

MEETING:	PLANNING COMMITTEE
DATE:	15 DECEMBER 2010
TITLE OF REPORT:	<p>DMN/101505/F - PROPOSED CONSTRUCTION OF 20 NEW DWELLINGS AND NEW ACCESS ROAD AND ASSOCIATED WORKS AT COVENT GARDEN, BROCKHILL ROAD, COLWALL, HEREFORDSHIRE, WR13 6EY</p> <p>For: Mr Paul Mccann, Banner Homes Midlands Ltd. 5 Brooklands, Moons Moat Drive, Redditch, Worcestershire, B98 9DW</p>

Date Received: 17 June 2010

Ward: Hope End

Grid Ref: 375789,243005

Expiry Date: 16 September 2010

Local Members: Councillor AW Johnson and Councillor RV Stockton

BACKGROUND

This application was reported to the Planning Committee on 24 November 2010. After some consideration Members resolved to undertake a site visit prior to making a formal determination.

1. Site Description and Proposal

- 1.1 The application site lies on the western side of Brockhill Road, a road with a width of approximately 5.5 metres, and currently forms part of The Downs School, Malvern College Preparatory School. It is an existing playing field which the School considers surplus to requirements. It has an area of approximately 0.832 of a hectare (2.056 acre).
- 1.2 Brockhill Road is a tree lined road accessed off Old Church Road. On the western side of Brockhill Road, in the highway directly in front of the site, are eight protected trees comprising six lime trees and two horse chestnut trees. The existing gateway into the site is towards the northern end of its eastern boundary between an existing horse chestnut tree and a lime tree.
- 1.3 At the southern end of Brockhill Road it meets Old Church Road at a recently improved junction. This junction of Brockhill Road, Old Church Road and Walwyn Road formed around "the green" had the following problems associated with it:-
- there were a proliferation of routes of multiple conflict areas;
 - the visibility from the southern arm exiting Old Church Road southbound onto Walwyn Road was sub-standard;
 - there was poor speed restraint;
 - There were no dropped kerbs to assist disabled pedestrians, parents with pushchairs, or wheelchairs crossing any arm of the junction, or to the post box; and

- There was potential confusion for vulnerable road users because of multiple possible vehicle routes.
- 1.4 The junction was recently the subject of a significant improvement by introducing a one-way system around the existing junction and included a series of minor works. This scheme aimed to achieve the following:-
- A reduction in conflict areas by reducing the number of possible routes;
 - All traffic travelling along Old Church Road enters Walwyn Road along the northern arm of the junction which has much better visibility than the southern arm;
 - The revised junction design should contribute to a reduction in the speed of traffic turning into Brockhill Road; and
 - The provision of dropped kerbs and the simplification of vehicle routes, thus enhancing the safety and attractiveness of the junction for vulnerable road users.
- 1.5 These works were designed without impacting upon the triangular green area thought at that time to have been a constraint.
- 1.6 Brockhill Road currently serves some ten dwellings before the School itself.
- 1.7 The playing field that is the subject of this application is set at a level approximately one metre below that of Brockhill Road and is relatively flat itself. To the north the site is bounded by the recently erected indoor sports hall of the School and a bungalow that is in the ownership of the School. Within the western boundary of the site is a woodland belt and at the boundary is an existing drainage ditch. To the south-east of the site is a pair of semi-detached houses known as 1 and 2 Downsland Cottages whilst to the south are the rear boundaries of two further dwellings, one fronting Brockhill Road and one fronting Old Church Road.
- 1.8 The trees along Brockhill Road are the subject of a Tree Preservation Order. The site lies within both the defined settlement boundary of Colwall and the Colwall Conservation Area. The special character and appearance of the Conservation Area hereabouts derives primarily from its spacious character and mature gardens rather than the buildings themselves. Within Brockhill Road itself, it is only the Edwardian School building to the north of the site that is considered to be attractive in its own right. The site also lies within the Malvern Hills Area of Outstanding Natural Beauty.
- 1.9 The proposal is to erect twenty two-storey houses upon the site comprising a variety of detached, semi-detached and terraced houses. The mix of houses proposed comprises four two-bedroomed houses, three three-bedroomed houses, ten four-bedroomed houses, two five-bedroomed houses and one six-bedroomed house. Of these, four would be affordable houses comprising two two-bedroomed houses on a social rent tenure, one six bedroomed house on a social rent tenure to meet a specific special need and one three-bedroomed house on a shared ownership tenure. Fifty-nine parking/garaging spaces would be provided.
- 1.10 All of the houses have been designed to reflect the local vernacular taking the Edwardian School building to the north as a reference. The provision of bay windows, projecting gables, the use of coloured render at first floor level, timber framing to the projecting gables and strong chimneys are all features throughout the scheme. A single vehicular access is proposed off Brockhill road utilising, albeit in a modified form, the existing access between an existing horse chestnut tree and a lime tree.
- 1.11 The basic form of the proposed layout is that the access road swings to the rear of the houses fronting the development, with garaging / parking situated at the rear of the dwellings. A second row of houses to the west of the site share the same access.

- 1.12 The foul water would be disposed of via the mains drainage and the surface water would be disposed of on-site and via the drainage ditch to the west of the site that eventually drains into a watercourse.
- 1.13 The applicant proposes to enter into a Section 106 legal agreement that would provide for the summarised provisions set out in Annex 1, Draft Heads of Terms.
- 1.14 For clarification the proposed further works to the Brockhill Road, Old Church Road and Walwyn Road junction referred to in the Draft Heads of Terms are designed to create enhanced vehicle swept paths for ten metre long coaches (i.e. midi-coaches) that on occasions use this junction. This involves changes to the kerb lines and revised road markings and signage. This involves minor alterations to the triangular green island at that junction.
- 1.15 It is proposed to crown lift the frontage trees to achieve clearance over the site of five metres and clearance along the remaining open space of three metres.

2. Policies

2.1 Central Government advice

Planning Policy Statement 1	–	Delivering Sustainable Development
Planning Policy Statement 3	–	Housing
Planning Policy Statement 5	–	Planning for the Historic Environment
Planning Policy Statement 7	–	Sustainable Development in Rural Areas
Planning Policy Statement 9	–	Biodiversity and Geological Conservation
Planning Policy Guidance Note 13	–	Transport
Planning Policy Guidance Note 17	–	Sport and Recreation
Planning Policy Statement 25	–	Flood Risk

2.2 Herefordshire Unitary Development Plan 2007

S1	–	Sustainable Development
S2	–	Development Requirements
DR1	–	Design
DR2	–	Land Use and Activity
DR3	–	Movement
DR4	–	Environment
DR5	–	Planning Obligations
DR6	–	Water Resources
S3	–	Housing
H5	–	Main Villages: Housing Land Allocations
H9	–	Affordable Housing
H13	–	Sustainable Residential Design
H15	–	Density
H16	–	Car Parking
H19	–	Open Space Requirements
S6	–	Transport
T6	–	Walking
T7	–	Cycling
T11	–	Parking Provision
S7	–	Natural and Historic Heritage
LA1	–	Area of Outstanding Natural Beauty
LA5	–	Protection of Trees, Woodlands and Hedgerows
LA6	–	Landscaping Schemes
NC1	–	Biodiversity and Development

- NC6 – Biodiversity Action Plan, Priority Habitats and Species
- NC8 – Habitat Creation, Restoration and Enhancement
- NC9 – Management of Features of the Landscape Important for Fauna and Flora
- HBA6 – New Development within Conservation Areas
- S8 – Sport and Recreation
- RST3 – Standards for Outdoor Playing and Public Open Space
- RST4 – Safeguarding Existing Recreational Open Space

2.3 Supplementary Planning Document “Planning Obligations” (April 2008).

3. Planning History

3.1 DMNE/092822/F - Proposed construction of 20 new dwellings and new access road and associated works - Withdrawn 15 June 2010

3.2 Other recent history in the immediate vicinity

DCNE2006/1272/F - Single storey classroom to replace timber classrooms - Permitted - 9 June 2006

DCNE2007/3033/F - Junior classrooms and library and highway works - Permitted - 3 December 2007

DCNE2007/3364/C - Demolition of three temporary classroom huts to provide site for new sports facility - Permitted 18 December 2007

DCNE2007/3842/F - Provision of new sports hall facility incorporating classrooms, parking, landscaping and highway improvements to the junction of Brockhill Road and Old Church Road - Permitted 12 March 2008

4. Consultation Summary

4.1 External Consultees

4.2 Sport England does not object to the proposed development. With regard to the latest playing field assessment accompanying the application, they state:-

“The assessment which has been submitted as evidence to support the planning application has followed the methodology as set out in our document: Towards a Level Playing Field as referred to in PPG17’s Companion Guide Assessing Needs and Opportunities. This methodology is the industry standard for carrying out playing pitches assessments. It has 8 stages which include identifying teams, where they play, the quality of the pitches, the latent demand and identifying solutions and options.

I am writing to confirm that the assessment meets our planning policy exception E1.

Therefore Sport England withdraws its statutory objection to the granting of planning permission for the proposed construction of 20 new dwellings and new access road and associated works at Covent Garden, Brockhill Road, Colwall WR13 6EY.”

4.3 Severn Trent Water do not raise objection to the proposed development. Severn Trent Water has undertaken an assessment for the applicant in relation to the proposed development. They specifically state, in relation to the issue as to the pipework between manholes 6801 and 6802 that Severn Trent Water cannot request or allow the developer to fund improvements to the public sewerage system. They specifically state that any problems on the existing public system are for Severn Trent Water to determine, fund and resolve. They state that some

customers have reported problems at periods of heavy rainfall and that these issues have been dealt with by Severn Trent Water's operational team.

They go on to state that:-

"With regard to the proposed development itself, the hydraulic modelling exercise undertaken which modelled the existing foul sewerage system plus the additional foul flow from 20 new dwellings (approx only 1 litre per second peak flow rate) concluded that the foul flows from the development would not have an adverse flow on the receiving sewerage system. Given this information, along with the fact that all surface water from the site will discharge to a local watercourse (not a STW asset) we have no objection."

4.4 English Heritage has not raised any objection.

4.5 Internal Consultees

4.6 The Parks and Countryside Section do not raise any objection to the loss of the playing field.

4.7 The Transportation Section has no objection to the proposal.

4.8 The Planning Ecologist raises no objection to the proposed development.

4.9 The Land Drainage Engineer is satisfied that the calculations of run-off from the site into the watercourse show that it will be no greater than the existing run-off.

5. Representations

5.1 There was a degree of discussion at the previous meeting of this Committee with regard to the views of Colwall Parish Council. Colwall Parish Council have now clarified their position and state that they object to the application as, in their opinion, the matters of foul drainage and traffic congestion have not been satisfactorily resolved.

5.2 The CPRE express concern about the level of affordable housing proposed and reiterates their comments contained in letter dated 3 January 2010 in relation to DMN/092822/F in which they objected to the proposed development on the basis of an inappropriate development on one of the few remaining "green lungs" in Colwall, the loss of the playing field, traffic congestion and flooding.

5.3 Malvern Hills AONB Unit make comment upon an apparent lack of affordable housing provision, the high number of parking spaces proposed, the sustainability of the design, the need to safeguard existing trees and hedgerows and the need for the housing.

5.4 The residents of sixty-one properties object on the following summarised grounds:-

- The existing junction between Walwyn Road/Old Church Road and Brockhill Road is overloaded and dangerous, increased traffic will exacerbate this.
- No details have been provided as to how the junction will cater for farm traffic.
- The increase in traffic generated by at least 40 cars, visitors and service vehicles will increase the existing traffic congestion along the roads especially at school pick up and drop off times and when events are staged and illegal parking. All will increase dangers for traffic, pedestrians, cyclists and reduce access for emergency vehicles.
- The existing traffic calming measures for the school do not work nor does the turning area, lack of parking spaces and lack of footways.
- The proposed travel plan and analysis of the data will not in reality ameliorate these impacts and are incorrect in their data.

- The necessary building works and deliveries will clash with the start of the school day and result in dangerous traffic for pupils.
- The proposed access point is dangerously located.
- The resulting unsafe environment will conflict with the schools duty of care for its pupils and the associated legislation.
- The school has significantly expanded since the site was allocated for housing and will do further in the future therefore the development is no longer appropriate.
- The loss of the playing field will be harmful for the functioning of the school and the wider community. The extra information does not address the issue of lack of realistic alternative facilities in the area.
- The site is not redundant but has been used for school sports and overflow parking and should remain as such.
- The sewers in the area are already inadequate and therefore the development will add to existing health and safety problems. The additional information supplied does not adequately address this issue.
- The additional surface water created by the development will increase runoff into adjacent water courses on private land so increasing risk to property from flooding and potential pollution. The additional information does not adequately address this issue and does not detail the long term maintenance of the proposed solutions. The water table is very high.
- The loss of this green space in an AONB and village with a conservation area will be visible from the Malvern Hills and detract from the rural character of the area.
- The proposed form of development is not in keeping with the existing bungalows and their surroundings, it is over dense and the design is repetitive.
- The development will impact on existing protected trees and hedgerows, their long term maintenance is not detailed and there will be future pressure for their removal.
- The existing use of the site should be maintained for its historical links and natural flora and fauna. No details have been provided of who will provide and maintain the wildlife mitigation measures proposed.
- There may be a restrictive covenant on the land.
- The development will affect the value of properties and the goodwill of neighbours.
- It will adversely affect their outlook and overshadow their property.
- Financial incentives via the legal agreement should not result in a permission.
- There are inaccuracies on the application form.
- Private drains cross the site and will need to be diverted.
- The Coca-Cola site should be re-developed as a brownfield site instead.
- The highway works should be undertaken prior to development commencing on site.
- Additional car parking should be provided at the school and 'residents only' parking restrictions should be provided in Brockhill Road.

5.5 The full text of these letters can be inspected at Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Committee meeting.

6. Officer's Appraisal

Principle of the Development

6.1 The application site lies within the settlement boundary of the main village of Colwall as defined in the Herefordshire Unitary Development Plan 2007. Furthermore the site is specifically allocated for housing development as set out in policy H5 of the Herefordshire Unitary Development Plan 2007. The policy envisaged the allocated site accommodating some 20 dwellings, although the allocated site has been reduced by the recent development of the indoor sports hall to the school which reduced the site area by approximately 0.077 hectare. It also recognised that the loss of the playing field should not result in a deficiency of recreational provision in the locality.

- 6.2 This allocation of the land for housing development was the subject of formal objections at the time that the Herefordshire Unitary Development Plan was evolving (i.e. at the Deposit Draft stage). An Inquiry into the objections was held and the Inspector reporting into those objections considered the site was a suitable site for housing development. He considered Colwall to be a suitable site for further housing development and to be in a highly sustainable location. He did not consider that there were any insurmountable infrastructure matters (e.g. transportation matters, foul sewerage capacity) that represented overriding constraints. Indeed he considered that traffic matters could be dealt with by way of “relatively modest local improvements”.
- 6.3 He acknowledged that the site was within the Malvern Hills Area of Outstanding Natural Beauty and the Conservation Area and specifically recognised the value of the peripheral vegetation but he regarded the site itself as being “rather flat, featureless and uninteresting”. He therefore considered that the site was suitable for residential development and stated that “I can conceive of a scheme at the density envisaged that would contribute positively to the character and appearance of the area and to the natural beauty of the landscape and countryside”.
- 6.4 As a consequence there is no objection to the principle of the proposed development.
- 6.5 With regard to the playing field issue the Inspector was of the view that if it was demonstrated that Colwall had an excess of provision the loss of the playing field would not be problematic but if an excess of provision could not be demonstrated, alternative provision of at least equivalent community benefit would have to be provided in a convenient and accessible location.

Loss of Playing Field

- 6.6 The application is accompanied by ‘An Open Space & Sports Assessment’. That assessment concludes that Colwall Parish is very well provided for in terms of open space and playing field provision even with the potential loss of this playing field. Furthermore it demonstrates that the quantitative requirements of policy RST3 of the Herefordshire Unitary Development Plan 2007 for the entirety of Colwall Parish are achieved even with the loss of this playing field.
- 6.7 This assessment has been the subject of extensive scrutiny from Sport England and the Principal Leisure and Countryside Recreation Officer of the Council, who do not object.

Density, Layout & Design

- 6.8 The density of the proposed development equates to 24 dwellings to the hectare. This is considered to be a low density development appropriate to this site and its surroundings. The site is well located with easy pedestrian and cycle access to the centre of the village and the railway station.
- 6.9 The site layout has in many ways evolved from an understanding of the primary constraint of the site being the trees on the western side of Brockhill Road. An assessment of these trees by a suitably qualified arboricultural consultant concluded that the optimum position to create the vehicular means of access into the site was at the position of the current gateway. An alternative location of the vehicular means of access or multiple vehicular means of accesses would likely to have created root damage to trees that are worthy and capable of retention, prejudicing their long-term health and future retention.
- 6.10 The siting of the proposed houses fronting Brockhill Road has been dictated by the root protection areas required by the aforementioned street trees and the prevailing building line. This meant curving the single access road into the site to the rear of these frontage properties. It is considered that this has led to a proposal that when viewed from Brockhill Road would

comprise of a series of well designed buildings with gaps between them and significantly not dominated by the private motor vehicle – the garaging/parking being located to the rear of these properties.

- 6.11 The remainder of the layout is considered to be spacious and logically designed.
- 6.12 The design of the two storey houses themselves is considered to be of a high quality. As described earlier they reflect architectural elements of an Edwardian School building to the north. They do reflect the local vernacular and whilst some may describe the designs as a pastiche, it is considered that there is no objection to such an approach provided that it is executed well. In this particular case the designs of the houses are considered to be of a high architectural standard with an interesting mix of hipped roofs and gables and architectural detailing.
- 6.13 The recommendation includes a condition with regard materials. In this case I would expect the use of high quality materials given the location of the site within both a Conservation Area and an Area of Outstanding Natural Beauty.

Impact Upon Residential Amenity

- 6.14 The distance from the proposed houses to neighbouring residential properties is such that it is considered that there would be no undue loss of privacy. In addition, the combination of the separation distances between buildings, the orientation and the height of the buildings are such that it is considered that there would not be an undue loss of sunlight and/or daylight to neighbouring properties.

Transportation

- 6.15 It is considered that the local highway network has sufficient capacity to cater for the additional traffic flows that the development would generate. Brockhill Road has sufficient width for two cars to pass. As explained earlier, the junction of Brockhill Road, Old Church Road and Walwyn Road has been improved significantly in the recent past from a highway safety point of view. Whilst it is currently considered to be adequate, the Transportation Section agree with the Parish Council that it could be improved further and in this respect the applicant has agreed to fund an agreed scheme of further works. The monies for these further works would be secured prior to commencement of the development and the works would be carried out by the Council as the Highway Authority.
- 6.16 It is accepted that recent developments at the School have led to an increase in vehicular movements that tend to be concentrated in two short time periods during the day. Indeed congestion has occurred. However, congestion is not itself a highway safety issue. It tends to be an inconvenience. There is no recorded accident data relating to the immediate vicinity.
- 6.17 The recent developments at the School site have included the provision of traffic calming measures in Brockhill Road, assisting with safe crossing for pupils and the provision of an additional car turning area before the main school crossing point. It is understood that the School also have a Travel Plan to encourage travel by modes other than single pupil occupancy private car. For example school buses are provided.
- 6.18 The level of car parking provision proposed is such that motor vehicles associated with the development will be able to park within the confines of the site ensuring that no overspill occurs onto Brockhill Road.

- 6.19 The Transport Statement accompanying the application demonstrates that during the morning peak (8am – 9am) the proposed development would generate some 3 trips into the site and 10 out of the site. Similarly during the evening peak (5pm – 6pm) the proposed development would generate some 11 trips into the site and 4 out of the site. The School starts its normal day at 8.30am and so a proportion (perhaps half or 6 movements in total) of these vehicle movements would occur at the time when parents are dropping off pupils in Brockhill Road. It is considered that this is an extremely low number of movements. This combined with the fact that they would not create additional parking demand on Brockhill Road means that there would not be a material impact upon the highway network. During the evening peak hour (5pm – 6pm) the combined expected vehicle movements (i.e. in and out) are fifteen. It is understood that the school finishing time is staggered throughout the afternoon from 3.30pm to 5.10pm for different age groups and hence the vast majority of all parents' vehicle movements associated with the school are completed prior to the evening peak hour trips associated with residential dwellings. As such, again it is considered that there would not be any material impact upon the highway network as a result of the proposed development.
- 6.20 With regard other transportation matters, the site is very well located to the centre of the village and is within easy and convenient walking distance of both bus stops and the railway station. The development itself proposes a pedestrian link into the site from Brockhill Road, south of the proposed vehicular access. This would encourage walking and provides permeability through the site.

Disposal of Foul Sewerage

- 6.21 It is proposed to dispose of the foul sewerage arising via the mains sewerage system. Severn Trent Water has assessed this in detail and their consultation response is reported above. They are satisfied that the foul sewerage system has sufficient capacity.
- 6.22 Although the sewerage system has sufficient capacity there have been maintenance issues in the locality relating to a manhole in Old Church Lane that has been surcharging. Severn Trent Water accepts that this is their responsibility and it is understood that they will be undertaking remedial works on 21 and 22 December 2010. It is understood that the foul sewer where it traverses through the site has recently been the subject of jetting works by Severn Trent Water to clear fat build up and plaster/cement that had entered the system.

Disposal of Surface Water

- 6.23 At present the site is a green field. As in so many rural areas to the west of the site is an existing ditch that historically and currently fulfils a land drainage function. Water that drains into this ditch eventually discharges into a water course. It is for the persons whose land on which that ditch lies to keep that ditch clear and free of obstruction (i.e. to maintain it).
- 6.24 Clearly the proposed development does not in itself create a greater volume of surface water. It is the flow of water that is the critical issue. It is understood that at present the peak run-off from the undeveloped (green field) site during a 100 year storm is 9.2 litres per second. What is proposed in this case is a scheme of surface water management whereby the surface water upon the site is captured, stored and then released into this ditch in a controlled fashion. Normally one would design a balancing storage system to discharge at or marginally below this "greenfield rate" of 9.2 litres per second. However, in this case due to the sensitivity of water courses south and west of Colwall to flooding during extreme weather conditions the applicant proposes to increase the available storage volume and to reduce the peak surface water discharge from 9.2 litres per second to 5 litres per second. In this way it is proposed to reduce the peak water run-off from the proposed development by 4.2 litres per second during the critical storm. This would represent betterment of some 45%.

- 6.25 For clarity purposes, the storage would be provided in the form of oversized pipes within the adopted areas controlled by a hydrobrake within a control chamber. The remaining volume would be provided in the form of a tanked porous paving system in conjunction with cellular storage. The surface water from these areas would be controlled via a sump unit with an orifice control. These would in turn outfall to the oversized storage pipes within the adopted areas.
- 6.26 Therefore it is considered that the proposed surface water drainage arrangements are satisfactory. Indeed they would represent an enhancement over the existing scenario.
- 6.27 For clarification, the landowner(s) of any drainage ditch have the riparian responsibilities for maintenance of ditches on their land. If such ditches are not maintained, action can be taken under the provisions of the Land Drainage Act. This is not a planning matter.
- 6.28 Similarly, if water is discharged onto another persons land, that is not a drainage ditch that is a civil matter between the two landowners. It is understood that in this area one local resident claims that the School is discharging surface water onto a neighbouring field in her ownership without consent. This is not a planning matter.

Affordable Housing

- 6.29 The level of affordable housing provision is considered to be acceptable in this case. A six bedroomed dwelling has been specifically designed to accommodate a local family in local need that also includes children with special needs due to physical disabilities. It is also welcomed that three of the four affordable houses would be on a social rent tenure.
- 6.30 The level of affordable housing provision has been considered acceptable given the exceptional circumstances in meeting the specific needs of a local family requiring a larger property, with adaptations to meet the physical disabilities of younger members of the household. Also taken into account was the viability of providing additional units on site and the proposed development elsewhere in Colwall which would potentially deliver the additional units to meet the overall identified need for affordable housing. It is noted that neither the developer nor the Registered Social Landlord will rely upon public subsidy to support the scheme, and this will ensure delivery is not dependent upon uncertain external funding. In addition the Homes and Communities Agency core standards will be met which include high quality internal specification, Housing Quality Indicators Space Standards and Code for Sustainable Homes Level 3 all of which would normally only be provided where public subsidy is invested by the Homes and Communities Agency.

Ecology & Landscaping

- 6.31 An ecological assessment has been carried out of the site that has been audited by the Planning Ecologist. An appropriate condition is recommended.
- 6.32 A fully detailed landscaping scheme has been submitted. The detail contained within that scheme is considered to be entirely appropriate.
- 6.33 The Parish Council have raised the issue as to whether a separate Tree Preservation Order application is required to crown lift the street trees as outlined above. That crown lifting is designed to prevent damage from high vehicles and is considered both appropriate and acceptable in amenity terms. However, the position is that a separate consent from the Local Planning Authority is not required to carry out tree works included in a planning application, if planning permission is granted.

Conclusion

- 6.34 Therefore in conclusion the principle of the development is acceptable primarily because the site is allocated for residential development by virtue of policy H5 of the Herefordshire Unitary Development Plan 2007. The loss of the playing field would not lead to a deficiency of such recreational facilities within the Colwall Parish and in fact the proposed “dual-use” agreement in relation to the retained outdoor sporting facilities at the School is welcomed.
- 6.35 The proposed housing layout and design is of a low density and of a quality that would respect both the Conservation Area and the Area of Outstanding Natural Beauty. The sylvan character of the area would be safeguarded. It is considered that neighbouring residents would not suffer any undue loss of privacy, sunlight and/or daylight.
- 6.36 The site is in a highly sustainable location. Minor local highway improvements are proposed as envisaged by the Inspector in relation to objections to the Unitary Development Plan and it is not considered that any highway safety issues arise.
- 6.37 The proposed arrangements for foul and surface water drainage are considered to be acceptable.
- 6.38 As a consequence it is recommended that full conditional planning permission be granted.

RECOMMENDATION

1. **The Head of Legal and Democratic Services be authorised to complete the planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms (attached as an annex).**
2. **Upon completion of the abovementioned planning obligation Officers named in the Scheme of Delegation be authorised to issue planning permission subject to the following conditions:-**
 1. **A01 Time limit for commencement (full permission)**
 2. **Notwithstanding the detail upon the submitted planning application form, prior to the commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-**
 - **Written details and samples of all external materials in respect of the buildings;**
 - **Written details and samples of all surfacing materials in relation to the vehicular means of access, turning/manoeuvring areas, driveways, car parking areas and pedestrian pathways;**
 - **Details of the solar panels**
 - **Details of the rooflights**

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

Reason: To ensure a satisfactory appearance to the development within the Conservation Area and the Area of Outstanding Natural Beauty in accordance with policies DR1, LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.
3. **Prior to commencement of the development hereby permitted full written details of all proposed boundary treatments (i.e. fences, gates, walls or other means of enclosure) shall be submitted to the Local Planning Authority for their written**

approval. The approved boundary treatments for each plot shall be fully implemented prior to the first occupation of the house upon that plot and thereafter maintained as such. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and any order revoking and re-erecting that Order, no other boundary treatments shall be erected without the express consent of the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development within the Conservation Area and the Area of Outstanding Natural Beauty and to safeguard the privacy of the occupiers of the houses hereby permitted in accordance with policies LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.

4. All planting, seeding and turfing in the approved details of landscaping (i.e. drawing number BAN17092-10 Rev E. received 13 October 2010) shall be carried out in the first planting and seeding seasons following the first occupation of any of the dwellings hereby permitted or the completion of the development (whichever is the sooner). Any trees or plants which within a period of five years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development is satisfactorily integrated into the locality in accordance with policy LA6 of the Herefordshire Unitary Development Plan 2007.

5. Prior to the first occupation of the dwellings hereby permitted the vehicular means of access, car parking/garaging, turning and manoeuvring areas for vehicles shall be implemented. Thereafter these areas and facilities shall be kept available for the manoeuvring and garaging/parking of motor vehicles.

Reason: To ensure adequate on-site car parking provision thus preventing additional parking on Brockhill Road in accordance with policies T11 and H16 of the Herefordshire Unitary Development Plan 2007.

6. Prior to commencement of the development hereby permitted full details of all external lighting (if any) shall be submitted to the Local Planning Authority for their written approval. The development shall be carried out in strict accordance with the approved details and thereafter no other external lighting shall be installed without the prior written consent of the Local Planning Authority.

Reason: To safeguard the rural character of the area, the Conservation Area and the Area of Outstanding Natural Beauty in accordance with policies LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.

7. Prior to the commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-

- Full details of the surface water drainage design (including the requisite calculations of the balancing storage volume) such that peak surface water discharge from the development site during a 1 in 100 year storm (plus 30% for climate change) does not exceed 5.0 litres per second. These details must include a monitoring and maintenance plan in relation to these surface water drainage arrangements.

The development hereby permitted shall not commence until the Local Planning Authority has given such written approval. The approved surface water drainage

arrangements shall be fully implemented prior to the first occupancy of any of the houses hereby permitted and thereafter maintained in accordance with the approved maintenance plan.

Reason: To ensure that the land drainage arrangements are satisfactory and do not exacerbate the risk of flooding in accordance with policy DR7 of the Herefordshire Unitary Development Plan 2007.

8. The finished ground floor levels of the houses hereby permitted shall be set 0.15 metre above finished ground level.

Reason: To ensure that the houses are not affected by overland flow of surface water that does occur in accordance with policy DR7 of the Herefordshire Unitary Development Plan 2007.

9. Prior to the commencement of the development, an ecological protection and enhancement strategy shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.

Reason: To comply with policies NC6, NC8 and NC9 of the Herefordshire Unitary Development Plan 2007 and to meet the requirements of Planning Policy Statement 9 and the NERC Act 2006.

10. The existing hedgerow along the Brockhill Road frontage (i.e. the eastern boundary of the site) shall remain in-situ and none of it shall be removed other than at the approved vehicular means of access and two pedestrian pathways hereby permitted.

Reason: To ensure that the hedgerow along the road frontage that makes a positive contribution to the character and appearance of the area is retained in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

11. All works on-site shall be carried out in full accordance with the Arboricultural Method statement prepared by ACD Arboriculture dated 22/10/2009 received on 17 June 2010.

Reason: To safeguard all trees of amenity value that are worthy and capable of retention in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

12. Prior to commencement of the development hereby permitted the protective fencing as detailed upon drawing number BAN17092-03C (Scale 1:250) received 17 June 2010 and according with the advice in section 9.2 of BS5837:2005 comprising vertical and horizontal framework of scaffolding (well braced to withstand impacts) supporting either chestnut cleft fencing or chain link fencing in accordance with figure 2 of BS5837:2005 shall be erected in the positions shown upon that plan. Once these protective measures have been erected but prior to the commencement of the development a suitably qualified arboricultural consultant shall inspect the site and write to confirm that the protective measures are in situ. Upon confirmation of receipt of that letter by the Local Planning Authority the development may commence but the tree protection measures must remain in-situ until completion of the development.

Reason: To ensure that the trees of amenity value that are worthy and capable of retention are not damaged and their long-term health and future retention not

prejudiced in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

13. All of those parking areas, pedestrian pathways and parts of the vehicular means of access that are shaded in blue upon drawing number BAN17092-03C (Scale 1:250) received 17 June 2010 shall be constructed in full accordance with the "no-dig" method as set out in para. 11.8 of BS5837:2005 and thereafter maintained in accordance with that detail.

Reason: To ensure that the trees of amenity value that are worthy and capable of retention are not damaged and their long-term health and future retention not prejudiced in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

14. During the course of development and thereafter there shall be no excavation (including pipework and other excavation for services) within those areas of land that are shown upon drawing number BAN17092-03C (Scale 1:250) received 17 June 2010 to be enclosed by tree protection fencing and marked as exclusion zones.

Reason: To ensure that the trees of amenity value that are worthy and capable of retention are not damaged and their long-term health and future retention not prejudiced in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

15. That part of the vehicular means of access to the site shown upon drawing number BAN17092-03C (Scale 1:250) received 17 June 2010 to be constructed using a "no-dig" method as advised in BS5837:2005 shall be constructed in full accordance with that detail prior to any construction traffic entering the site. Thereafter that access detail shall be maintained in-situ in accordance with that detail.

Reason: To ensure that the trees of amenity value that are worthy and capable of retention are not damaged and their long-term health and future retention not prejudiced in accordance with policy LA5 of the Herefordshire Unitary Development Plan 2007.

16. H27 - Parking for site operatives

17. H18 - On site roads - submission of details

18. I55 - Site Waste Management

19. 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 7.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

20. Prior to commencement of the development a timetable shall be submitted, for approval in writing of the Local Planning Authority, agreeing deliveries taken at or despatched from the site during the construction phase to ensure no conflict with school traffic and development carried out in accordance with this condition.

21. All construction deliveries related to the development hereby permitted, including preparation prior to building operations, shall only take place outside the hours of

08:30 and 09:30 and 15:00 and 16:00.

Reason: In the interest of highway safety.

INFORMATIVES:

1. Reason for approval:- The development accords with the provisions of the Development Plan in that it involves house building upon a site specifically allocated for housing development. The detail of the development is considered to preserve the character and appearance of the Conservation Area and Area of Outstanding Natural Beauty. It is not considered that any unacceptable risk to highway safety would arise and both the foul and surface water drainage arrangements are considered to be acceptable. There would not be any adverse impacts upon trees the subject of a Tree Preservation Order nor would there be any undue loss of amenity to neighbouring residents. The loss of the playing field would not lead to a deficiency of open space and recreational provision within the locality. There are no other material planning considerations that would justify a refusal of planning permission.
2. N19 Avoidance of doubt - Approved plans
3. HN08 Section 38 Agreement & drainage details
4. HN01 Mud on highway
5. HN04 Private apparatus within highway
6. HN05 Works within the highway
7. HN28 Highways Design Guide and Specification
8. I13 - This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

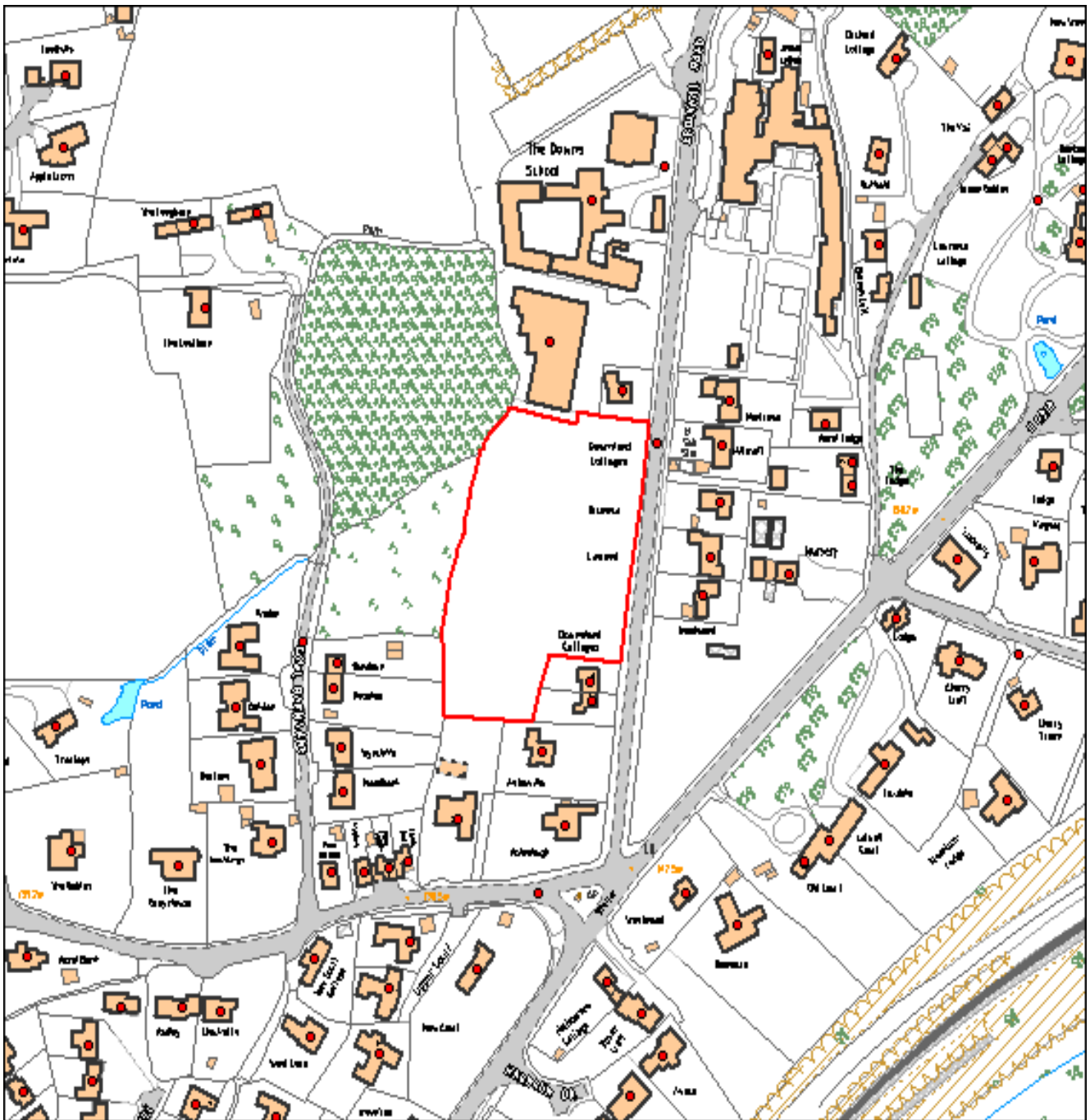
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMN/101505/F

SITE ADDRESS : COVENT GARDEN, BROCKHILL ROAD, COLWALL, HEREFORDSHIRE, WR13 6EY

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Further information on the subject of this report is available from Mr R Close on 01432 261803

ANNEX 1

DRAFT HEADS OF TERMS

Proposed Planning Obligation Agreement

Section 106 Town and Country Planning Act 1990 (as amended)

Planning Application: - DMN/101505/F

Site:- Covent Garden, Colwall, Herefordshire, WR13 6EY

Applicant:- Banner Homes (Midlands) Ltd

Proposal:- Construction of new access and erection of 20 houses

1. The developer covenants with the Herefordshire Council, in lieu of the provision of on-site children's play equipment and open space, the sum of £39,267 (index linked). The sum shall be paid prior to the first occupation of any of the dwellings.
2. The monies shall be used by Herefordshire Council for-
 - The provision and/or upgrading children's play equipment and/or open space within the Colwall Parish area.
3. In the event that Herefordshire Council does not for any reason use the said sum of Clause 1 for the purpose specified in the agreement in Clause 2 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
4. The developer covenants with the Herefordshire Council, in lieu of the provision of on-site youth and adult sports provision, the sum of £12,152 (index linked). The sum shall be paid prior to the first occupation of any of the dwellings.
5. The monies shall be used by Herefordshire Council for:-
 - Sporting provision at priority facilities in Ledbury including the swimming pool and/or local sports club facilities in Colwall and the surrounding parishes.
6. In the event that Herefordshire Council does not for any reason use the said sum of Clause 4 for the purpose specified in the agreement in Clause 5 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £68,956 (index linked) to provide and/or improve education facilities. The sum shall be paid prior to the first occupation of any of the dwellings.
8. The monies shall be used by Herefordshire Council for-
 - £43,298 (index linked) towards improvements to Colwall Primary School;
 - £5,042 (index linked) towards infrastructure/facilities for Colwall 'early years' pre-school;
 - £1,392 (index linked) towards infrastructure/facilities improvements for post 16 education at John Masefield High School (Sixth Form);

- £15,806 (index linked) towards improvements to existing facilities for the Hereford Youth Service;
 - £3,418 (index linked) towards additional facilities for special educational needs at Blackmarston and Barr Court Road schools.
9. In the event that Herefordshire Council does not for any reason use the said sum of Clause 7 for the purpose specified in the agreement in Clause 8 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
 10. The developer shall construct and complete four 'Affordable Housing Units' (Plots 1, 2, 10 and 11), which meets the criteria set out in Section 5.5 of the Herefordshire Unitary Development Plan and related policy H9. These five 'Affordable Housing Units' shall be transferred to a Registered Social Landlord prior to the occupation of the tenth other (i.e. 'open market') dwelling upon the site. Three (Plots 1, 10 and 11) of the four affordable Housing Units' shall be subsidised housing for rent and one (Plot 2) shall be in the form of shared ownership.
 11. The developer covenants to pay Herefordshire Council the sum of £57,039 (index linked) towards highway improvements/sustainable transport initiatives. £15,000 (index linked) of the sum shall be paid prior to commencement of the development and the remaining £42,039 (index linked) shall be paid prior to the first occupation of any of the dwellings.
 12. The monies shall be used by Herefordshire Council for:-
 - works to further revise the Old Church Road, Walwyn Road and Brockhill Road junction (n.b. the £15,000 (index linked) to fund these works to be paid prior to commencement of the development);
 - street lighting improvements and dropped kerbs between the application site and the junction of The Crescent and Walwyn Road and between Colwall Primary School and Walwyn Road; and
 - improvements and additions to existing bicycle parking and storage facilities adjacent to Colwall Railway Station.
 13. In the event that Herefordshire Council does not for any reason use the said sum of Clause 11 for the purpose specified in the agreement in Clause 12 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
 14. The developer covenants to pay Herefordshire Council the sum of £1,920 (index linked) towards local recycling and household waste reduction facilities and initiatives. The sum shall be paid prior to the first occupation of any of the dwellings.
 15. In the event that Herefordshire Council does not for any reason use the said sum of Clause 14 and for the purpose specified in the agreement in Clause 14 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
 16. The developer covenants to pay Herefordshire Council the sum of £3,580 (index linked) towards improving library services in Colwall and the mobile library service. The sum shall be paid prior to the first occupation of any of the dwellings.
 17. In the event that Herefordshire Council does not for any reason use the said sum of Clause 16 and for the purpose specified in the agreement in Clause 16 within 5 years from the date of this

agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.

18. The developer covenants to pay Herefordshire Council the sum of £3,658.28 (index linked) towards the monitoring of this Agreement. The sum shall be on completion of the Agreement.
19. In the event that Herefordshire Council does not for any reason use the said sum of Clause 18 and for the purpose specified in the agreement in Clause 18 within 5 years from the date of this agreement, the Council will repay the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
20. A “dual-use” agreement that would allow community use of the retained outdoor sporting facilities of the School (i.e. a synthetic hockey pitch & tennis courts, a senior rugby pitch, cricket nets, a cricket pitch (summer months), an athletics track (summer months), two senior football pitches and a synthetic cricket wicket.