in its current guise, would not conserve nor enhance the landscape character or visual amenity of this part of the Wye Valley AONB. The limited landscape assessment has clearly omitted several key viewpoints and underreported actual adverse effects and the proposal, by virtue of its location, scale and nature, will result in considerable and adverse change, taking no demonstrable account of setting, integration or landscape mitigation and is inappropriate to context. A genuinely 'landscape-led' approach is needed.

We trust you will take our comments into consideration.

## Public Representations

5.7 A total of 17 letters of objection have been received. The responses can be summarised as follows:

- Concern over residential amenity
  - Overlooking / impact on privacy
  - Noise
- Impact upon neighbouring properties (works to hedge and boundary treatments / screening)
- Concern over impact upon and condition and intensification of the local highway network
  - Nature of the highway (narrowness / places to pass minimal)
  - Condition of the access track and ownership responsibilities
  - Lack of public transport
  - Lack of footpaths and therefore conflict between pedestrians and vehicles
  - Not a sustainable location
- Drainage arrangements being sufficient and technically acceptable?>
- Concern over commercial waste
- Concern over biodiversity impacts
- Concern over Landscape Impacts
- The proposed units are akin to permanent dwellings in size / scale
  - Agreement with landscape officer comments
  - Too many units
  - Gradient of the site is unsuitable for this development
  - 12 dark coloured mobile units in this prominent location would be out of character
  - Hedge planting will not be sufficient mitigation
  - Hedge is not in the ownership of the application so cannot be modified
  - Comments on the LVA contents and images
  - Impact of lighting
- Query about expected occupiers and management?
- Query about the rest of the site.
- Contradictions in reports on numbers of units to be accommodated

Representations can be viewed online at:

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=231806&search-term=231806](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231806&search-term=231806)

## 6. Officer's Appraisal

### Policy context and Principle of Development

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:  
*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the 'made' Brampton Abbots and Foy Neighbourhood Development Plan. The National Planning Policy Framework is a significant material consideration.
- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and was updated in November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any applications.
- 6.4 Paragraph 85 of the NPPF highlights that planning policies and decisions should foster conditions for businesses to invest, expand, and adapt. It places significant weight on supporting economic growth and productivity while considering both local business needs and broader opportunities for development. Furthermore, Paragraph 88(c) emphasizes that planning policies and decisions should enable sustainable rural tourism and leisure developments that respect the character of the countryside.
- 6.5 Policy E4 promotes Herefordshire as a destination for high-quality leisure visits and sustainable tourism by leveraging, conserving, and enhancing the county's unique environmental and heritage assets. It supports the retention and enhancement of existing accommodation and attractions, as well as the establishment of new facilities, to diversify tourism offerings, extend the tourist season, and increase overnight stays.
- 6.6 Policy RA6 supports proposals that generate employment and strengthen or diversify the rural economy. Specifically, it advocates for a range of economic activities, including supporting local food and drink production and encouraging the diversification of existing agricultural businesses. Proposals must be of an appropriate scale for their location and setting, and they must balance economic benefits against potential impacts on residential amenity, local road networks, and water quality. Key criteria include ensuring developments:
  - Are commensurate with the location and setting;
  - Do not cause unacceptable impacts on nearby residents due to design, massing, noise, dust, lighting, or odour;
  - Generate traffic movements that can be safely accommodated by the local road network;
  - Do not undermine water quality targets as set out in Policies SD3 and SD4.
- 6.7 Policy E1 states that proposals enhancing employment opportunities and diversifying the local economy are encouraged if they:
  - Are appropriate in terms of connectivity, scale, design, and size;
  - Make effective use of previously developed land or buildings;



- Represent an appropriate extension to strengthen or diversify an existing business operation.

- 6.8 The site has a lawful use as an activity centre and in this regard, whilst it is currently disused, should an occupier seek to reinstate the former use, the local planning authority would have limited, if any control over such reinstatement. The proposed redevelopment of the site into holiday-let accommodation aligns with both national and local planning policies as well as its former use and is consistent with strategic aims to support sustainable rural tourism, diversify the local economy, and promote the county as a desirable destination. The scheme offers clear social and economic benefits, contributing to the wider economy by increasing visitor numbers and supporting the rural tourism sector.
- 6.9 While site-specific impacts are addressed in subsequent sections, the proposal aligns with the strategic objectives of the Herefordshire Local Plan - Core Strategy and the NPPF, supporting economic growth and sustainable rural tourism and in this respect the proposal is acceptable in principle.

### Landscape, Scale, Design and Appearance

- 6.10 Policy LD1 is also of relevance to this proposal and requires that proposals demonstrate that the character of the landscape and townscape has positively influenced the design scale, nature and site selection of the development. The proposal is also considered against Policy SD1, which relates to the design of new buildings including garages. The policy states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, and proportions and massing of surrounding development.
- 6.11 Policy BAF2 states that the Neighbourhood Development Plan area has a distinctive and special character, most of it being within the highly-valued landscape of the Wye Valley AONB. It states that new development should make a positive contribution to this distinctive and special character and highly valued landscape by being of good quality design when assessed in relation to the following criteria: Contribution to local identity and sense of place; Suitability of the overall design and appearance of the development (including size, scale, density, layout, access) when assessed in relationship with surrounding buildings, spaces, vegetation, water areas and other features of the surrounding area; Use, and where appropriate re-use, of local and traditional materials or suitable artificial alternatives. It goes on to state that Standardised materials and products should be avoided; Use of space and landscape design; Protection and enhancement of woods, trees, hedgerows, rivers, ditches and water features; Movement to, within, around, and through the development; Originality, innovation and initiative are all considerations that would be weighed positively.
- 6.12 Policy BAF4 states that development proposals will be assessed against the following:
1. Within the settlements and countryside of the AONB their ability to conserve and enhance the scenic and natural beauty of the Neighbourhood Development Plan area and in those areas not within the AONB their degree of impact on the AONB, where identified, and their impact on the wider landscape;
  2. Conservation of the scenic beauty and tranquillity of the AONB.
- 6.13 The National Planning Policy Framework identifies requirements in terms of conserving and enhancing the natural environment at Chapter 15
- 6.14 Paragraph 187 sets out ways in which planning policies and decisions should contribute to and enhance the natural environment, including protecting and enhancing valued landscapes and by recognising the intrinsic character and beauty of the countryside. Furthermore, minimising impacts and providing for net gains for biodiversity and preventing new and existing development

from contributing to unacceptable risk from soil, air, water or noise pollution of land instability. Additionally, land where appropriate.

- 6.15 Paragraph 189 identifies great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.
- 6.16 Paragraph 190 then goes onto say, when considering applications for development within National Parks, the Broads and National Landscapes, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:
- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
  - b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
  - c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.
- 6.17 The accompanying footnote (footnote 67) confirms for the purposes of Paragraphs 182 and 183, whether a development is 'major development' is a matter for the decision maker taking into account its nature, scale, setting and whether it could have a significant adverse impact on the purposes for which the area has been designated or designed. The reference to 'major development' included in footnote 67 is a specific definition for a specific purpose and is distinct from the definition of major development used in general town planning terms.
- 6.18 The application has been accompanied by documents including a Planning Design and Access Statement; a Landscape and Visual Appraisal and a supplementary Note that accompanied the revised landscape layout of June 2024. The site layout has been amended during the course of the application and more details of the 'lodges provided' in response to comments. Having reviewed the submitted reports and considered the existing nature of the site, officers do not consider that this proposed development would result in major development.
- 6.19 It is however acknowledged that the proposed development will have an impact on the Wye Valley National Landscape and will introduce a significant amount of built form to the site. While extensive landscaping measures are proposed to mitigate much of the visual impact on the wider landscape, it is recognised that a degree of harm will result from the siting of the twelve holiday let units and associated infrastructure and that this harm can be described as a slight adverse effect on views and an adverse effect on landscape quality and character at close quarters.
- 6.20 The case officer has given due consideration to the concerns raised in relation to the Wye Valley National Landscape. It is considered that, while the proposal would have a limited impact on the immediate surrounding landscape, the removal of the existing apparatus from the site would represent a positive contribution to the broader landscape setting. When taking into account the scale and design of the proposed units and the mitigation measures set out within the application, it is concluded that the proposal would result in a neutral overall impact on the Wye Valley National Landscape. In this regard the revised application will preserve the scenic qualities of the landscape, thus meeting the requirements of section 85 of the CROW Act which places a legal duty to further the purpose of conserving and enhancing the natural beauty of this National Landscape.

- 6.21 Notwithstanding the above, the proposed mitigation measures—including the integration of the accommodation into the site through cut-and-fill techniques, the limited ridge heights of the units, the extensive planting (both proposed and existing), and the presence of built form to the south and north of the site—are considered sufficient to mitigate the visual and landscape impact of the development.
- 6.22 In balancing the environmental impact, it is noted that the proposal would deliver economic benefits, particularly through increased support for local services and facilities, which may also be utilised by local residents. The development would enhance local tourism by encouraging visitors to less frequently visited areas, thereby promoting economic growth. Furthermore, the visual integration of the development—positioned as infill between existing cottages to the south and Hillcrest to the north—supports compliance with Policy LD1.
- 6.23 While the uniform design of the proposed lodges does create some tension with Policy BAF2 of the Neighbourhood Development Plan, which encourages design variety over standardisation, the nature of the proposed use is such that the buildings are considered acceptable. They are consistent with the lawful recreational and tourism use of the site and would not appear incongruous within the wider landscape, particularly given the chosen colour palette, which is sympathetic to the surrounding environment. This conclusion is supported by the findings of the submitted Landscape Visual Assessment.
- 6.24 Overall, the proposals are considered acceptable in terms of their landscape impact, design quality, and scale. A condition is suggested to ensure that the landscaping scheme is updated to reflect the revised layout of the site.

#### Highway Network

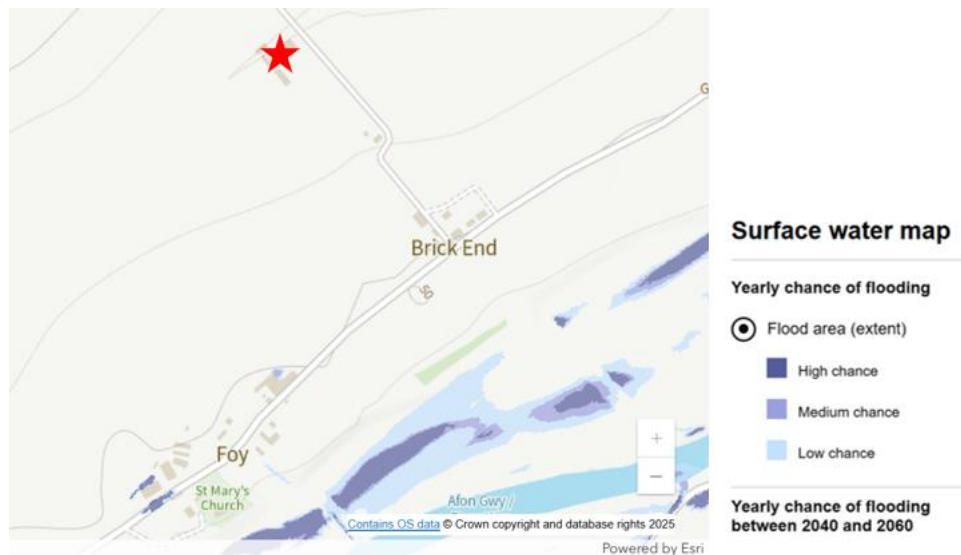
- 6.25 Policy MT1 promotes development that provides a safe means of access and that can be accommodated on the local highway network.
- 6.26 This is underpinned by Paragraph 115 of the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.27 It is noted that the site is accessed via a private road, which also serves Hillcrest, Hillcrest Cottages, and Underhill Farm, and connects to the U71006. Both the private road and the U71006 are particularly narrow. Clearly the proposed development will result in an increase in vehicle movements on this road compared to the current situation. However, it is important to consider that the site already has permission for an activity/adventure centre, which could lawfully be resurrected and this would likely generate a substantial increase in traffic volume and associated vehicle movements. This constitutes a significant and very site-specific material consideration in evaluating the proposed development's traffic impact.
- 6.28 It is also recognised that the site is located in an area where access to public transport is limited, with the nearest bus stop, located at the Telephone Box bus stop in How Caple, some 4.8 kilometres to the north. The site's isolated nature means that guests would be entirely reliant on private vehicles for access. However, this isolation is also part of the site's appeal for tourism. This does create an inherent tension between the sustainability of the location and the benefits associated with small-scale tourism enterprises. However it is considered that when assessed in conjunction with the lawful use of the site, there are benefits associated with the proposal.
- 6.29 In consultation with the Area Engineer Team Leader, it is concluded that in the context of the use as an activity centre being lawful, the associated transport impacts are limited and would not result in the severe impacts highlighted under Paragraph 115 of the National Planning Policy Framework. Conditions recommended by the Area Engineer Team Leader that are considered reasonable and necessary to the proposal are set out below.

### Residential Amenity

- 6.30 Policy SD1 states that development must safeguard the amenity of existing and proposed residents
- 6.31 The nearest property to the proposed development is noted to be Fairview, located approximately 27 metres to the south of Unit 12. The amended design of Unit 12 which limits the use of fenestrations to the south is such that, in combination with the separation distance, the screening provided by Fairview's garage, and the scale of the proposed unit, any harmful overlooking, overshadowing, or overbearing effects are avoided.
- 6.32 However, it is acknowledged that, if left unrestricted, the proposal could have the potential to adversely impact upon residential amenity with regard to the noise and general activity associated with a tourism use. Whilst it is again important to consider the proposal against the lawful fallback position, to address this it is considered reasonable to impose a condition requiring the implementation of a Noise Management Plan. The purpose of the Plan would be to mitigate any potential noise-related impacts associated with the development.
- 6.33 It is noted that the application has been reviewed by the Environmental Health team, who have raised no objection to the proposal in respect of noise pollution, subject to the implementation of a Noise Management Plan on the site to ensure that the amenity of surrounding properties is not adversely affected.

### Water Resources/Habitat Regulations

- 6.34 Policy SD3 states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk; to avoid an adverse impact on water quantity; to protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation. Where flooding is identified as an issue, new development should reduce flood risk through the inclusion of flood storage compensation measures, or provide similar to enhance the local flood risk regime. Policy SD4 states that development should not undermine the achievement of water quality targets for rivers within the county, in particular through the treatment of wastewater.
- 6.35 The site is within the River Wye Special Area of Conservation (SAC) catchment and this proposed development triggers the legal requirement for a Habitat Regulations Assessment (HRA) process to be carried out by the LPA on any planning application submitted.
- 6.36 The application has been reviewed by the Ecologist who has offered no objection to the proposed scheme which would result in the proposed development discharging to an existing package treatment plant within the application site. The Drainage report by Ekoflow shows the existing package treatment plant system on site is fully operational and serviced and is able to cope with the proposed lodges. The proposal is therefore concluded to have no adverse impacts upon the water quality of the River Wye SAC catchment in terms of foul water discharge
- 6.37 It is noted that the proposal would result in additional surface water outfall given the bases of the lodges, however one must acknowledge the substantial reduction in hardstanding associated with the removal of the existing infrastructure such as the abseiling tower, removal of the basketball court and other climbing and outdoor leisure facilities which had non-porous bases. The proposal would also see the use of porous block paving to encourage infiltration into the ground reducing the impact of surface water. It is noted that there is no identified surface water issues within the application site as shown below and in addition to this the site is within Flood Zone 1 and as such there are no known flood risks to mitigate.



Surface Water Flood Risk Map, United Kingdom National Government  
[Accessed 18 February 2025]

- 6.38 It is considered that the proposed development would have a neutral—potentially beneficial—impact in relation to foul and surface water management, with respect to the River Wye Special Area of Conservation (SAC). As such, the scheme is deemed to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy. Furthermore, the proposal incorporates sustainable water management measures, including the provision of 230-litre rainwater harvesting butts for each lodge and a 10,000-litre water storage tank located in the south-western part of the site. These features are intended to reduce reliance on potable water for maintaining the proposed landscaping during dry periods and facilitate the use of grey water, in accordance with the principles set out in Chapter 14 of the National Planning Policy Framework. These are detailed on the Site Plan and a condition is recommended to ensure that these are provided in advance of occupation.

#### Ecology and Green Infrastructure

- 6.39 Policies LD2 and LD3 of the Core Strategy are applicable in relation to ecology and the impact on trees. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity asset of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure.
- 6.40 The proposed development is considered to have a neutral impact upon the ecology of the site and the Ecologist has raised no objection to the proposed scheme in line with the recommendations of the Wilder Ecology report that accompanies the application. The applicant is however reminded of their duty to protected species under the Wildlife & Countryside Act (1981 as amended) and the Habitats and Species Regulations (2019 as amended). The application site is within the Wye Valley Dark Skies area as such, a condition restricting lighting within the site to minimise light spill from the application site.

#### Low and Zero Carbon Energy Generation

- 6.41 Policy SS7 requires focus on measures to address the impact that new development in Herefordshire has on climate change, outlining how development proposals should include measures which will mitigate their impact on climate change, with policy SD2 also seeking to support these measures. Herefordshire Council has unanimously passed a motion declaring a Climate Emergency, signalling a commitment to ensuring that the council considers tackling Climate Change in its decision-making, with this resolution came a countywide aspiration to be zero carbon by 2030. All development proposals are considered by the Council to need to help redress the climate emergency.



- 6.42 Within the application the addition of two communal electrical vehicle charging ports has been secured in line with Policy SS7 of the Herefordshire Local Plan- Core Strategy. In addition to this it is indicated on Drawing 821-PL01 Revision D that the proposed holiday accommodation would utilise an air source heat system for heating and water goods and would be fed by photovoltaic panels minimising the impact upon the existing grid system and thus reducing the emission of the tourist accommodation. A condition is imposed to secure the details of the air source heat pump and solar panels prior to commencement of these works.
- 6.43 In light of the particular circumstances set out above, it is concluded that the proposal is compliant with the Development Plan and as such it is recommended that the application is approved subject to conditions.

### Conclusion

- 6.44 In summary, the proposed development has been assessed against the relevant provisions of the Herefordshire Local Plan – Core Strategy, the Brampton Abbots and Foy Neighbourhood Development Plan, and the National Planning Policy Framework. The scheme aligns with the overarching strategic objectives to promote sustainable rural tourism, support economic growth, and safeguard environmental assets. While some limited impacts have been identified—particularly in relation to landscape and residential amenity—these are considered to be appropriately mitigated through design, landscaping, and operational management measures. The development also incorporates sustainable drainage, ecological protection, and low-carbon energy generation features. Accordingly, the proposal is considered to be compliant with the Development Plan when read as a whole, and there are no material considerations that indicate a decision should be made otherwise. It is therefore recommended that planning permission be granted, subject to the imposition of appropriate conditions.

## RECOMMENDATION

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

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

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

2. **The development hereby approved shall be carried out strictly in accordance with the approved plans [drawing nos.821-PL01 Rev D; 821- PL06] and the schedule of materials indicated thereon.**

**Reason:** To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy, Policy BAF2 AND BAF4 of the Brampton Abbots and Foy Neighbourhood Development Plan and the National Planning Policy Framework.

### ***Pre-Commencement Conditions***

- 3 **Prior to first commencement of the use hereby permitted, a Noise Management Plan (NMP) shall be submitted to, and approved in writing by the Local Planning Authority.**

The Noise Management Plan should address the following headings:

- Statement of intent
- Brief summary of the premises / site / activities
- Location / site plan
- Inventory of potential noise sources
- Details of noise controls and limits (e.g. site rules)
- Site noise monitoring and / or evaluation
- Responding to complaints (including actions to be undertaken and recorded)
- Management command, communication, and contact details
- Periodic NMP review

The site shall be managed in accordance with the Noise Management Plan from first occupation of the development hereby permitted.

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

- 4 Development 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
  - Construction Traffic Management Plan
  - Site compound / site welfare facilities location
  - Security or other lighting

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 amenity, highway safety and landscape impact and character to conform to the requirements of Policies Sd1, LD1, LD2 and MT1 of Herefordshire Local Plan – Core Strategy and the guidance contained within the National Planning Policy Framework.

- 5 Prior to the commencement of development, details (siting / location / specification) of the following shall be submitted to and approved in writing by the Local Planning Authority
- a) PV Panels
  - b) Air Source Heat Pumps

Installation shall be undertaken in accordance with the approved details prior to the first occupation of the lodge to which it relates.

**Reason:** To safeguard the landscape character of the area (National Landscape); in the interests of residential amenity in order to conform with policies SS6, SD1, SD3, SD4, LD2 and LD1 of the Herefordshire Local Plan – Core Strategy, Policy BAF4 of the Brompton Abbots and Foy Neighbourhood Development Plan, and the National Planning Policy Framework

- 6 Prior to the commencement of development and an updated hard and soft landscaping plan that reflects the layout of as shown 821-PL01 Revision D and recommendations of Landscape and Visual Assessment Report. Peter Quinn, 22 January 2024 shall be submitted to and approved in writing by the Local Planning Authority.**

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

- a) Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.**
- b) Trees and hedgerow to be removed.**
- c) All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.**
- d) All proposed hardstanding and boundary treatment**
- e) Vehicle /Cycle /Pedestrian access and circulation areas.**
- f) Vehicle parking layouts**
- g) A plan showing existing and proposed finished levels or contours**

**The approved scheme shall be carried out concurrently with the development and shall be completed in the first planting season following the first occupation of the lodges hereby approved or the completion of the development, whichever is the sooner.**

**Any trees or plants which die, are removed or become severely damaged or diseased within 10 years of planting will be replaced in accordance with the approved plans.**

**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 Policy BAF4 of the Brampton Abbots and Foy Neighbourhood Development Plan, and the National Planning Policy Framework**

***Prior to occupation conditions***

- 7 Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 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**

- 8 Prior to the first occupation of the holiday lodges hereby approved the following shall be laid out, properly consolidated, surfaced and drained in accordance with details shown on drawing number 8.21.PL01 Rev D:**

- an the area shall be laid out within the curtilage of the lodges for parking of one car per lodge.**
- The internal access road will be a minimum of 4.1m in width**

**The parking shall not thereafter be used for any other purpose than the parking of vehicles.**

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



- 9 Prior to the first occupation of the lodges hereby permitted details of the future management / maintenance arrangements in relation to:

- a) Road and drainage infrastructure
- b) All open spaces and landscape areas (including boundaries)
- c) Shared cycle store / parking facilities
- d) EV charging points

Shall be submitted to and approved in writing by the local planning authority.

The development shall be carried out and thereafter maintained in accordance with the approved details.

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

- 10 Before the development is first occupied a schedule of landscape management and maintenance shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with the approved schedule.

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

#### ***Compliance Conditions***

- 11 No hot tubs or other ancillary structures shall be installed on the application site.

Reason: To safeguard the landscape character of the area (National Landscape); in the interests of residential amenity and to maintain control over potential discharges in order to conform with policies SS6, SD1, SD3, SD4, LD2 and LD1 of the Herefordshire Local Plan – Core Strategy, Policy BAF4 of the Brampton Abbots and Foy Neighbourhood Development Plan, and the National Planning Policy Framework.

- 12 The unit/s hereby approved shall not be occupied other than for holiday purposes and shall not be used as residential dwelling/s, including any use within Class C3 of the Town and Country Planning(Use Classes) Order 1987 (as amended).

The unit shall not be occupied for more than 28 consecutive days and shall not be re-occupied by the same occupier following the 28 days consecutive days stay.

Details of the name, permanent home address, vehicle registration shall be kept in a register a copy of which shall be made available to the Local Planning Authority for inspection at any time.

Reason: It would be contrary to Policies SS1, SS6, RA1, RA2 and RA3 of the Herefordshire Local Plan – Core Strategy, and Paragraph 84 of the National Planning Policy Framework to grant planning permission for dwellings in this location

- 13 All foul water flows created by the approved development shall be managed through connection to the existing shared private foul water system; and all surface water managed by on-site Sustainable Drainage Systems; as detailed in the drainage report by Ekoflow Limited 18 May 2023.

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

- 14 The ecological protection, mitigation, compensation and working methods scheme including recommended Biodiversity Enhancement, any required European Protected Species Licence, and the mitigations mentioned in the PEA by Wilder Ecology dated 8 March 2023 shall be implemented in full as stated, and hereafter maintained, unless otherwise approved in writing by the local planning authority and Natural England as relevant to the protected species licence.

**Reason:** To ensure Biodiversity Net Gain as well as species and habitats enhancement 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 (2015) policies LD1, LD2 and LD3

- 15 With the exception of downlighters on the entrances to the lodges at no time shall any external lighting be installed on the site without the written approval of this local planning authority.

No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.  
No external lighting should illuminate any enhancement or boundary feature.

**Reason:** To ensure that all species and Dark Skies are protected 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 SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/18)

- 16 There shall be no more than 12 lodges (caravans) sited within the application site at any one time.

**Reason:** To define the terms of this permission having regard to the Landscape Character of the area, Residential amenity, highway safety and Nutrient Neutrality and to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, SD1, LD1, LD2, SD3 and SD4.

## **INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. 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) and the Habitats and Species Regulations (2019 as amended), with enhanced protection for special "Higher Status Protected Species" such as all Bat species, Great Crested Newts,

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Further information on the subject of this report is available from Mr Joshua Evans on 01432 260327

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. If any protected species or other wildlife is found or disturbed during works then all works should stop and the site made safe until professional ecology advice and any required 'licences' have been obtained. Any additional lighting should fully respect locally dark landscapes and associated public amenity and nature conservation interests.

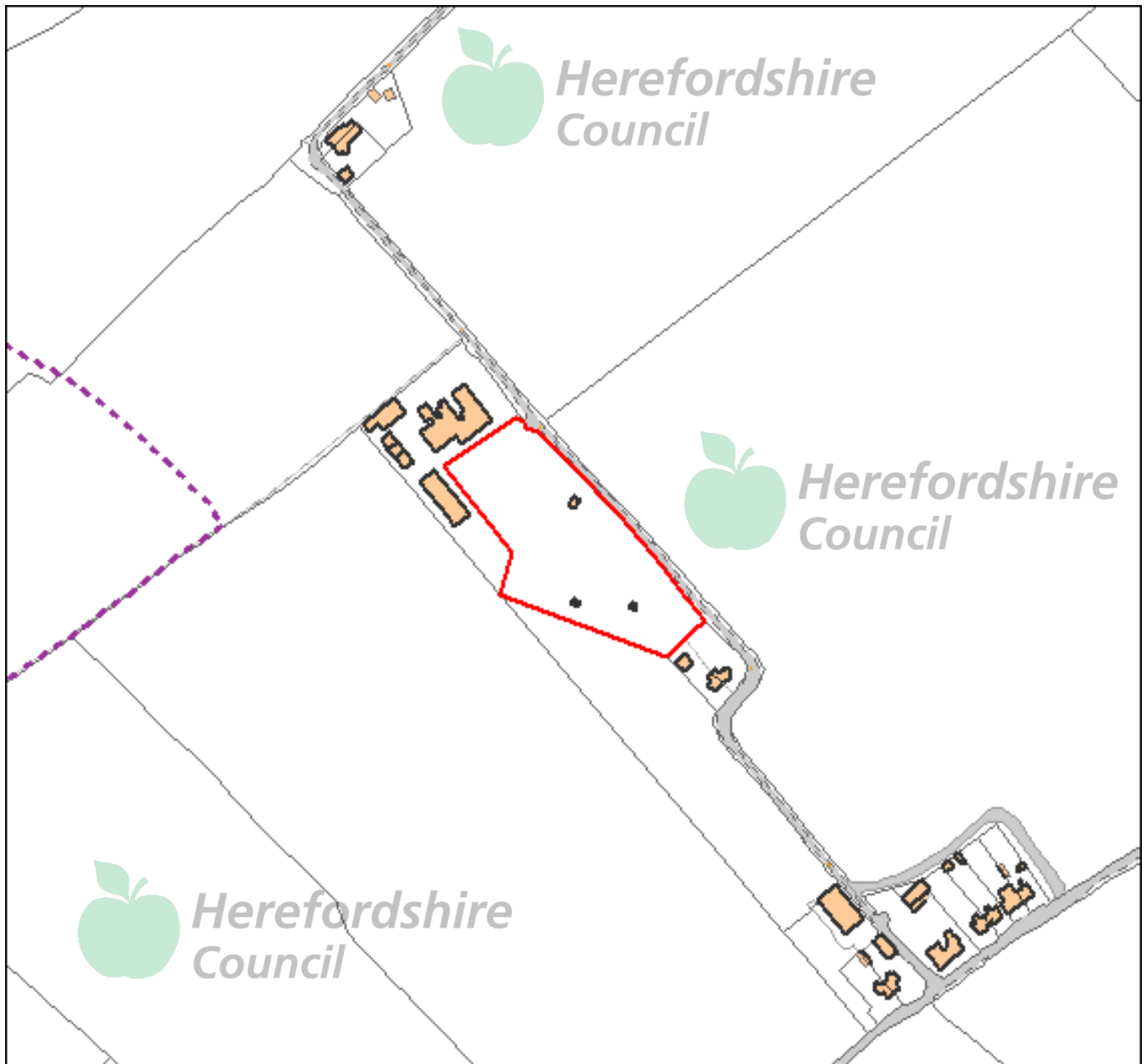
3. Herefordshire Council would remind the operators of the units that they will need to make provision for commercial waste arrangements and should not dispose of any waste associated with the use of the holiday units the by using the service provided for households. Further advice can be sought from Herefordshire Council.  
<https://www.herefordshire.gov.uk/rubbish-recycling/business1waste>

Decision: .....

Notes: .....

## Background Papers

None identified .



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**APPLICATION NO:** 231806

**SITE ADDRESS :** HILLCREST, FOY, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6RD

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MEETING:	<b>PLANNING AND REGULATORY COMMITTEE</b>
DATE:	<b>4 JUNE 2025</b>
TITLE OF REPORT:	<b>240349 - PROPOSED DEVELOPMENT OF 9 DWELLINGS (6 X OPEN MARKET AND 3 X AFFORDABLE) AT LAND AT RAMBLERS WAY, WINFORTON, HEREFORD, HR3 6EP</b>  <b>For: Mr Pryce per Mr Russell Pryce, Unit 5, Westwood Industrial Estate, Ewyas Harold, Hereford, Herefordshire HR2 0EL</b>
WEB LINK:	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=240349&amp;search-term=240349">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=240349&amp;search-term=240349</a>
<b>Reason Application submitted to Committee – Member Redirection</b>	

**Date Received: 6 February 2024****Ward: Castle****Grid Ref: 329415,246956****Expiry Date: 11 April 2025**

Local Members: Cllr Robert Highfield

## 1. SITE DESCRIPTION AND PROPOSAL

- 1.1 The application relates to a site which lies on the western edge of Winforton. The site comprises around 0.5 hectares of grassland and is found to the south of the A438. Access from the highway is gained via a private road known as Ramblers Way which is associated with three wayside dwellings to the north of the site which were granted outline permission in 2015. The site is bound by a cul-de-sac known as the Vineyards to the east and open countryside is found to the south. The topography of the site is generally flat and there are long reaching views across the Wye flood plains toward the Black Mountains in the south. The site boundary in this direction is formed of a traditional hedgerow whilst boundaries to the east and west are formed of fencing. There is a public footpath (WW1) crossing the site in a broadly north to south direction. The site is within Flood Zone 1 as defined by the Environment Agency. The location of site relative to the built form of the village is indicated by the red line on the aerial image below:



**Figure 1: Proposal Site Location**

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789



1.2 The current application is made in Outline and seeks permission for the erection of nine dwellings. The matters of access, layout and landscaping are for consideration at this stage. Scale and appearance are reserved for future consideration. For the avoidance of doubt, the Town and Country Planning (Development Management Procedure) (England) Order 2015 defines the matters for which approval is currently sought as follows:

- “access”, in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made;
- “landscaping”, in relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes—
  - a. screening by fences, walls or other means;
  - b. the planting of trees, hedges, shrubs or grass
  - c. the formation of banks, terraces or other earthworks
  - d. the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
  - e. the provision of other amenity features;
- “layout” means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development;

1.3 Access to the site would be via the existing private road of Ramblers Way onto the A438 to the north. The proposed layout plan shows that the access road would be extended to the south and the dwellings themselves would then broadly be arranged in two linear rows running on an east-to-west axis. Although full details of the dwellings are not provided at the stage, the layout would infer that all principal elevations would face north creating a ‘front-to-back’ relationship between the existing dwellings facing the A438 and the new builds proposed on the land behind them. The proposed site layout plan is shown below:



**Figure 2: Proposed Site Layout Plan**

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

- 1.4 The layout plan shows that 5 units would be provided as detached dwellings, with the remaining four being delivered in two pairs of semi-detached dwellings. Although scale is a reserved matter, the plans indicate that the dwelling on Plot 1 would be delivered as a bungalow. The specified housing mix is 2 x two beds, 4 x three beds and 3 x four beds. The majority of the dwellings would be delivered for sale on the open market, however three units (equivalent to 35% of the scheme total) would be delivered as affordable housing. The specific affordable housing type proposed in this case would be Discounted Market units - which would be offered for sale to those meeting local eligibility criteria at a discount of 30% below open market value. That discount would be secure in perpetuity through a S106 agreement.
- 1.5 The site is crossed by a public footpath WW1. The alignment of this is subject to a proposal for a minor diversion so that it follows the eastern side of the access drive, before crossing the road and passing through an open corridor towards the open countryside to the south. Although not shown on the plans, the Planning Statement details that a pedestrian link would also be provided to the Vineyard residential estate to the east of the site. Foul water would be managed through the provision of individual package treatment plants within the curtilage of each plot, with individual soakaways also being proposed to manage surface water.
- 1.6 In addition to the plans, the application is supported by the following documents:
- Planning Statement – Amended February 2025
  - Foul and Surface Water Strategy Note – Amended 14/5/2024
  - EA Bespoke Permit EPR/VB3497NA – Sewerage Treatment Plant and Infiltration
  - Ecological Assessment and Ecological Enhancement Proposals
- 1.7 It is noted that a number of Viability Appraisal documents were submitted with the application as originally deposited, however following amendments to the nature of the (see Section 6.1) proposal made in February 2025 these are now longer considered to be relevant.

## 2. POLICIES

### 2.1 Herefordshire Local Plan – Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing climate change
RA1	-	Rural Housing Strategy
RA2	-	Housing in Settlements Outside Hereford and the Market Towns
RA3	-	Herefordshire's Countryside
H1	-	Affordable Housing – Thresholds and Targets
H2	-	Rural Exception Sites
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality

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

[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

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Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

It is highlighted that the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)(the 2012 Regulations) and paragraph 34 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020 and the review process is currently underway. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the most relevant policies of the CS – which are considered to be those relating to meeting housing needs, guiding rural housing provision and safeguarding features of environmental value (amongst others) – have been reviewed and are considered to be consistent with the NPPF. As such, it is considered that they can still be attributed significant weight.

## 2.2 Eardisley Group Neighbourhood Development Plan (made 13<sup>th</sup> June 2016)

Policy SD1	– Sustainable Development
Policy T1	– Traffic Measures within Villages
Policy T2	– Transport Requirements related to Development
Policy T3	– Promotion of Sustainable Transport Measures
Policy E1	– Flooding
Policy E2	– Heritage Assets and Village Character
Policy E3	– Addressing Carbon Reduction
Policy E4	– Green Infrastructure
Policy H1	– Housing Numbers
Policy H2	– Settlement Strategy
Policy H5	– New Homes in Winforton
Policy H7	– Criteria for Housing Development in Eardisley Group

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

<https://www.herefordshire.gov.uk/directory-record/3055/eardisley-group-neighbourhood-development-plan-made-13-june-2016>

## 2.3 National Planning Policy Framework (December 2024)

1. Introduction
2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
14. Climate change, flooding and coastal change
15. Conserving and enhancing the natural environment

The NPPF can be viewed in full via the link below:

[https://assets.publishing.service.gov.uk/media/67aafe8f3b41f783cca46251/NPPF\\_December\\_2024.pdf](https://assets.publishing.service.gov.uk/media/67aafe8f3b41f783cca46251/NPPF_December_2024.pdf)



## 2.4 National Planning Practice Guidance (NPPG)

The associated Planning Practice Guidance (NPPG) adds further context to the NPPF and it is intended that the two documents should be read together. The PPG can be accessed through the following link:

<https://www.gov.uk/government/collections/planning-practice-guidance>

## 2.5 Supplementary Planning Documents

- Affordable Housing Supplementary Planning Document (SPD) 2 June 2021.
- Planning Obligations Supplementary Planning Document (SPD) April 2008

## 3. Planning History

- 3.1 The following applications are considered relevant to the current proposal. This includes the permission for the three existing dwellings fronting the A438 known as Ramblers Way (outline planning permission granted in 2015) and, more recently, applications made proposing the development of the current proposal site for housing:

REFERENCE	DESCRIPTION	DECISION	DATE
210131/O	Proposed residential development of seven dwellings	Refused Appeal Dismissed	April 2022 November 2022
P200796/O	Proposed residential development of nine dwellings	Refused	June 2020
P163896/F	Proposed detached dwellings on plots 1 and 2 (full application)	Approved	Feb 2017
P161405/RM	Reserved matters application for plot 3 of P151111/O	Approved	2016
P151111/O	Proposed construction of three self-build family homes, alterations to existing access and associated landscaping and drainage (outline)	Approved	2015

## 4. CONSULTATION SUMMARY

### 4.1 Statutory Consultations

#### 4.1.1 Natural England – No Objection

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

A lack of objection does not mean that there are no significant environmental impacts. Natural England advises that all environmental impacts and opportunities are fully considered and relevant local bodies are consulted.

Natural England's advice on other natural environment issues is set out below.

#### Internationally and nationally designated sites

The application site is within the catchment of the River Wye which is part of the River Wye Special Area of Conservation (SAC) which is a European designated site, and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The SAC is notified at a national level as the River Wye Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

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Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have<sup>1</sup>. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

#### European site - River Wye SAC - No objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

#### River Wye SSSI – No objection

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

### 4.1.2 **Welsh Water – No Objections**

#### POTABLE WATER SUPPLY

Capacity is currently available in the water supply system to accommodate the development. We reserve the right however to reassess our position as part of the formal application for the provision of new water mains under Section 41 and Section 51 of the Water Industry Act (1991) to ensure there is sufficient capacity available to serve the development without causing detriment to existing customers' supply as demands upon our water systems change continually.

#### SEWERAGE

This application is located in an unsewered area and since the proposal intends on utilising an alternative to mains drainage, we would advise that the applicant seek advice from the Environment Agency and the Building Regulations Authority as both are responsible to regulate alternative methods of drainage.

### 4.2 **Internal Council Consultations**

#### 4.2.1 **Local Highways Authority – No Objections subject to conditions**

In terms of the access strategy for the site the intensification of the vehicular access to the A438 proposed is acceptable as the additional movements associated to the additional 10 dwellings will not result in a cumulative impact upon the existing network that would be classed as severe as set out in the NPPF para. 109.

The geometry of the existing access meets the requirements of a 'Shared Surface' as set out in Herefordshire Council's Highways Design Guide for New Developments, and includes a footway along its eastern side which can accommodate the service strip. The ten dwellings proposed do

not exceed the volume of properties that can be accessed from this types of road and as a result the access arrangements accord with the requirements of the Design Guide.

The parking spaces proposed on site would be acceptable in principle with the amount of parking to bedrooms per dwelling, however the exact parking arrangements would need to be formalised in the reserved matters application to ensure the correct parking space ratios are achieved. Secure Cycle provision would also need to be formalised in the reserved matters application.

All applicants are reminded that attaining planning consent does not constitute permission to work in the highway. Any applicant wishing to carry out works in the highway should see the various guidance on Herefordshire Council's website:

#### Further Comments April 2025:

The following condition is recommended to secure a footway link to the neighbouring site:

'With the exception of site clearance and ground works, no further development shall take place until details of the proposed footpath link between the site and the public footway network on the adjacent Vineyards estate have been submitted to and approved in writing by the Local Planning Authority. The development shall subsequently not be occupied until the scheme of footpath works has been constructed in accordance with the approved details.'

#### 4.2.2 **Landscape Officer – Qualified comments**

The visual connectivity from the A438 access to the countryside, wider landscape, and the hills (Merbach, Little Mountain and Cusop) is a defined urban rural edge transition, and an important characteristic of the village (refer to figure 1). The stunning view is experienced by villagers and visitors as they approach the footpath to walk across the field to the River Wye. There is no coincidence that the access to the walk is named 'Ramblers Way'.

In accordance with core strategy, policy LD1 (landscape and townscape), development should demonstrate that the character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements.

Blocking a key view would not be a demonstration of landscape and townscape enhancement. Previous advice to the Applicant has been to retain a view corridor through the rear of the site.

The layout provides for an open corridor either side of the diverted footpath, however the alignment of this does not allow for the reinforcement of the visual corridor or countryside vista when approaching from the north. It would be better to redesign the layout or remove Plot 8.

The view back towards the village is also important (refer to figure 2), and should be protected and enhanced. The existing large tree is a visual cue that draws the eye into the settlement, and the gap between buildings provides a sense of connectivity into the village and beyond.

#### 4.2.3 **Arboriculture Officer – No Objections subject to conditions**

No Objection with regard to existing trees but a tree protection will be required to ensure the mature Oak tree near the entrance is protected during development.

Softy Landscaping plan – Amendments are required with regard to the wording of the tree management - "The planting will be maintained for a period of five years following planting, ensuring adequate watering and fertilising is carried out to achieve good establishment and that all dead, diseased or damaged trees and plants are to be replaced annually where required."

What does adequate watering involve? The likelihood of tree failure is much reduced if a specific watering plan is incorporated. The applicant needs to specify when trees shall be watered and volumes. The current specification is too vague.

Conditions - CKB – Protection during Construction.

#### 4.2.4 **Planning Ecologist – No Objections subject to Conditions**

The site is within River Wye SAC catchment and this proposed development triggers the legal requirement for a Habitat Regulations Assessment process to be carried out by the LPA, the final HRA 'appropriate assessment' completed by the LPA must be formally approved by Natural England PRIOR to any future planning consent being granted. This HRA process needs to be completed based on all current requirements and considerations and on information supplied in support of this specific application and that is sufficiently detailed to allow any relevant conditions to be secured. The HRA process must be completed with legal and scientific certainty and using a precautionary approach.

*From the start of August 2023, there have been changes in the conservation status of the River Wye SSSI - downgraded to “unfavourable declining” by Natural England; and these comments have been completed based on this recent change and updated SSSI Impact Risk Zone information available from Natural England (River Wye SAC – bespoke buffer – Any discharge of water or liquid waste including to mains sewer). The applicant must demonstrate with scientific and legal certainty that the proposed development will create no significant nutrient pathways into the River Wye that may make the current situation worse or hinder any recovery.*

Additional guidance can be found in the FAQs available on the council's website.

#### Notes in Respect of HRA

- The proposal is for TEN new residential dwellings with associated new foul water flows (nutrient pathways) created. Surface water management is also a consideration in respect of new/expedited nutrient pathways created.
- The site is approx. 700m direct line from the River Wye SAC; and there are other hydrological connections in the locality.
- The drainage report by Collins Design & Build dated February 2024 and strategy update and amended plans dated 14/05/2024 refer.
- It is noted that an Environment Agency 'bespoke' permit to discharge foul water has been issued although this provides no scientific or legal certainty in respect of nutrient pathways for this HRA process it does help demonstrate that the proposed system is considered deliverable on the ground.
- The council's drainage consultants have agreed that the principle methodology of foul and surface water management proposed are acceptable and deliverable on any development approved by a planning permission.
- From an ecology-HRA perspective there is no evidence that the approved scheme cannot be implemented on this site and the agreed principles of the proposal can be secured by condition on any planning permission granted.

The proposed scheme (in general detail) is:

#### Foul Water

- The proposal is to manage foul water flows through plot specific private foul water systems comprising of package treatment plant discharging to a soakaway drainage field located within the garden of each dwelling.
- The future management of the foul water system will lie with each specific dwelling owner.

- The proposal is to use a modern efficient PTP (sized for each dwelling population) – HABA – Bio Easy Flow which naturally achieves a low Phosphate at outfall of 0.8mg/litre and is considered current best available technology.

#### Surface Water

- All surface water flows will be managed by appropriately sized and designed Sustainable Drainage Systems and no nutrient or pollutant pathways in to the River Wye Sac are identified as a result of this proposed development.

As each separate dwelling is achieving best available nutrient pathway mitigation and thus considered to have no significant nutrient pathways into the River Wye SAC; the combined/in-combination effect of the development as whole, as proposed under this planning permission is also considered to be the best available, with all nutrient pathways considered as mitigated for the development as whole.

#### Effects of actual construction

Due to the proximity of the River Wye there are potential effects from the wider environmental effects from the required on-site operations the ecological working measures should form part of a wider Construction Environmental Management Plan.. Helpful guidance on all the potential ecological and environmental matters a CEMP should address can be found at [https://www.designingbuildings.co.uk/wiki/Construction\\_environmental\\_management\\_plan](https://www.designingbuildings.co.uk/wiki/Construction_environmental_management_plan) A condition to secure an appropriate CEMP is suggested.

There are no other identified likely effects from the development as proposed at this location on the River Wye SAC.

Conditions are requested to secure the proposed foul and surface water schemes and the proposed best available technology PTP units. The requested CEMP should also be secured by a suitable worded condition.

#### General Ecology Comments

From supplied and available information, including the preliminary ecology report by Ecology Services dated February 2024, the LPA has sufficient information to consider that the development will not have a detrimental effect on the local population of protected species (eg bats) subject to condition to ensure no disturbance on recorded local populations due to additional lighting is included on any permission granted. Relevant ecological working methods are already secured through the requested CEMP.

As the site is an area that affords an intrinsically dark landscape that benefits local amenity and nature conservation; a condition to secure and manage any proposed or future external lighting is requested on any planning permission finally granted.

As identified in the NPPF, NERC Act, Core Strategy LD2 and action within the council's declared Climate Change & Ecological Emergency all developments should demonstrate how they are going to practically enhance ("Net Gain") the Species (Biodiversity) potential of the area. To secure these enhancements a relevant Condition is suggested.

#### **4.2.5 Strategic Housing Team – No Objections subject to conditions / S106 agreement**

The application was originally promoted as a rural exception site. In that case, Policy H2 applied and this required the applicant to provide an affordable housing needs survey. It also required that the developer justify the provision of any market units that were to be provided through a viability assessment

Following the changes made to the NPPF in December 2024, it is understood that the Council is no longer able to demonstrate a five year supply of housing and the relevant policy are out of date as result. As a result the Applicant no longer promoting the site a 'rural exception scheme'.

The size of the development is such that there is no policy obligation for it to provide affordable housing. However, I can see that the developer is looking to supply 35% (3 units) under affordable tenures. The 35% provision is in line with what would be sought by policy H1 (although this would only strictly apply to scheme for more than 10 dwellings). As outlined in the council's Affordable Housing Supplementary Planning Document incorporating the Technical Data, Strategic Housing would require the following tenure breakdown.

- 3 x 3 bedroom houses to be sold with the tenure of Discounted Market at 30% off the Open Market valuation.

The planning statement confirms that the affordable units will be offered on this basis.

There will be a requirement for local connection to the parish of Winforton in the first instance then the cascading parishes.

All of the above will be secured via a Section 106 Agreement.

As an outline application Strategic Housing would require a condition imposed on any planning permission that the exact mix and bed sizes for both the open market and affordable housing be agreed as part of the submission of any RM application.

On the basis of the above, I have no objections to the application.

#### 4.2.6 **Public Rights of Way Manager** – No Objections

Providing the proposed diversion is legally completed before work starts PROW will not object

#### 4.2.7 **Land Drainage** – No Objections subject to conditions

In principle we do not object to the proposals, however we recommend that the following information is provided within suitably worded planning conditions:

- Detailed Surface Water and Foul Water Drainage Design Plans/Construction Drawings in line with the distance requirements stated above.
- Confirmation of the infiltration rate used to size the soakaways.
- Confirmation that the access road is to remain private

*For full comment, refer to Planning Register on Council website.*

#### 4.2.8 **Archaeological Advisor** – No Objection

#### 4.2.9 **Waste Management** – No Objections / Standing Advice



## 5. REPRESENTATIONS

### 5.1 Eardisley Group Parish Council – Objection

#### Submission dated March 2025

Eardisley Group Parish Council (EGPC) has considered the revised version of outline planning application P240349, which proposes the development of 9 dwellings — 6 open market and 3 affordable. The number of affordable properties has reduced by two since the previous application, while the overall number of houses proposed has decreased by one.

The Parish Council fully recognises the altered housing targets imposed on Herefordshire Council by recent Government policy changes. It nevertheless remains convinced that previous overdevelopment of Winforton (acknowledged by HC Planning — see detailed Section 2 of the previous submission, below) should be taken into account when considering a further increase in housing numbers in this village.

All previous objections and observations submitted by the Parish Council remain extant and are repeated below for ease of reference.

NB: Should the Planning Department be minded to approve this outline application, EGPC strongly requests that it is referred to the Planning Committee. For a small village, this proposal has attracted a high number of local objections, and strong feelings have been aroused by this and previous proposals to further develop the Ramblers Way site.

The following updated observations are made in support of the Parish Council's existing objections to the revised proposal:

1. Rural exception justification: EGPC has still not seen the results of any survey to establish local need for affordable housing in Winforton, beyond the wider housing area of Kington. As has been stated many times, this village has only a pub (with part-time opening hours) and a church as community infrastructure. Residents are therefore dependent on car travel to access schools, shops, doctors, and other amenities. This lack of infrastructure and facilities applies equally to open market housing, especially in light of the aforementioned overdevelopment of the village.
2. Inappropriate housing density: The site is small, and the Parish Council does not believe the proposed housing density is in keeping with the character of the village. This is considered contrary to the adopted Neighbourhood Development Plan housing policies. The proposed layout is more akin to an urban development than one in a rural community—particularly one with no amenities.
3. Parking concerns: The number of parking spaces allocated appears to include garages. Given the typical number of cars per household and the overall lack of space or visitor parking, this is likely to lead to parking issues.
4. Access and highway safety: Despite measurements undertaken by the Highways Department, serious local concerns remain that the site entrance is too narrow—even under current usage with just 3 properties. Only one vehicle can safely enter or exit at a time onto the busy A438. If the number of dwellings increases, this issue will worsen.
5. Construction access limitations: The restricted size of the overall site, along with the narrow entrance directly off a major A road, presents likely access issues during construction if the proposal proceeds.

6. Recent developments in the parish: It is noted that construction is underway (March 2025) on Planning Application 193762 at Millstream Gardens, Eardisley HR3 6NR. This approved development will provide up to 18 dwellings, including 6 affordable homes. Eardisley, as the largest village in the parish, benefits from a shop, pub, school/pre-school, community green and play area, church, and local businesses/industry.

Objections raised previously by the Parish Council, which remain valid, are reiterated below.

#### EXECUTIVE SUMMARY (March 2024)

Eardisley Group Parish Council (EGPC) has considered application P240349/O – Proposed ‘rural exception’ housing development of ten dwellings (comprising 5 affordable dwellings and 5 open market dwellings).

The latest proposals relating to the Ramblers Way site have been fully reconsidered by the Parish Council. In reviewing this application, councillors took account of the significant number of representations by Winforton residents, which mirrors the strength of feeling toward previous applications on this site. On this occasion, Councillors also heard directly from the developer and their agent, who attended a parish council meeting to explain their rationale for the application and its proposed designation as a ‘rural exception’ site.

In conclusion, the Parish Council (EGPC) determined its principal objections to previous development proposals on this site remain valid. These concerns are restated below and updated as appropriate.

In addition, EGPC regards the classification of this application for development as a ‘rural exception’ site as not justified. The reasons for this are also set out below.

#### 1. Background

The Ramblers Way site is a small plot of land located at the western end of Winforton, outside the village’s defined settlement boundary and parallel to the main A438, Hereford to Brecon road.

Since 2004, this site has been the subject of nine planning applications, including the latest proposals. Of these, six were refused, withdrawn, or subject to dismissed appeals. In 2015, planning permission for three self-build homes was granted with conditions (application 151111). EGPC believes a statement from HC included in the Decision Notice, Item 4 – ‘Informatives’, remains highly relevant and significant. Namely, “4. The Planning Committee wishes it to be noted that they would not be supportive of further residential development on the land to the rear of the site.” This was not least because the then Environment Agency flood map showed Risk 2 on land close to the rear of the 3 permitted properties (see Flood Risk below).

All other subsequent attempts to further develop this small parcel of land have been unsuccessful, with proposals ranging from a further 5 to 9 dwellings being put forward. This is the first time any element of affordable housing has been included.

#### 2. Housing Development in Winforton & the Parish Group

The Eardisley Group Neighbourhood Development Plan (NDP) was made (adopted) in June 2016. Given Herefordshire Council (HC)’s housing land supply currently demonstrates a five-year supply, EGPC’s NDP housing policies continue to carry full weight in the planning balance at this time.

Since 2016, planning approvals for the development of housing in the parish group have exceeded numbers specified in Policy H1 of the NDP as illustrated in the table below.



Updated figures (February 2024) for Eardisley Group Parish are as follows:

Location	No. of houses pre-NDP	Min. No. of houses planned as per NDP (2016 - 2031)	No. of houses Built/ Approved (since 2016)	Est. Additional houses highly likely to be built	Est. Total Addit. houses by 2031
Eardisley	374	45	43	18**	61
Winforton/Willersley	94	11	29*	0	29
Whitney on Wye	59	7	4	0	4
<b>Group Parish Total:</b>	<b>527</b>	<b>63</b>	<b>76</b>	<b>18</b>	<b>94</b>

\*Excluding this outline application for Ramblers Way

\*\*Outline permission granted, includes 6 affordable homes (now under construction)

Compared with the 63 houses specified in the NDP, already in 2024, the number of houses approved to be built is 76, with a further 18 (including 6 affordable homes) in the pipeline. This means 94 houses are anticipated by 2031 – an over-achievement of 31 dwellings (approximately 49%).

While the PC uses the group total as its working basis, it is also useful to examine the Winforton figures alone. Using the NDP target of 11 houses, the village has already experienced an increase of 28 dwellings, with a recent approval bringing this total to 29. These figures exclude the further 10 houses proposed in this application and represent a 163% over-achievement.

The Parish Council strongly believes development capacity in Winforton has been reached and significantly exceeded. This view was supported by the NDP team at Herefordshire Council with the statement in the Delegated Decision report (June 2020):

“It is acknowledged that proportionally Willersley and Winforton have seen a greater level of growth than other areas of the parish... this could now be seen as disproportionate within the planning balance.”

The PC believes villages like Winforton, having exceeded their NDP contribution, should not be further developed if deemed unnecessary by the local community.

### 3. Sustainability, Infrastructure & Rural Exception Sites

Following significant development in recent years, Winforton's population has grown considerably, yet no new services, amenities, or facilities have been added. There is a pub (with part-time hours) and a church, but no shops, no school, and no children's play area. The PC believes this growing population has had a detrimental impact on village infrastructure.

None of the approved developments in Winforton have included affordable housing or Section 106 contributions. The current application proposes 3 affordable homes, but the PC views this as insufficient.

The site is outside the NDP settlement boundary. While a rural exception may be granted in such cases, the PC does not believe the local community's needs would be met by further development in Winforton. Eardisley, with its school and amenities, would be a more suitable location.

The PC also questions whether a proven need for affordable housing in Winforton has been demonstrated. Citing Old Hunstanton Parish Council, the PC notes that rural exception policy is meant to serve small communities, not broader county housing demand.

### 4. Highways, Access & Parking

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Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

The site is said to be served by a 4.8m vehicular access and 2m footpath off the A438. However, residents report frequent access and safety concerns, with the road width measured locally at 4.5m and the pavement below 2m.

There are concerns about whether emergency or refuse vehicles could be accommodated, and no visitor parking appears to be provided. The Parish Council references Policies T1(g) and T2 of the NDP regarding traffic and transport requirements.

#### 5. Public Right of Way (PROW)

Footpath WW1 was rerouted in 2016 around the site. The latest application proposes a new 'footpath link' to the Vineyards, but discrepancies exist between the developer's map and the land registry, raising doubts about feasibility.

Baker's Lane, a proposed pedestrian route, is in poor condition and used by heavy agricultural vehicles.

#### 6. Flood Risk

Although the site is in Flood Zone 1 per current maps, high water levels in 2019–2020 suggest otherwise. The PC questions the developer's claim of no flood risk and invokes Policy E1(b). Increasing flood frequency along the River Wye adds to this concern.

#### 7. Supplementary

The Parish Council supports previous reasons given by Herefordshire Council in refusing the original application. It maintains that the current proposal does not meet rural exception site criteria.

### 5.2 Letters of Representation

Letters of objection have been received 46 individuals. The key themes are as follows:

- The proposal is outside of the settlement boundary for Winforton and is contrary to the policies of the Eardisley Neighbourhood Development Plan
- Winforton has delivered housing significantly above its proportional growth target
- Winforton lacks services and facilities, which are otherwise available in Eardisley.
- The site is at risk of flooding and will increase flood risk to neighbouring properties
- The quantum of development is too dense for the site
- The proposed layout and design are out of keeping with the local area
- The scheme extends beyond the depth of existing development
- The scheme would lead to the loss of a valued area of green space
- Loss of privacy to existing dwellings at Ramblers Way, Poppins and Vineyards
- Concerns over safety and width of access road
- Concerns over internal layout and level of parking provision
- Concerns over footpath provision and link through Vineyards
- Concerns over loss of hedgerow and biodiversity habitats
- Lack of green space, recreation or play area within the scheme
- Lack of renewable energy or sustainability features in proposed design
- Urbanising effect on character of the village
- Affordable housing provision is not of a type that would genuinely meet local need
- Concerns over feasibility of individual drainage arrangements
- History of planning refusals on the site
- Lack of footway provision

- Impact on integrity of River Wye and wildlife value of the site.
- Scheme does not deliver good standards of amenity for occupiers
- Scheme would be detrimental to amenity value of the footpath
- Approval would contradict an earlier Planning Inspector's dismissed appeal
- Lack of community engagement
- The scheme does not make any contribution towards community infrastructure
- The development conflicts with emerging policies in the Regulation 18 draft March 2024

5.3 The consultation responses can be viewed on the Council's website by using the following link:  
[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=240349&search-term=240349](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=240349&search-term=240349)

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

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

## 6. OFFICER'S APPRAISAL

### 6.1 Procedural Background

6.2 It is highlighted to Members that the application was first submitted in February 2024 and originally promoted the development on the basis that it was a 'rural exception site' in line with the provisions of CS policy H2. In broad terms, this policy provides an 'exception' mechanism whereby development may be permitted on land which would not normally be released for housing (e.g. because it may be outside of a defined settlement) where the proposal would meet a recognised local need for affordable housing. The scheme as originally deposited was for ten dwellings, with five of these being affordable and the remaining five being proposed for sale on the open market to subsidise the affordable units. As required by policy H2, the application was supported by detailed Viability Assessments which sought to justify the need for the open market housing and Officers had begun the process of engaging with the District Valuation Office to independently scrutinise the supplied financial appraisals. The promotion of the development as a 'rural exception site' was, in part, as response to the fact that the site is located outside of the settlement boundary for Winforton and, at that the time the application was made, the relevant policies from the Eardisley Group NDP benefitted from full weight.

6.3 However, Members will be aware that Government planning reforms published in December 2024, which included changes to the NPPF and the introduction of new mandatory housing targets, have had significant implications for both plan making a decision making. In the context of Herefordshire, this includes a 70% increase in the new homes requirement over the plan period – rising from 16,100 to 27,600 new dwellings. These changes have also impacted the Council's housing land supply, which has now dropped below the required five years to **3.06 years**. The implications of this is that certain policies of the development plan are no longer considered 'up-to-date' and the 'tilted balance' in favour of sustainable development is engaged.

6.4 In light of these changes of circumstance, the Applicant submitted an amended proposal in February 2025. This confirmed that the application was no longer being promoted as a 'rural exception site', but instead as scheme for nine dwellings that would comprise six open market units and three affordable. A full re-consultation exercise in respect of the amended scheme was carried out in February – March 2025. For the avoidance of doubt, the following appraisal is made in relation to the amended scheme as submitted in February 2025.

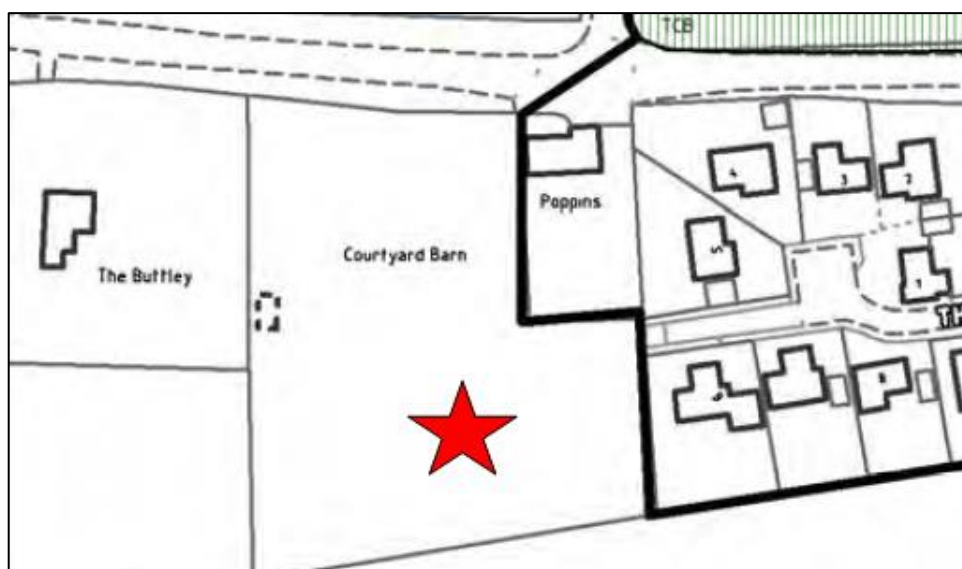
### 6.5 Policy Context

6.6 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

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

- 6.7 In this instance the adopted development plan comprises the Herefordshire Local Plan – Core Strategy (CS) and the Eardisley Neighbourhood Development Plan. The latter was made part of the statutory development plan in June 2016. The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.8 A range of CS policies are relevant to development of this nature. Strategic policy SS1 of the CS sets out the presumption in favour of sustainable development, which is reflective of the positive presumption that lies at the heart of the NPPF. Policy SS1 confirms that proposals which accord with the policies of the Core Strategy (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.
- 6.9 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9<sup>th</sup> November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case the relevant policies of the CS have been reviewed and are considered entirely consistent with the NPPF with regards to promoting sustainable types and patterns of development. As such, it is considered that they can still be attributed significant weight.
- 6.10 The Council is currently in the process of preparing a new local plan. A draft was published in the March 2024 for Regulation 18 consultation. Following the changes to the NPPF made at national level in December 2024 however, the Council decided to cease further work on the Draft Regulation 18 Local Plan because a new spatial strategy is required to address the significant uplift in housing growth. The council will now progress its Local Plan under the new plan making process introduced by the Levelling up and Regeneration Act (LURA) 2023. No draft of the plan under the new plan making system has yet been published. As such, there is no emerging plan to which any weight can currently be attributed.
- 6.11 The NPPF makes clear that all decisions need to apply the presumption in favour of sustainable development as set out at Paragraph 11 of the NPPF. This states that development which accords with an up-to-date development plan should be approved without delay. Where there are no relevant policies or the most relevant policies are considered to be ‘out-of-date’, then the presumption in favour of sustainable development as set out by Paragraph 11 d) (‘the tilted balance’) is engaged. This means that planning permission should be granted, unless:
- I. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
  - II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 6.12 Footnote 8 makes clear that, for applications involving the provision of housing, policies should be regarded as being out of date if the Local Planning Authority is unable to demonstrate a five year supply of deliverable housing sites. Following changes to the standard method for calculating housing targets which accompanied the revised NPPF in December 2024, the Council is no longer able to demonstrate a five year supply of housing land. The current supply figure in the county is **3.06 years**. The relevant policies of the development plan should therefore be regarded as being ‘out of date’ and the positive presumption as set out at Paragraph 11 d) is engaged.

- 6.13 Paragraph 14 of the NPPF concerns the relationship between the Paragraph 11d presumption and Neighbourhood Development Plans. It states that where the presumption is engaged for applications involving the provision of housing, then the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:
- a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and
  - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69-70).
- 6.14 The Eardisley Group NDP was made in 2016 and therefore is more than 5 years old. It also As such, the plan does not benefit from the enhanced provisions of Paragraph 14.
- 6.15 **Principle of Development**
- 6.16 CS Policy RA1 concerns housing delivery in rural areas and policy RA2 identifies rural settlements where new housing growth is considered to be appropriate. Winforton is identified at Figure 4.14 as a settlement which will be a main focus of proportionate housing growth. The policy states that new housing will be supported where it is located 'within or adjacent to' the main built up part of the settlement in question.
- 6.17 The CS is reflected by the Eardisley Group NDP, with policy H1 setting out the spatial strategy and confirming that growth will be directed to the three settlements within the plan area of Eardisley, Winforton and Whitney. Policy H2 goes on to further clarify the settlement strategy and under point b) states that *'to allow for required development and controlled growth, a settlement boundary is defined for Winforton, as shown on the Winforton Policies Map. Development should take place within this boundary in accordance with relevant policies set out in this Neighbourhood Plan.* Point d) of the policy states that outside of these areas, new homes will only be permitted in a number of specific circumstances. The circumstances reflect policy RA3 of the CS. Policy H5 also reinforces that new homes in Winforton will be accommodated within the defined settlement boundary where various criteria are met. The settlement boundary (thick black line) is shown in the map below relative to the proposal site (red star):



**Figure 3: Extract of Winforton Policies Map**

- 6.18 The settlement boundary is drawn around the edge of the cul-de-sac known as the Vineyards and around Poppins. It is noted that the three existing houses on Ramblers Way which front onto the A438, effectively as infill between Poppins and The Buttleys, fall outside of the settlement



boundary. The proposal site in this case is depicted broadly by the red star. Although immediately adjacent to it, the site clearly falls outside of the settlement boundary for Winforton.

The location of the site adjacent to the main built up form of Winforton is such that there is no conflict with policy RA2 of the CS. This indicates that the site is generally regarded as being a sustainable location for housing growth given that it is contiguous with a settlement that has been identified as an appropriate location for growth. However, it is contrary to policies H2 and H5 of the Eardisley NDP which seeks to limit development to within a defined boundary. The proposal also does not seek to fulfil any of the circumstances which would allow development outside of settlement boundary to be supported, as set out by policies RA3 or H2 d). As such, the principle of residential development on this site is contrary to policies H2, H5 and RA3.

- 6.19 However, it is recognised that these policies are ‘out-of-date’ and consequently attract reduced weight for decision taking. The harm associated with the policy tensions identified will have to be weighed in the planning balance by the decision maker, having regards to the ‘tilted balance’ that is embodied by the presumption in favour of development as set out by Paragraph 11 d).

## 6.20 Proportionate Growth

- 6.21 It is acknowledged that a common theme in the local representations received is a concern that the development would not represent proportionate growth and would thus be detrimental to the well-being of the settlement. In this sense, it is recognised that Winforton has performed strongly in the past and delivered housing at a rate which significantly exceeds the minimum growth target defined by the Core Strategy. It was noted in the 2019 annual monitoring exercise for instance that 32 dwellings had been delivered in the village since the start of the plan period, compared to a minimum growth target of 11 units across the whole plan period. In that context, the question of whether the proposal would constitute ‘proportionate growth’ (in combination with other material considerations and ‘cumulative’ harms), has been cited by the LPA as a factor in refusing previous proposals for housing development on the site.

- 6.22 However, the appeal decision in respect of the most recent refusal reinforced that the growth figures cited in the CS are a target and not a ceiling to development. As part of the decision in respect of APP/W1850/W/22/3296263, it was noted:

*‘In this case the proposal would provide seven dwellings towards housing land supply for the area, in a reasonably accessible location. This is a benefit, even when considering the amount of recent housing development within the village, as there is no cap on what level of housing should be delivered locally. The proposed housing would still provide a housing boost for the wider area with there being no maximum number of dwellings that policies say should be limited to’* (Officer Emphasis)

- 6.23 The NDP also acknowledges at policy H1 b) that housing ‘*targets may be exceeded, in particular, should an additional Core Strategy need be identified and/or proposals incorporate measures to address significant community needs*’.
- 6.24 Moreover, it is a significant material consideration that a revised National Planning Policy Framework was published in December 2024 and this instigated a number of notable policy changes that have implications for how this application is to be assessed. Central amongst these is the introduction of new mandatory housing targets, which have increased Herefordshire’s housing requirement by 70% over and above the targets previously established by the Core Strategy (which are now out-of-date). This national policy change supports the Government’s broader agenda to promote growth and significantly accelerate housing delivery.
- 6.25 As noted earlier within this report, the effect of the new housing targets is that the Council is no longer able to demonstrate a five year supply of housing land. The current supply figures stands at 3.06 years and the housing policies of the development plan must be regarded as being ‘out-

of-date' as a result. This is highlighted to Members as a significantly different context to when the most recent application on the site was refused permission in 2022; as at that point in time the Council was able to demonstrate that it had a sufficient supply of housing to meet its identified housing needs and thus the policies of the development plan could be attributed full weight for decision making. However, this is no longer the case. It is instead evident that the Council has a sizeable shortfall in its housing land supply relative to the new housing targets.

- 6.26 With that in mind, it would not be considered justified to resist further development in Winforton based on a purely quantitative assessment of the level of growth relative to the now outdated targets within the Core Strategy. In the context of the current land supply shortfall and the need to increase housing delivery, the specific details of the scheme must instead be assessed with regards to wider policies of the development plan to establish whether the development (and the associated proportionality of growth) would give rise to clear and tangible harms that would demonstrably outweigh the benefits of the scheme. The key material considerations in this regard are assessed in the following paragraphs.

## **6.27 Local Character and Landscape Impacts**

- 6.28 Policy RA2 requires that all developments within or adjacent recognised settlements to be of a high quality and appropriate to their context whilst making a positive contribution to the surrounding environment and its landscape setting. This is further reinforced by policy LD1 which requires that schemes are positively influenced by the character of the townscape in terms of their design, scale and site selection. SD1 also requires that schemes are designed to maintain local distinctiveness by respecting scale, height, proportions and massing of surrounding development whilst making a positive contribution to the character of the area. Policies SD1, H7 and E2 of the NDP also set out similar principles which require that development protects, maintains and enhances the parish environment by (inter alia) achieving a high quality built environment, promoting local distinctiveness, and supporting features that contribute to local character. Dwellings should be of a scale and character reflecting the density and massing of existing properties in the vicinity, as per policy H7 e).
- 6.29 The site here lies on the western edge Winforton. It is enclosed by residential land uses on three sides; with the residential estate known as Vineyards being located to the east, the three dwellings on Ramblers Way being located to the north, and a single dwelling known as the Buttley being located to the west. The southern boundary of the site is enclosed by a hedgerow, which is a continuation of the hedgerow that demarks the southern limits of Vineyards. In spatial terms therefore, the site is reasonably well located to the existing built up form of the village as required by the relevant policies of the CS and NDP. The site's relationship with surrounding patterns of development is depicted on the aerial image on the next page:



**Figure 4: Proposal site relative to built form of Winforton**

- 6.30 The site would be visible from the A438, however these views would be screened by the existing housing fronting the highway and largely confined to the open corridor associated with the site access. The site is however also crossed by a public footpath WW1. It is evident 'on the ground' and from the representations received that this footpath is well used, providing a link for village residents to the surrounding countryside. The currently open nature of the site, akin to a rough pasture, affords attractive views of the countryside across the River Wye flood plain to the south towards the Black Mountains. The characteristics of the site in this regard are such that it contributes positively to the rural setting of the village, as noted by the Inspector in 210131/O.
- 6.31 The development of the site for housing will clearly change the character of the site from open and rural in nature to a more urbanised residential character. The envelope of the village would be expanded into the surrounding countryside and there would be an erosion of the site's rural character which contributes to the edge-of-settlement transition. However, the impact in this regard would be mitigated to some extent by the relationship with surrounding housing and the confinement of development to within existing landscape boundary features. The existing hedgerow to the south of the site for instance, which aligns with the rear boundary of Vineyards, is such that the parcel of land is reasonably well enclosed and any new housing here would not appear as a discordant protrusion into the countryside relative to its neighbours. Existing boundary hedgerows would be retained and protected during construction, as would the large oak tree to the north east of the site – providing further mitigation. The density of development, which is equivalent to approximately 18 dwellings per hectare, is also relatively low and not markedly different to that found on the immediately adjoining development at Vineyards.
- 6.32 Although the application is made in outline, the matter of layout is provided for consideration at this stage. Although proposing a similar quantum of development of dwellings to previous proposals on the site that gave rise to density concerns, the current scheme is considered to make more efficient use of land by increasing the number of smaller footprint units – such as four of the dwellings being provided in a semi-detached format. The layout plans also indicate that Plot 1, which is located at the central arrival point to the site, would be provided as a bungalow. The provision of a single storey dwelling in this location is considered to be beneficial from a design perspective, as the lower height and massing would contribute to a greater sense of



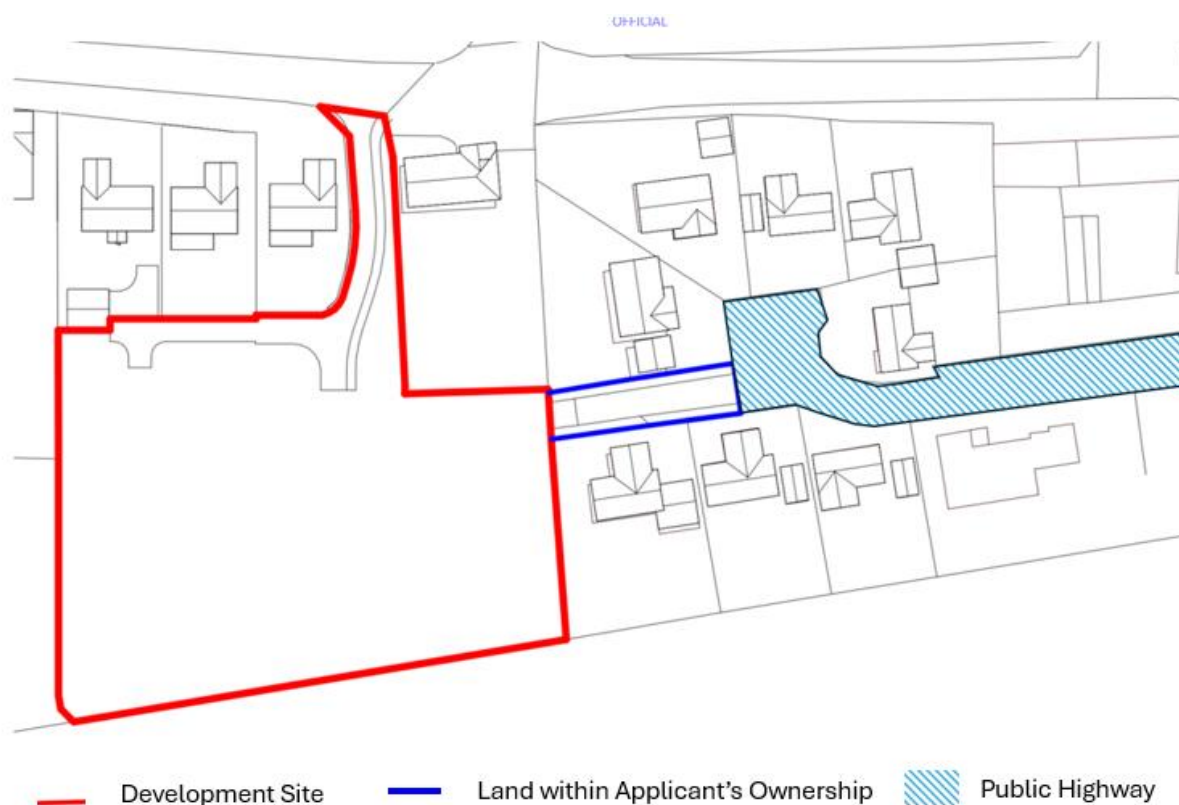
spaciousness and would limit the intrusion of built form in views through the site towards the wider landscape to the south. This is also assisted by the provision of an open corridor around the public footpath to the south, which would help reduce the urbanising effect of the development for footpath users and allow for tunnelled views of the countryside beyond. Although the Landscape Officer has suggested that the corridor may be more effective in an alternative location, Officers are satisfied that it would serve its intended purpose in its current location when the alignment with the wider site roads, footpaths and likely desire lines are taken into account. Beyond that suggestion with respect of site layout, it is noted that the Landscape Officer has not offered any explicit objections to the development proposed.

- 6.33 It is not considered that the proposal site lies with the setting of any heritage asset and thus no potential for impact is identified in this regard that may lead to conflict with LD4 or E2.
- 6.34 Overall, it is accepted that the scheme would urbanise the site and this would erode the rural setting of the village. There is a degree of policy tension associated with this, in particular with LD1, H2 and H7. However, the scheme has taken measures to mitigate the impact and Officers do not consider that levels of harm would be significant. This broadly aligns with the findings of the Inspector dealing with the appeal in respect of 210131/O, who whilst acknowledging the urbanising effect of the development, noted that the impacts of developing the land in landscape character terms were 'limited'. Nonetheless, harm is found and this must be weighed in the planning balance, having regards to the positive presumption as set out by the NPPF.

### **6.35 Access and Highways**

- 6.36 The application is made in outline, with details of access for approval at this stage. Core Strategy Policy MT1 relates to the highways impacts of new development, and requires that proposals demonstrate that the strategic and local highway network can absorb the traffic impacts of the of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. It also requires under point (4) that developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space. From the NDP, policy H5 requires amongst other things that all development proposals in Winforton ensure appropriate access arrangement can be provided. More general policy T2 sets out a range of highways requirements for new developments which includes that all developments should;
- a) Make full and adequate provision for off-street parking within residential development, including parking for visitors;
  - b) design roads and parking areas within any site to minimise the effects on pedestrians, in particular safeguarding children in areas where they walk or play, and avoid the opportunity for indiscriminate parking by residents and visitors
  - c) not result in unacceptable road or highway risk, dangers to pedestrians, or traffic congestion and pollution especially in Eardisley;
  - d) provide permeable surface construction for parking facilities to reduce surface water run-off and contribute to local flood reduction
  - e) not restrict the ability to provide an appropriate car parking area and safe passenger dropping-off point for Eardisley Primary School;
  - f) provide appropriate public car-parking for employees and visitors in relation to proposals for employment, business and tourism uses;
  - g) include measures to support and encourage active travel modes as in T3.
- 6.37 Policy T3 also sets out a range of principles related to the promotion of sustainable transport measures. This includes that schemes should provide pavements and cycle paths which enable connections to existing footways in order to gain access to villages and facilities.

- 6.38 The development would be served via the existing access on the A438 to the north of the site, which currently serves three dwellings at Ramblers Way. The existing access is located within the 30mph village speed limit and benefits from good levels of visibility onto the main road. The Council's Transportation Manager confirms that the intensification in use of the existing access associated with the proposed development does not raise any safety concerns and advises that the internal configuration of the access road is also appropriate – adhering to the principles of 'Shared Surfaces' within the Highways Design Guide that are considered suitable to support up to 25 dwellings. It is therefore suitable to support the cumulative total of 12 dwellings. As such, it is not considered the proposed access arrangements would have any detrimental to the safe and efficient function of the network and no objections have been received from the Transportation Manager on that basis. No conflict with MT1, T2 or H5 is hence identified.
- 6.39 The definitions of the DMPO makes clear that approval of 'access' requires consideration by all modes of transport, including pedestrians. The existing site access to the A438 is flanked by a pedestrian footway and this would be available for use by new residents of the proposed development, however it is acknowledged that there are limited segregated footways available once they reach the main road in a manner that is typical of many rural villages. A further pedestrian link is however also proposed through the Vineyards housing development to the east of the site, which would provide better access to the village's dedicated footway network that runs alongside the A438 to the east of Bakers Lane. Although the deliverability of this link has been questioned in the representations received, it is evident that the road serving the Vineyards is adopted public highway as far as the turning head and the deposited plans indicate that the remaining strip of land which links this to the proposal site is within the ownership of the applicant (Figure 5). A link here would therefore appear to be feasible and the works would be conducive with the aspirations of policy Eardisley NDP policy T3, which seeks to increase connectivity within villages. It would also provide formalised access from the Vineyards to the public footpath crossing the proposal site and the wider countryside beyond, which would appear to already be a well-trodden route on an informal permissive basis. The Transportation Manager has advised that the proposed link is acceptable in principle and full details are recommended to be secured by condition, to be implemented prior to first occupation.



**Figure 5: Plan showing land control in area of proposed link to Vineyards**

- 6.40 In so far as access and highways considerations are relevant to 'layout', the internal site arrangements ensure that appropriate manoeuvring and parking space is provided for the nature of the development proposed. Off-road parking is provided at a minimum rate of two spaces per dwelling, which the Transportation Manager confirms accords with the relevant design standards. For the avoidance of doubt (following such references in representations received), there is no reliance on internal garages within the parking strategy.
- 6.41 The site is also crossed by a public footpath WW1. This appears to be well used, providing a link between the housing in the village and the wider countryside to the south. The layout of the site would require a diversion order to alter the alignment of the path in the southern portion, where it would run through an open corridor between two dwellings. The alternative alignment would maintain the function of the path and the Council's PRow Officer has confirmed that they do not object to the scheme, subject to a diversion order being made before the development is carried out. An informative note advising of the correct process will be attached to any decision.

## 6.42 Types and Mix of Housing

- 6.43 Amongst other things, policy H3 of the CS requires that developments should provide a range and mix of housing units which meet local needs and contribute to the social wellbeing of settlement. Policy H7 of the NDP sets out a similar requirement, with point a) also setting out that there should be an emphasis on family accommodation and good quality accommodation for older people. Policy SD1 of the NDP also requires that new housing should be in mixed groups in terms of type, size and tenure. Point f) of NDP policy SD1 is particularly relevant:

*'f) Housing development should be in numbers and types to promote strong, balanced communities meeting the needs of all ages and stages, including young families, the elderly and people with disabilities. New housing should be in mixed groups in terms of type, size and tenure. The precise housing mix should meet the long term needs of the group of parishes over the plan-period and, in particular provide family accommodation for working age households in order to support local community and economic resilience'*

- 6.44 With regards to affordable housing, policy H1 of the CS sets the expectation that sites of 10 dwellings or more will be expected to contribute towards meeting affordable housing needs. For qualifying development within this area of the county (Kington and West value area), it sets the target that 35% of units be provided under affordable tenures.
- 6.45 As referenced in earlier sections of this report, the application was originally promoted as a 'rural exception site' in accordance with CS policy H2. Following the changes made to the NPPF in December 2024 however, it is no longer being advanced on that basis. It is instead to be assessed as a general 'open market led' housing scheme and without reference to any of the circumstance in RA3 where development outside of settlements may be acceptable.
- 6.46 The proposal scheme is for nine dwellings. For the avoidance of doubt, this means the scheme is below the ten dwelling threshold whereby there would be a policy obligation for it to provide affordable housing in accordance with policy H1. Nonetheless, the Applicant proposes to supply three of the dwellings as affordable housing, which would be equivalent to the 35% of the scheme total (in alignment with the target sought by policy H1 on qualifying schemes).
- 6.47 The specific type of affordable accommodation being proposed has been arrived at following discussions with the Council's Strategic Housing Team, having regard to locally identified needs and affordability factors. The scheme proposes to provide three dwellings would be delivered as 'Discounted Market' units, whereby they would be sold to qualify persons at a 30% discount off the open market valuation. This discount would be secured in perpetuity through a S106 agreement, which would also include a local connection clause with preference given to those with links to Winforton in the first instance (followed by cascading parishes). A draft of the S106 agreement has been agreed and is included as an Appendix to this report (Appendix 1).

- 6.48 The provision of affordable housing when there is no policy obligation to do so (effectively on a 'voluntary' basis), is a benefit that attracts significant weight in favour of the scheme. There has historically been an under-delivery of affordable dwellings in rural areas and the provision of three 'family' homes on a Discounted Market basis would help to address this past trend, in particular aligning with the aims of the NDP policy SD1 f) to 'provide family accommodation for working age households in order to support local community and economic resilience'. The NDP also acknowledges in the background justification (p24) that the absence of affordable homes within the area to part-buy or to buy at lower than market cost is a serious disincentive for younger families who want to get onto the property ladder. Again, the scheme would help to address this and that would support achieving the social objective of sustainable development.
- 6.49 The remaining housing units would be provided for sale on the open market. The application provides an undertaking to deliver one of these units as a bungalow (Plot 1), which would assist in delivering a range of houses and accommodation to meet the needs of older people. This is an aim emphasised in the NDP through policies H7 and SD1 and, again, is a benefit which attracts weight in favour of the scheme. In the context that the matters of scale and appearance are reserved for future consideration, no plans for the dwellings are available at this stage and thus the delivery of the bungalow in the RM scheme will be secured by condition. Details of the mix of housing across the scheme as a whole will also be secured by condition, being mindful that detailed plans for the dwellings themselves are not to be secured at this stage given scale and appearance are reserved matters.
- 6.50 In summary therefore, the scheme is considered to propose an appropriate mix of housing in accordance with policies H3, H7 and SD1. The provision of three affordable dwellings on a voluntary basis is also a significant benefit that must be weighed in the planning balance.

#### **6.51 Landscaping**

- 6.52 Although made in outline, the application seeks approval for the matter of landscaping at this stage. Policies LD1 and H7 are most relevant in this regard, which broadly require that landscaping schemes form an integral part of new development to ensure development integrates appropriately into its surroundings. A scheme of hard and soft landscaping has been provided on PPA-W-03-D. The plan shows that existing boundary features such as the hedgerow to the south would be maintained and a buffer area would be provided around notable tree features such as the oak to the north east. The proposed landscaping scheme predominantly utilises hedgerows to define plot boundaries, along with some areas of fencing that is mainly found to rear gardens. A range of tree planting is proposed, both within private curtilages and in the shared area adjacent to the footpath corridor to the south. There is a particular focus on tree planting to reinforce the hedgerow to the south, which increase the effectiveness of this feature to help soften the appearance of the new housing when viewed from the south. As a whole, the strategy shown on the supplied plan is acceptable – however some details do require further information or clarification. There is for instance some ambiguity regarding the nature of fencing to be used, and the planting specification for hedgerows will need some refinement as the current native mix includes 'thorny' species that are undesirable as boundary treatments in domestic gardens and adjoin footways. Revised details can be secured by condition. A bespoke scheme of landscape maintenance will also be secured by condition, noting the comments from the Council's Arboriculture Officer regarding the lack of precision in the current details that may compromise the establishment of the new planting scheme if not adequately addressed. Subject to these conditions being imposed, there is not considered to be any conflict with policies LD1 or H7.



### **6.53 Residential Amenity**

- 6.54 Policies SD1 and H4 require that development proposals safeguard residential amenity for existing and proposed residents. This accords with the principles set out by the NPPF with regards to securing good standards of amenity for all existing and future occupants of land and buildings. Although the current application is in outline form, layout is fixed at this stage and positioning of dwellings broadly accords with surrounding patterns in terms of density, orientation of building and separation distances between plots. Details of landscaping area also provided for approval and this includes appropriate boundary treatments to ensure privacy to external areas, without unduly compromising living conditions or visual amenity through the use of insensitive 'hard' features. Officers are therefore satisfied that good standards of amenity would be delivered and have hence found no conflict with SD1 and H4 in this sense

### **6.55 Flood Risk**

- 6.56 It is noted that many of the representations received highlight a perceived risk of flooding to the site. No evidence, anecdotal or otherwise, has however been provided to suggest the site has previously suffered from flooding events and this would align with the Environment Agency mapping (NFRA2 updates March 2025), which identifies the site as being within the 'low risk' Flood Zone 1 for fluvial food risk. The site is also not identified as being at risk from pluvial flooding. There is hence no required for a Flood Risk Assessment and the site is considered suitable for development with regards to national guidance and policies E1 and SD3 of the Development Plan. No adverse comments have been offered from the Council's Land Drainage Team with respect of flood risk.

### **6.57 Foul and Surface Water Management**

- 6.58 In respect of foul water management, policy SD4 of the CS is applicable. This policy relates to waste water treatment and river water quality and broadly requires that development should not undermine the achievement of water quality targets by ensuring adequate arrangements are provided for the treatment of waste water. The policy sets out a hierarchal approach whereby a mains sewer connection is the preferred option. Where this is not practical, then alternative private options should be considered which includes the use of a package treatment plant in the first instance. Policy SD1 of the NDP is also relevant insofar as it states that schemes should include measures for sewage treatment and surface water management. From the CS, SD3 requires that sustainable water management methods for this are an integral part of new development in order to reduce runoff rates and avoid adverse impacts upon water quantity. This includes that developments should include appropriate sustainable drainage systems and ensure that surface water runoff rates are not increased.
- 6.59 The village of Winforton is not served by a mains sewer network and therefore the application proposes the use of package treatment plants and soakaways within the curtilage of each dwelling to manage foul water. Surface water would be managed through the use of individual soakaways. The current application is supported by the results of infiltration testing on site which confirms that these are a viable form of management, however infiltration rates are high and in the level where a permit to discharge would be required from the Environment Agency. As a demonstration that the means of management is feasible, a permit has been obtained by the Applicant for a single plot. The LPA is hence satisfied that suitable foul water management arrangements can be achieved and no objections have been received from the Council's Land Drainage Engineer, subject to a detailed design for the foul system to be secured by condition.
- 6.60 With regards to surface water management, on-site tests again show that infiltration methods are appropriate and this is reflected in the use of individual soakaways within the curtilage of each dwelling. Surface water from communal areas, such as the site road, would be managed through the use of impermeable surface and a shared soakaway located on the public green space

corridor to the south. Again, the Council's Land Drainage Engineer confirms that these arrangements are appropriate and no conflict is identified with CS policy SD3.

#### **6.61 Habitats Regulations**

- 6.62 It is noted that the site lies within the catchment of the River Wye Special Area of Conservation (SAC) where assessment under the Habitats Regulations is required. In such areas, there is a requirement for competent authorities to have regard to the regulations and ensure there would be no adverse effect on the integrity of the designated site when granting permission for plans or projects. In this case, the LPA is the competent authority.
- 6.63 The development proposed in this case has the potential to impact upon local water quality and consequently the integrity of the designated site through the generation of and surface water. There is also the potential for impact as a result of construction processes. The application has however put forward mitigation in the form of a policy compliant foul and surface water management strategy, whilst mitigation for the construction phase can be secured through a pre-commencement condition requiring a Construction Environmental Management Plan.
- 6.64 The LPA Ecologist has completed an Appropriate Assessment which, subject to mitigation measures being secured by condition, confirms that there would be no adverse impact upon the designated site. This has been subject to consultation with Natural England (the relevant statutory body) and they confirm they have no objections. The LPA's duties under the Habitats Regulations are hence fulfilled and there is no harm to these environmental assets identified.

#### **6.65 Ecology and Green Infrastructure**

- 6.66 The application is supported by a preliminary ecological survey which notes the site is predominantly laid to grass with a hawthorn hedge to the southern boundary. Overall, it concludes that the site is of relatively low biodiversity value. Specialist advice has been sought from the Council's Ecologist and this confirms the LPA has sufficient information to conclude that the development will not have a detrimental effect on habitats or protected species, subject to mitigations measures being secured by condition. This includes a CEMP and external lighting condition. A scheme of biodiversity enhancement measures is also sought, however it is noted that these are already shown on the provided layout plan and their implementation prior to first occupation can be secured by condition. Subject to this, there is no conflict with LD2 and E4.
- 6.67 In respect of green infrastructure, the development is not likely to impact upon any significant trees and the existing hedgerow which forms the southern site boundary would be retained. There is a large oak tree outside of the site, but near to the development boundary, on the eastern flank and the road layout is delivered in a manner which avoids development within this root protection area. The Council's Arboriculture specialist consequently offers no objections to the scheme, subject to suitable protection measures being secured by condition. Further conditions are also recommended to secure an enhanced maintenance schedule to ensure that new landscaping measures are given the best chance of establishment. These conditions all pass the relevant tests and, subject to imposition, there would be no conflict with LD3 or E4.
- 6.68 For the avoidance of doubt, the validation date of the application is such that it is not required to deliver a mandatory 10% net gain to biodiversity value relative to pre-development conditions. This legislation came into force on 12th February 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) – however the application was made prior that date and hence is exempt from delivering BNG in accordance with the statutory exemptions and transitional arrangements.

## 6.69 Planning Balance and Conclusions

- 6.70 Both Core Strategy policy SS1 and Paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan without delay. The NPPF is clear that the achievement of sustainable development is dependent on achieving three overarching objectives, which are interdependent and must be pursued in mutually supportive ways. These are an economic objective; a social objective; and an environmental objective.
- 6.71 The application here is to be considered in the context of the presumption in favour of sustainable development as set out by Paragraph 11 d) of the NPPF. The preceding appraisal has not identified any harm relating to the matters identified at Footnote 7 and hence Paragraph 11 d) i. is not engaged. The proposal is instead to be considered with regards to the 'tilted balance' at 11 d) ii, which directs that **permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.**
- 6.72 The starting point for decision making however remains with the statutory development plan. In this case, the site is located outside of the settlement boundary for Winforton and thus the principle of development is not supported by development plan policies H2, H5 and RA3. However, the inability to demonstrate a five year housing land supply is such that these policies must be regarded as being 'out-of-date' and the weight that can be given to them is reduced.
- 6.73 It has been identified that the proposal would urbanise the character of the site and erode the rurality of the edge-of-settlement location, however the scheme has taken steps to mitigate for this and it is not considered that it would appear incongruous in the context of existing neighboring development. It is also not considered that the scheme would be of a scale that it would lead to clearly demonstrable harm to the locale, for instance in terms of representing disproportionate growth relative to the size of the existing settlement or overwhelming the capacity of village infrastructure. Overall therefore, there is a limited adverse impact upon the character of the landscape and this leads to some conflict with LD1, H2 and H7.
- 6.74 The scheme incorporates measures to ensure there would be no adverse impact in respect of matters such as highway, flood risk, drainage, ecology and green infrastructure. There are no objections received from relevant technical consultees in relation to these issues, subject to the imposition of conditions. The absence of harm here is however neutral in the planning balance.
- 6.75 In terms of benefits, the scheme would provide new housing in a reasonably accessible location that is contiguous with a settlement that has been identified as a sustainable focus for growth within the development plan. The provision of nine dwellings towards housing supply is also a benefit that attracts weight in favour of the scheme, particularly in light of the current shortfall in the Council's supply against mandatory targets. The benefits of the scheme in this regard are not tempered by the exceedance of the village's housing target as defined within the Core Strategy, which are now outdated and not intended as a ceiling to development in any case.
- 6.76 The scheme here also makes provision for the delivery of affordable housing, with three units (equivalent to 35% of the scheme total) to be offered to qualifying local residents for purchase at a rate at least 30% below open market value. In the view of Officers, this is a benefit which should be afforded significant weight in favour of the scheme – particularly in the context that the affordable units are essentially offered by the developer on a 'voluntary basis' as there is no policy obligation for a scheme of this size to otherwise do so. The nature of the affordable dwellings proposed is such that it would align with the aspirations of the NDP to promote the delivery of family accommodation that enables local working people to stay in the area, which will in turn support the wellbeing of the local community and promote economic resilience. Delivery of the affordable units and retention in perpetuity will be secured by a S106 Agreement.

- 6.77 The scheme has also given an undertaking to provide one unit as a bungalow, which is useful inclusion to the housing mix and would again align with the aims of the NDP to provide accommodation that is suitable for older people. The delivery of a bungalow as part of the Reserved Matters can be secured by condition and the provision of a range of housing types to meet the varying need of the community is a further benefit that attracts positive weight.
- 6.78 The access strategy includes an undertaking to provide a secondary pedestrian access between the site and the Vineyards to the east, which provides onwards access to the rest of the village. This would be of benefit to future occupiers of the proposed development but also existing residents, who would appear to already use the route on an informal / permissive basis. The provision of a more formalised link will secure the use of that route going forwards and would align with policy T3 of the NDP in so far as this seeks to support development which increases connectivity within villages. Details are secured by condition.
- 6.79 More broadly, there would be economic benefits associated with the construction of the dwellings and future residents would bolster support for local businesses and services.
- 6.80 Weighing all of this together, and having regards to 'tilted balance' required by the NPPF, it is acknowledged that the scheme does lead to some tension with the policies of the development plan as a result of the site's location beyond the settlement boundary and the urbanising effect on the otherwise rural character of the location. However, the scale of harm identified in this regard is modest and it does not 'significantly and demonstrably' outweigh the benefits of the scheme. As such, the proposal benefits from the positive presumption as set out by Paragraph 11 of the NPPF and approval is recommended accordingly:

## **RECOMMENDATION:**

**It is recommended that subject to the completion of a legal agreement under Section 106 of the Town and Country Planning Country Act to secure the delivery of affordable housing and the imposition of the conditions detailed below (and any other further conditions considered necessary by officers named in the scheme of delegation to officers), that Outline Planning Permission be granted:**

### **Standard Outline Planning Permission Conditions**

#### **1 Timescale for Submission of Reserved Matters**

**Application for approval of reserved matters (appearance and scale) 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 Timescale for Implementation**

**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 Reserved Matters to be Approved

Approval of the details of the scale and appearance of the development (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced. The development shall subsequently be carried out in accordance with the approved details.

**Reason:** To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with policies RA2, SD1, LD1 and LD3 of the Herefordshire Local Plan – Core Strategy, policies SD1, H2, H5 and H7 of the Eardisley Neighbourhood Development Plan and the National Planning Policy Framework.

### 4 Development in accordance with Approved Plans

With regards to the matters of access, layout and landscaping, the development hereby approved shall be carried out strictly in accordance with the approved 'Proposed Site Plan PPA-W-03-D' except where otherwise stipulated by conditions attached to this permission.

**Reason.** To ensure adherence to the approved plans in the interests of delivering a satisfactory form of access and layout which complies with policies RA2, LD1 and MT1 of the Herefordshire Local Plan Core Strategy, policies SD1, T2, H5 and H7 of the Eardisley Neighbourhood Development Plan and the National Planning Policy Framework.

### Pre- Commencement Conditions

#### 5 Construction Environmental Management Plan

No development shall commence on site until a detailed Construction Environmental Management Plan – including but not limited to an ecological working method statement; and details of the person responsible for the implementation of the CEMP – has been supplied to the LPA for written approval. The measures of the approved CEMP shall be implemented prior to any development commencing on site and all construction works shall thereafter be carried out in accordance with the approved details.

**Reason:** To ensure that all species are protected and habitats enhanced having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council's declared Climate Change & Ecological Emergency.

#### 6 Protection Measures for Retained Trees and Hedgerows

Prior to the commencement of the development, a protection plan for retained trees and hedgerows in accordance with BS5837:2012 'Trees in relation to design, demolition and construction' shall be submitted and approved in writing by the local planning authority. The approved protection measures shall subsequently be implemented prior to any development taking place on site and those measures shall remain in place for the duration of the construction phase.

**Reason:** To safeguard all retained trees during development works and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan Core Strategy, policies SD1, H7 and E4 of the Eardisley Group Neighbourhood Development Plan and the National Planning Policy Framework.

## **7 Construction Management Plan (Highways)**

Development 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
- Construction Traffic Management Plan

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

**Reason:** To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied and to conform to the requirements of policy MT1 and SS4 of Herefordshire Local Plan Core Strategy, policies H5 and T2 of the Eardisley Neighbourhood Development Plan and the National Planning Policy Framework

Conditions to be addressed at Reserved Matters stage and/or discharged separately

## **8 Details of Footway Link**

With the exception of site clearance and groundworks, no development shall take place until details of the proposed footway connection between the site and U90632 The Vineyards have been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until the footway link has been constructed in accordance with the approved details and is available for use.

**Reason:** To ensure the safe and free flow of traffic on the highway and to conform to the requirements of policies SS4 and MT1 of Herefordshire Local Plan Core Strategy Plan, policy T1 and T3 of the Eardisley Neighbourhood Development Plan and the National Planning Policy Framework

## **9 Housing Mix**

The reserved matters submission pursuant to Condition 1 shall include a scheme setting out the number, size and type of both open market and affordable dwellings to be provided. The scheme shall include a schedule outlining the number of 1, 2, 3 and 4(+) bedroom dwellings to be delivered in both open market and affordable tenures, with the overall mix being in general accord with the Herefordshire Housing Market Needs Assessment 2021 (or any successor document adopted by the LPA). The supplied scheme shall include provision for a minimum of 1 x open market bungalow.

**Reason:** To ensure the scheme provides a range of open market and affordable housing sizes which reflects local demand and contributes to the creation of balanced communities in accordance with the Council's Housing Market Needs Assessment, policies RA2 and H3 of the Herefordshire Local Plan Core Strategy, SD1 and H5 of the Eardisley Neighbourhood Development Plan and the National Planning Policy Framework.

**10 Approval of Driveway Specification**

Prior to the first occupation of any dwelling to which this permission relates an area for car parking shall be laid out within the curtilage of that property, in accordance with a specification which has first been submitted to and approved in writing by the Local Planning Authority. Those areas shall not thereafter be used for any other purpose than the parking of vehicles.

**Reason:** In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform to the requirements of policy MT1 and SS4 of Herefordshire Local Plan Core Strategy, policies H5 and T2 of the Eardisley Neighbourhood Development Plan and the National Planning Policy Framework.

**11 Approval of On-site Roads**

Development shall not begin in relation to the provision of on-site roads and highways drainage infrastructure until the following details are submitted to and approved in writing to the local planning authority:

- Construction Specification and Surface finishes
- Drainage details
- Future maintenance arrangements

The development shall be carried out and thereafter maintained in accordance with the approved details

**Reason:** To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied and to conform to the requirements of policy MT1 and SS4 of Herefordshire Local Plan Core Strategy, policies H5 and T2 of the Eardisley Neighbourhood Development Plan and the National Planning Policy Framework.

**12 Approval of outstanding Landscaping**

Prior to the first occupation of any dwelling hereby approved, the following details shall be submitted to the Local Planning Authority for written approval:

- A detailed planting specification for all new boundary hedgerows
- Details of all new hard boundary features (fences or walls)

The details shall be based on the indicative locations shown on plan PPA-W-03-D.

**Reason:** In the absence of sufficient or adequate detail on the supplied plans, further information is required in relation to the proposed boundary treatments to ensure these are appropriate to the context and assist the development in assimilating with the surrounding area, as required by policies LD1, LD2 and LD3 of the Herefordshire Local Plan Core Strategy, policies SD1, H7 and E4 of the Eardisley Group Neighborhood Development Plan and the National Planning Policy Framework.

**13 Landscape Maintenance**

Prior to the first occupation of any dwelling hereby approved, a detailed schedule of landscape maintenance for a period of 10 years shall be submitted to and approved in writing by the local planning authority. The maintenance shall subsequently carried out in accordance with this approved schedule.

**Reason:** To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy, policies SD1, H7 and E4 of the Eardisley Group Neighborhood Development Plan and the National Planning Policy Framework.

#### **14 Cycle Storage**

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

**Reason:** To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy, policy T3 of the Eardisley Neighbourhood Development Plan and the National Planning Policy Framework.

#### **15 Approval of Foul and Surface Water Drainage**

Prior to the first occupation of the development details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of any of the dwellings hereby permitted and thereafter maintained in perpetuity.

**Reason:** In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy, policy SD1 of the Eardisley Neighbourhood Development Plan and the National Planning Policy Framework.

### **Compliance and Monitoring Conditions**

#### **16 Implementation of Landscaping**

The scheme of landscaping shall carried out in accordance with the details shown on approved plan PPA-W-03-D, except where stipulated otherwise by conditions attached to this permission. All planting, seeding or turf laying in the approved landscaping scheme shall be carried out in the first planting season following the first occupation of any dwelling or the completion of the development, 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. The hard landscaping measures shall be carried out concurrently with the development and completed prior to first occupation.

**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; policies SD1, H5 and H7 of the Eardisley Neighbourhood Development Plan and the National Planning Policy Framework.

**17 Implementation of Biodiversity Enhancement**

The scheme of ecological enhancement measures shown on approved plan PPA-W-03-D shall be implemented in full prior to first occupation of any dwelling and thereafter shall be maintained in perpetuity, unless otherwise agreed in writing by the local planning authority.

**Reason:** To ensure that biodiversity enhancement measures are secured having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3; and the council's declared Climate Change and Ecological Emergency

**18 External Lighting Restrictions**

No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.

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

**19 Hours of Working**

During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday - Friday 7.00am - 6.00pm, Saturday 8.00am -1.00pm nor at any time on Sundays, Bank or Public Holidays.

**Reason:** To protect the amenity of local residents and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

**INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. A public right of way crosses the site of this permission. The permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under Section 257 of the Town and Country Planning Act 1990 provided that the Order is made before the development is carried out. If the

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Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

right of way is obstructed before the Order is made, the Order cannot proceed until the obstruction is removed.

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 is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.
5. The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000.

The attention of the applicant is also drawn to the provisions of the Conservation of Habitats and Species Regulations 2010. In particular, European protected animal species and their breeding sites or resting places are protected under Regulation 40. It is an offence for anyone to deliberately capture, injure or kill any such animal. It is also an offence to damage or destroy a breeding or resting place of such an animal.

6. 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'.

## APPENDICES

Appendix 1 – Draft Section 106 Agreement



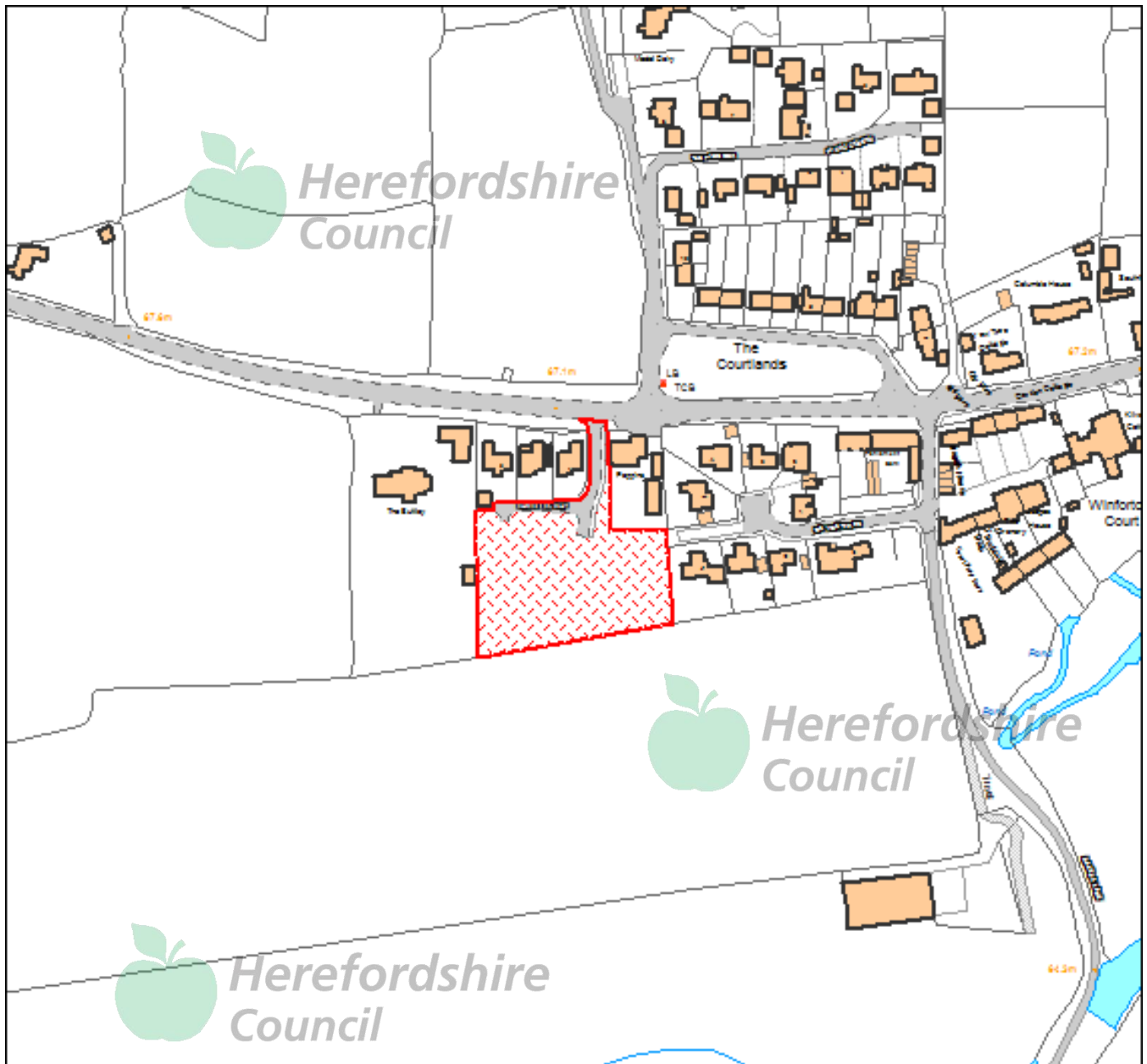
Decision: .....

Notes: .....

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### **Background Papers**

None identified.



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**APPLICATION NO:** 240349

**SITE ADDRESS :** LAND AT RAMBLERS WAY, WINFORTON, HEREFORD, HR3 6EP

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**THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL**

**AND**

**COLLINS DESIGN & BUILD LIMITED**

**PLANNING OBLIGATION BY AGREEMENT PURSUANT TO SECTION 106  
OF THE TOWN AND COUNTRY PLANNING ACT 1990 AND ASSOCIATED POWERS**

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**RELATING TO LAND AT RAMBLERS WAY, WINFORTON, HEREFORD, HR3 6EP**

Herefordshire Council  
Legal Services  
Plough Lane  
Herefordshire  
HR4 0LE  
Council's Legal Ref: **103947**

**THIS DEED** is made the

day of

2025

## BETWEEN

- (1) **THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL** of Plough Lane Offices, Plough Lane, Hereford HR4 0LE (the **Council**);
- (2) **COLLINS DESIGN & BUILD LIMITED** incorporated and registered in England and Wales with company number 07083543 whose registered office is at Unit 5, Westwood Industrial Estate, Ewyas Harold, Herefordshire, HR2 0EL (the **Owner**)

## BACKGROUND

- A.** For the purposes of the 1990 Act the Council is the local planning authority for the area within which the Site is situated and the party who is entitled to enforce the obligations contained in this Deed.
- B.** The Owner is the freehold owner of the Site under title HE52456 at HM Land Registry free from encumbrances.
- C.** The Owner submitted the Planning Application to the Council for permission to develop the Site for the purposes and in the manner described in the Planning Application.
- D.** The Council is minded to grant Planning Permission subject to conditions and the prior completion of this Deed.
- E.** The Council has considered the provisions of the development plan and taken into account material planning considerations affecting the site and considers that in the interests of the proper planning of its area the Development of the Site ought to be only permitted subject to the terms of this Deed and for that purpose the parties are expressly willing to enter into this Deed.

**F.** The Owner has agreed that the Development shall be carried out only in accordance with the rights and obligations set out in this Deed and that they may be enforced by the Council against the Owner and its respective successors in title.

**G.** THIS DEED is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972 as amended, Section 1 of the Localism Act 2011 as amended and all other enabling powers and enactments which may be relevant for the purposes of giving validity hereto or facilitating the enforcement of the obligations herein contained with the intent to bind the Site.

## **THIS DEED WITNESSES AS FOLLOWS:-**

### **OPERATIVE PROVISIONS**

#### **INTERPRETATION**

1.1 For the purposes of the recitals and the covenants in this Deed the following words and expressions have the following meanings:

**“Act”** means the Town and Country Planning Act 1990 (as amended);

**“Affordable Housing”** means housing provided to eligible households whose needs are not met by the Open Market. Eligibility is determined with regard to local incomes and local house prices. Affordable Housing should remain at an affordable price for future eligible households or the subsidy recycled for alternative Affordable Housing provision. The descriptions of all types of Affordable Housing in Herefordshire are contained in the Technical Data;

**“Affordable Housing Units”** means (unless otherwise agreed in writing by the Council) 3 of the residential units and ancillary areas comprised within the Development and intended for occupation comprising:

- (i) 3 Discount Market Sale Units

**“Chargee”**

means any legal person exercising a power of sale in respect of a mortgage or charge and shall include mortgagee or chargee (or any receiver (including administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or an administrator (each a Receiver)) exercising a power of sale in respect of the whole or any part of the Dwelling or any persons or bodies deriving title through such mortgagee or chargee or receiver;

**“Commencement Date”**

means the carrying out in relation to the Development of any material operation (as defined within section 56(4) of the 1990 Act) on the Site pursuant to the Planning Permission but (for the purposes of this Agreement) excluding operations consisting of:

- site clearance,
- demolition work,
- environmental site investigations,
- archaeological investigations,
- site survey works;
- investigations for the purpose of assessing ground conditions,
- preparatory and remedial work in respect of any decontamination or other adverse ground conditions;
- erection of any temporary means of enclosure and the temporary display of site notices or advertisements.

The words “Commence”, “Commenced” “Commencement” shall be construed accordingly;

**“County”**

means the county of Herefordshire;

**“Development”**

means the development of the Site as authorised by the Planning Permission for a proposed development of 9 dwellings consisting of 6 open market units and 3 affordable housing units.



<b>“Development Standards”</b>	<p>means a standard to fully comply with the following:</p> <ul style="list-style-type: none"> <li>(a) “Technical housing standards – nationally described space standards” published by the Department for Communities and Local Government in March 2015</li> <li>(b) All national construction standards and planning policy relating to design which may be published by the Secretary of State or by the Council from time to time</li> <li>(c) Part 2 of Secured by Design standards published by Police Crime Prevention Initiatives Limited</li> <li>(d) Optional requirement M4(2) of Building Regulations 2010 (Part M) (Accessible and Adaptable Dwellings);</li> </ul>
<b>“Discount Market Sale Units”</b>	means housing sold to a Qualifying Purchaser in need of affordable housing at a discount of <b>30%</b> below the Open Market Value;
<b>“Dwelling”</b>	means any residential unit constructed on the Site pursuant to the Planning Permission;
<b>“Index Linked”</b>	means the increase as calculated in accordance with clause 14 of this Deed;
<b>“Interest”</b>	means interest at 4.5% above the base lending rate of National Westminster Bank PLC from time to time;
<b>“Marketing Plan”</b>	Means a written scheme detailing the strategy for the disposal of Discount Market Sale Units such scheme to be approved in writing by the Council (such approval not to be unreasonably withheld or delayed);
<b>“Occupation”</b>	means occupation for residential purposes for which Planning Permission has been granted but not including occupation by personnel engaged in the construction, fitting out or occupation for

marketing or display purposes and for security purposes and  
 “Occupied” “Occupy” and “Occupier” shall be construed accordingly;

- “Open Market”** means the open market for the sale or letting of housing by a person or body other than:
- (a) a local housing authority;
  - (b) a Registered Provider; or
  - (c) any other person or body offering housing accommodation to the public at less than the prevailing market sale/rent price;
- “Open Market Units”** means those Dwellings in the Development that are not Affordable Housing Units and which are intended for sale or letting on the Open Market and ‘Open Market Unit’ shall mean any one of such units;
- “Open Market Value” and “Open Market Valuation”** mean the price at which a sale of the freehold interest or long leasehold interest (which here means a leasehold interest of not less than 99 years at a premium and a peppercorn rent) in a relevant Low Cost Market Housing Unit or Discount Market Sale Unit would fetch if sold on the Open Market by a willing vendor and disregarding the restrictions and obligations contained in this Deed and approved by the Council;
- “Plan ”** means the plan annexed hereto;
- “Planning Application”** means the application for planning permission under the Planning Reference and validated by the Council on 6<sup>th</sup> February 2024 for planning permission for the outline permission for the Development;
- “Planning Obligations Manager”** means the Council employee who manages, implements and monitors Section 106 agreements;
- “Planning Permission”** means the planning permission under the Planning Reference subject to conditions which may be granted in respect of the Planning Application;

- “Planning Reference”** means planning reference P240349/O
- “Qualifying Purchaser”** means a person who has demonstrated both at the time of application and at the time contracts are exchanged to purchase a [Discount Market Sale Unit to the Council’s satisfaction that he is:
- at least 18 years old;
  - a member of a household having an annual income of less than £40,000 as a sole income and £80,000 as joint (or such other figure as the Council may agree);
  - purchasing the Dwelling for occupation as sole main residence;
  - unable to afford to buy a home suitable for their housing needs on the Open Market;
  - able to demonstrate a good credit history (i.e. no bad debts or County Court Judgments) and able to afford the regular payments and costs involved in buying a Discount Market Sale Unit and
- able to secure a mortgage and have sufficient deposit to purchase or otherwise be able to demonstrate ability to purchase;
- “Reasonable Endeavours”** means that the party under the obligation shall not be required to take proceedings (including any appeal) in any court public inquiry or other hearing (unless specified to the contrary) but subject hereto such party shall be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and/or sums of money and the engagement of such professional or other advisers as in all the circumstances may be reasonable;
- “Registered Provider”** means a registered provider of Affordable Housing under Part 2 of the Housing and Regeneration Act 2008 being a preferred development partner listed (or intended for listing) in the Council’s ‘provision of affordable housing technical data’ which supports the supplementary planning document Planning Obligations April 2008 (or any subsequent or updated document), or any such other

Registered Provider as may previously be agreed with the Council in writing such agreement not to be unreasonably withheld;

<b>“RICS Community Infrastructure Levy (CIL) Index”</b>	means the RICS Community Infrastructure Levy (CIL) Index published by the Royal Institution of Chartered Surveyors and calculated on the basis of the arithmetic mean of the BCIS Tender Price Index (TPI) prior to the fourth quarter each year as calculated by the BCIS in the October of that year;
<b>“Site”</b>	means the land shown at Ramblers Way, Winforton, Hereford, HR3 6EP which is shown edged red on the Plan against which this Deed may be enforced and registered at HM Land Registry under title number HE52456;
<b>“Supplementary Planning Document”</b>	means the Supplementary Planning Document dated 1 April 2008 which is the Council's guidance for planning obligations in Herefordshire, for all those involved in the submission and determination of planning applications;
<b>“Technical Data”</b>	means the data updated annually by the Council entitled ‘Provision of Affordable Housing Technical Data to Support the Affordable Housing Supplementary Planning Document June 2021 (or any technical data published by the Council in support of any replacement planning policy document);
<b>“VAT”</b>	means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax; and
<b>“Working Day(s)”</b>	Mondays to Fridays (excluding days that in England are public holidays) inclusive.

1.2 In this Deed:

- 1.2.1 the clause headings in this Deed are for convenience only and do not affect its interpretation;
- 1.2.2 unless otherwise indicated references to clauses and Schedules are to clauses of and Schedules to this Deed and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule;
  - (a) All Acts of Parliament and all other legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by subsequent legislation; that statute or statutory provision as from time to time amended extended re-enacted consolidated or replaced; and
  - (b) any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision whether before or after the date of this Deed;
- 1.2.3 the headings in this Deed are inserted for convenience only and shall not affect the construction or interpretation of this Deed;
- 1.2.4 where the agreement, approval, consent or an expression of satisfaction is required by the Owner under the terms of this Deed from the Council; that agreement, approval, consent or satisfaction shall be given in writing and shall not be unreasonably withheld or delayed;
- 1.2.5 references to the Site include any part of it;
- 1.2.6 references to any party in this Deed include the successors in title of that party and assigns and any person deriving title through or under that party. In addition, references to the Council include any successor to its functions as local planning authority exercising planning powers under the Act;
- 1.2.7 “including” means “including, without limitation”;
- 1.2.8 any covenant by the Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;

- 1.2.9 where two or more people form a party to this Deed the obligations of that party will be joint and several and may be enforced against them all jointly or against each of them individually;
- 1.2.10 if any provision of this Deed is held by a Court of competent jurisdiction to be illegal unlawful invalid or unenforceable then to the extent possible the offending provision(s) will be severed from the Deed and the legality lawfulness validity and enforceability of the remainder of the Deed shall be unaffected and continue in full force and effect;
- 1.2.11 words importing the singular shall include the plural and vice versa;
- 1.2.12 words importing the masculine gender include the feminine and neuter genders and words denoting actual persons include companies corporations and firms and all such words shall be construed interchangeable in that manner.
- 1.3 Without prejudice to the terms of any other provision contained in this Deed the Owner shall pay all costs, charges and expenses (including without prejudice to legal costs and Surveyor's fees) reasonably incurred by the Council for the purpose of or incidental to the enforcement of any right or power of the Council or any obligation of the Owner arising under this Deed;
- 1.4 The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 as amended, by any person not a party to it and the terms of this Deed may be varied by a deed agreed between the parties without the consent of any third party being required;
- 1.5 No party will be liable for any breach of the terms of this Deed occurring after the date on which they part with their entire interest in the Site or the part of the Site in respect of which such breach occurs but without prejudice to liability for any breaches of this Deed occurring before parting with such interests. Neither the reservations of any rights nor the inclusion of any covenants or restrictions over the Site in any transfer of the Site will constitute an interest for the purposes of this sub-clause;
- 1.6 This Deed shall not be enforceable against a statutory undertaker, service company, or any other entity to whom any part of the Site may be transferred, let or otherwise disposed of for the provision of service media, electricity sub-stations, pumping stations, gas governor stations or similar matters, after the transfer of the statutory apparatus and any land upon



or in which the statutory apparatus is situated by the Owner to that statutory undertaker service company, or other such entity;

- 1.7 No waiver (whether expressed or implied) by the Council or Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or Owner from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default; and
- 1.8 Entry into this Deed does not constitute a transaction for a chargeable consideration for which Stamp Duty Land Tax is required.

## **2. EFFECT OF THIS DEED**

- 2.1 This Deed is made pursuant to section 106 of the Act and to the extent that they fall within the terms of section 106 of the 1990 Act the obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are enforceable by the Council.
- 2.2 To the extent that any of the obligations contained in this Deed are not planning obligations within the meaning of the Act, they are entered into pursuant to the powers contained in section 111 Local Government Act 1972, section 2 of the Local Government Act 2000, section 1 Localism Act 2011 and all other enabling powers, with the intend to bind the Owners and successors in title.
- 2.3 The covenants, restrictions and requirements of the Owner contained in this Deed are planning obligations for the purposes of Section 106 of the Act and are entered into by the Owner with the intention that they bind the interests held by them in the Site and their respective successors and assigns.
- 2.4 Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions in relation to the Site or otherwise.
- 2.5 This Deed will be registered as a local land charge by the Council.

- 2.6 If the Council agrees following an application under Section 73 of the Act to vary or release any condition contained in the Planning Permission or if a condition is varied or released following an appeal under Section 78 of the Act the covenants or provisions of this Deed shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission unless the Council in determining the application for the new planning permission indicate that consequential amendments are required to this Deed to reflect the impact of the Section 73 application when a separate deed under Section 106 of the Act will be required to secure relevant planning obligations relating to the new planning permission.

### **3. MISCELLANEOUS**

- 3.1 Nothing in this Deed prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than one relating to the Development as specified in the Planning Application, granted after the date of this Deed, whether or not pursuant to an appeal.
- 3.2 Nothing in this Deed shall be construed as a grant of planning permission.
- 3.3 Unless expressly agreed otherwise in this Deed, the covenants in this Deed shall be enforceable without any limit of time against the Owner and any successors in title to the Site and assigns of the Owner in an interest or estate to the Site or any part or parts of the Site as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person.

### **4. COMMENCEMENT**

The provisions of this Deed shall have immediate effect on the date upon which it is completed.

### **5. OBLIGATIONS OF THE OWNER**

The Owner covenants with the Council as set out in the First Schedule of this Deed.

### **6. TERMINATION OF THIS DEED**

- 1.1 This Deed will cease to have effect (insofar only as it has not already been complied with) if:

6.1.1 the Planning Permission is quashed, revoked or otherwise withdrawn prior to the Commencement Date so as to render this Deed or any part of it irrelevant, impractical or unviable or;

6.1.2 the Planning Permission expires prior to the Commencement Date

6.2 The Council shall upon receipt of a written request by the Owner and without unreasonable delay at any time after this Deed has come to an end under clause 6.1 or the obligations contained in the Schedules hereto have been discharged issue written confirmation thereof and note all related entries in the Register of Local Land Charges provided that the Owner has adequately set out the basis for making such a request.

## **7. NOTICES**

7.1 A notice under this Deed is valid only if it is given by hand or sent by recorded delivery and it is served at the address shown in this Deed for the receiving party or at any address specified in a notice given by that party to the other parties.

7.2 A notice sent to the Council:

7.2.1 in relation to any matters arising from this Deed shall be addressed to the Planning Obligations Manager Development Management Team, Herefordshire Council, Plough Lane, Hereford, HR4 0LE quoting the Planning Reference.

7.3 A notice:

7.3.1 if delivered by hand, it to be treated as served on signature of a delivery receipt or at the time the notice or document is left at the address provided that, if delivery occurs:

- (a) before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day; and
- (b) if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day; or

- 7.3.2 sent by recorded delivery is to be treated as served on the second working day after posting if sent by first class post or on the third working day after posting if sent by second class post;

## **8. CHANGE IN OWNERSHIP**

- 8.1 At the time of execution of this Deed, the Owner warrants that no person other than the Owner has any legal or equitable interest in the Site.
- 8.2 The Owner agrees to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company address or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan PROVIDED THAT this clause shall not apply in respect of the disposal of any individual Dwelling or Dwellings.

## **9. ENFORCEMENT**

- 9.1 This Deed is to be governed by and interpreted in accordance with the law of England;
- 9.2 The Courts of England are to have jurisdiction in relation to any disputes between the parties out of or related to this Deed. This clause operates for the benefit of the Council who retains the right to sue the Owner and enforce any judgment against the Owner in the courts of any competent jurisdiction.

## **10. DISPUTE**

Any dispute or disputes between any of the parties to this Deed arising out of the provisions of this Deed (other than a dispute or difference relating to a matter of law or concerning the meaning or construction of this Deed) shall be referred to a single arbitrator to be agreed between the parties or in default of agreement on the application of any party by the President of the Royal Institute of Chartered Surveyors in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment for the time-being in force.

**11. COUNCIL'S COSTS**

- 11.1 The Owner covenants and agrees with the Council that prior to completion of this Deed the Owner shall pay to the Council its reasonable and proper legal costs in connection with the preparation of this Deed, together with all disbursements, incurred in connection with the negotiation, preparation, completion and registration of this Deed.

**12. LATE PAYMENT**

Without prejudice to the Council's rights to enforce any breaches of this Deed (including by way of injunction) if any sum due to the Council from the Owner under this Deed is not paid on or before the date upon which it is due then Interest shall be payable from the due date of payment until the actual date of payment

**13. COMMUNITY INFRASTRUCTURE LEVY**

The terms of this Deed comply in all respects with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 in that the obligations contained herein are necessary to make the Development acceptable in planning terms, directly relate to the Development and fairly and reasonably relate in scale and kind to the Development.

**14. RIGHT OF ACCESS**

Without prejudice to the Council's statutory right of entry the Owner shall permit the Council and its authorised employees and agents upon reasonable written notice to enter the Site at all reasonable times for the purpose of verifying whether or not any obligation arising under the Deed has been performed or observed.

**15. RESERVATIONS**

For the avoidance of doubt, nothing in this Deed shall prevent the Council from exercising any of its statutory powers or functions in relation to the development of the Site.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

## **FIRST SCHEDULE**

### **(Affordable Housing)**

#### **PART 1**

#### **Affordable Housing**

The Owner covenants and agrees with the Council:

- 1.1. Not to Commence Development until and unless a programme for the delivery of the Affordable Housing Units ("the Affordable Housing Delivery Plan") has been submitted to and has been approved in writing by the Council (such approval not to be unreasonably withheld) and such Affordable Housing Delivery Plan
- 1.2. Following the Commencement of Development to construct or procure the construction of the Affordable Housing Units at no cost to the Council to the Development Standards and in accordance with the Planning Permission and to ensure the Occupation in accordance with the approved Affordable Housing Delivery Plan at paragraph 1.1 of this Part 1 of this Second Schedule.
- 1.3. Not to Occupy or cause or permit the Occupation of any more than four of the Open Market Units until and unless the Affordable Housing Units have been constructed in accordance with paragraph 1.2 above and are ready and available for Occupation and are accessible by vehicles and pedestrians.
- 1.4. The restrictions and obligations contained within the First Schedule shall not be binding on nor enforceable against a Chargee of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such Chargee PROVIDED THAT:
  - 1.4.1. such Chargee shall first give written notice to the Housing Development Officer (Strategic Housing Herefordshire Council, Plough Lane, Hereford HR4 0LE) quoting the Planning Reference of its intention to dispose of the Affordable Housing Units (or relevant part) and shall have used Reasonable Endeavours over a period of three months from the date of the written notice to secure a disposal of the Affordable Housing Units (or relevant part) to a Registered Provider or to the



Council or as otherwise agreed in writing by the Council for a consideration not exceeding the greater of:

- (i) the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
- (ii) the Open Market Value of the Affordable Housing Units (or relevant part).

1.4.2. if such disposal has not been secured within the three month period subject to having first obtained the written agreement of the Council (not to be unreasonably withheld) that all relevant requirements contained within this Schedule of this Deed have been complied with the Chargee shall be entitled to dispose of the Affordable Housing Units (or relevant part) free from the provisions of this Schedule of this Deed which provisions shall determine absolutely.

## **PART 2**

### **Discount Market Sale Units**

- 2.1 The Owner covenants with the Council that no Open Market Units erected or to be erected on the Site will be Occupied except in accordance with the restriction in paragraph 2.2 of Part 4 of this Schedule and that the Discount Market Sale Units will not be Occupied except in accordance with the restrictions and obligations in paragraphs 2.2 to 2.10 inclusive in Part 2 of this Schedule.
- 2.2 Not to Occupy or cause or permit the Occupation of more than four of the Open Market Units on any part or parts of the Site until and unless the Discount Market Sale Units relevant to the phase have been constructed in accordance with the Planning Permission and are ready and available for Occupation and are accessible by vehicles and pedestrians.

- 2.3 The initial sale price for all Discount Market Sale Units has been agreed by the Council such price to be at a discount of 30% from Open Market Value of the relevant Discount Market Sale Unit ("Initial Discount Price").
- 2.4 The sale price for all subsequent disposals of Discount Market Sale Units will be determined by the average of two formal Open Market Valuations by two independent estate agents to which the 30% discount from the Open Market Value of the relevant Discount Market Sale Unit ("Discount Price") must be applied
- 2.5 The Discount Market Sale Units shall not be Occupied:-
- 2.5.1 by anyone except to persons who meets the qualifying criteria in paragraph 2.6 below; and
  - 2.5.2 on the first sale following completion of construction of the Discount Market Sale Units at the Initial Discount Price; and
  - 2.5.3 on every subsequent sale at the Discount Price
- 2.6 The Discount Market Sale Units must (unless otherwise agreed by the Council) be allocated in accordance with the Council's terms and conditions for Occupation as a sole residence to a Qualifying Purchaser one of whom is a person ordinarily resident within the administrative area of the Council.
- 2.7 In the case of all initial sales:
- 2.7.1 prior to notice of an intended sale to submit for approval by the Council (such approval not being unreasonably withheld) a Marketing Plan for advertising the sale of the Discount Market Sale Units; and
  - 2.7.2 on receipt of a written approval of the Council for the Marketing Plan serve a notice of sale upon the Council each time a Discount Market Sale Unit is released for sale but in any event not less than two months before the expected date that the relevant Discount Market Sale Unit for sale is ready and available for Occupation;

- 2.7.3 upon submission of a notice of an intended sale of the specified Discount Market Sale Unit to carry out the advertising of the Discount Market Sale Unit for sale in accordance with the Marketing Plan;
- 2.7.4 to liaise with the Council (or its nominee) for a period of 3 months from the date of the Council's written confirmation of receipt of such notice in order to identify a potential purchaser meeting the sole residency and Qualifying Purchaser requirements in paragraph 2.6 of Part 2 of this Schedule
- 2.7.5 not to exchange contracts for the sale of the relevant Discount Market Sale Unit unless written approval has been obtained from the Council that the prospective purchaser meets all criteria set out in paragraph 2.6 of Part 2 of this Schedule

PROVIDED THAT:

- 2.7.6 if on any initial sale the Council is reasonably satisfied that after a period of 3 months of active marketing and advertising a Discount Market Sale Unit cannot be sold in accordance with Part 2 of this Schedule or that a potential purchaser has been identified and a period of 6 months has expired without the parties entering into a binding contract for such disposal the Discount Market Sale Unit may (with the Council's prior written approval) be sold free from the requirements in paragraph 2.6 of Part 2 of this Schedule; Provided That
  - (a) the Discount Market Sale Unit is sold at the Discount Price to the purchaser as his only or principal home; and
  - (b) the Discount Price and the requirements in paragraph 2.6 of Part 2 of this Schedule shall apply in full on any subsequent disposition so that such person shall remain bound by the terms of this Deed;
- 2.7.7 on completion of the initial sale of every Discount Market Sale Unit to secure a restriction on the registered title in the terms required by the Land Registry such that no disposition of any Discount Market Sale Unit will be registered unless the purchaser's solicitors certify that the terms of paragraphs 2.5 and 2.6 of Part 2 of this Schedule have been complied with and provide the Council with a copy of the

restriction and the solicitors' certificate of compliance on each and every such disposition of the Discount Market Sale Unit.

2.8 In the case of all subsequent sales:

- 2.8.1 to serve on the Council a notice of an intended sale of the specified Discount Market Sale Unit for sale together with two valuation appraisals by two local estate agents and the name address and contact details for the vendor and selling agent;
- 2.8.2 not to commence any marketing unless the Council has confirmed in writing acceptance of;
  - (a) the notice of intended sale; and
  - (b) the Discount Price
- 2.8.3 to ensure its selling agent liaises with the Council (or its nominee) for a period of 3 months from the date of the Council's confirmation of receipt of such notice in order to identify a potential purchaser meeting the sole residency and Qualifying Purchaser requirements in paragraph 2.6 of Part 2 of this Schedule;
- 2.8.4 not to exchange contracts for the sale of the relevant Discount Market Sale Housing Unit unless written prior written approval has been obtained from the Council that the prospective purchaser meets the criteria set out in paragraph 2.6 of this Schedule 2; PROVIDED THAT
- 2.8.5 if on any subsequent sale the Council is reasonably satisfied that after a period of 3 months of active marketing and advertising that a Discount Market Sale Unit cannot be sold in accordance with Part 2 of this Schedule or that a potential purchaser has been identified and a period of 6 months has expired without the parties entering into a binding contract for such disposal the Discount Market Sale Unit may (with the Council's prior written approval) be sold free from the requirements in paragraph 2.6 of Part 2 of this Schedule; PROVIDED THAT
  - (a) the Discount Market Sale Unit is sold at the Discount Price to the purchaser as his only or principal home; and
  - (b) the Discount Price and the requirements in paragraph 2.6 of Part 2 of this Schedule shall apply in full on any subsequent disposition so that such person shall remain bound by the terms of this Deed.

- 4.9 Not to permit or otherwise allow any Discount Market Sale Unit for sale to be let other than with the written consent of the Council.

DRAFT

**SECOND SCHEDULE**  
**Commencement Notice**

TO: Planning Obligations Manager  
Hereford Council  
Plough Lane  
Hereford  
HR4 0LE

(“the Council”)

FROM:

(“the Owner”)

DEVELOPMENT: (*description of development and site name*):

RELEVANT PLANNING PERMISSION (*reference number*):

RELEVANT SECTION 106 AGREEMENT (*date and parties*):

(“the Section 106 Agreement”)

I/We Owner \* hereby put the Council on notice that we intend to commence development on [{} ] 20[{}]. This notice is the Commencement Notice served pursuant to the Section 106 Agreement.

DATED this                      day of                      202[ ]

.....

Signed by the Owner or an authorised signatory of the Owner



**ANNEX 1**  
**SITE PLAN**

DRAFT

IN WITNESS of which the parties have executed this Agreement as a Deed on the date first written above

**EXECUTED AS A DEED** when the )  
**COMMON SEAL** of the )  
**COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL** )  
was hereunto affixed **BY ORDER** )

Authorised Signatory

**EXECUTED** as a **DEED** by  
**COLLINS DESIGN AND BUILD LIMITED**  
acting by a director  
**PHILIP COLLINS**  
Signature of Director: \_\_\_\_\_

In the presence of:

Signature of witness: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_