

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 17 July 2013 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor BA Durkin (Vice Chairman)

Councillors: PA Andrews, AM Atkinson, AN Bridges, PJ Edwards, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, RC Hunt, Brig P Jones CBE, JG Lester, RI Matthews, FM Norman, GR Swinford and PJ Watts

**25. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor AJW Powers.

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

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor MD Lloyd-Hayes attended the meeting as a substitute member for Councillor AJW Powers.

**27. DECLARATIONS OF INTEREST**

8. N123316/F - LOWER HENGOED, HUNTINGTON, KINGTON, HR5 3QA.  
Councillor AM Atkinson, Non-Pecuniary, One of the directors of Haygrove is a customer of the Councillor.

9. S122524/F - FERRYMEAD, 14 VILLA STREET, HEREFORD, HR2 7AY.  
Councillor PA Andrews, Non-Pecuniary, the Councillor knows a number of residents of Villa Street.

10. 131292/FH - THE HOLT, VILLA STREET, HEREFORD, HR2 7AY.  
Councillor PA Andrews, Non-Pecuniary, The Councillor knows a number of residents of Villa Street.

11. 130541/O - THE PADDOCK OFF PERRYSTONE LANE, TUPSLEY, HEREFORD.  
Councillor J Hardwick, Non-Pecuniary, The applicant is an acquaintance of the Councillor.

**28. MINUTES**

A member of the Committee advised of a typographical error on page 10 of the minutes. He requested that at bullet point 5, where reference was made to the ratio between housing an employment land, 8/20 be replaced by 80/20.

**RESOLVED:** That subject to the amendment detailed above, the Minutes of the meeting held on 26 June 2013 be approved as a correct record and signed by the Chairman.

**29. CHAIRMAN'S ANNOUNCEMENTS**

There were no announcements.

**30. APPEALS**

The Planning Committee noted the report.

**31. S123592/O - LAND OFF BREINTON LEE, KINGS ACRE ROAD, HEREFORD**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mr Geeson, representing Breinton Parish Council and Col. Farnes, a neighbouring resident, spoke in objection to the application and Mrs Tagg, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor RI Matthews, the local ward member, commented on a number of issues, including:

- The concerns of the local residents and Parish Council should be noted.
- Three previous applications on the site had been refused at appeal.
- The application was contrary to UDP Policy H7, although its standing under the National Planning Policy Framework was noted.
- The application should be considered on its merits and full consideration should be given to the impact resulting from the development.
- The access and impact on the highway make the application unacceptable.
- There had been a number of unrecorded accidents over the previous years.
- The layby was extremely well used and its removal would have a detrimental impact on highway safety.
- The application was contrary to UDP policies DR3 and DR4.
- In December 2012 the ditch had flooded resulting in 18 inches of water entering neighbouring resident's homes.
- The Council engineers had historically noted that there was a problem with drainage in the area.
- There was nowhere for the water to go at the point where the culvert terminated at 304-306 Kings Acre Road.
- Public footpaths in the area had also been flooded.
- Local residents had reported issues with insurance companies due to the flooding concerns in the area.
- The report refers to drains and ditches that do not exist.
- Wyevale had expressed their concerns in an email and stated that they objected to the application.
- It was noted that the report which the housing shortfall figures had been based on was a report up to the end of 2011, what was the actual shortfall now.

The debate was opened with a Member of the Committee speaking in objection to the application. Concerns in respect of the surface water issues, drainage issues, the closure of the layby and the decision to locate the proposed play facility some distance away at Westfaling Street were all expressed.

Further debate took place in respect of the flooding issues on the site. One Member voiced his concern in respect of the proposed ditches and balancing ponds and stated that their presence clearly indicated that there was an issue with drainage on the site. He also expressed concern regarding the removal of trees and shrubs from the site and questioned whether the application was in fact sustainable. Another member echoed the concerns in respect of drainage and advised the applicant to consider a wet drainage

system and the use of porous surfaces to assist in alleviating the current drainage problems. She also raised concern regarding the loss of the badger setts on the site.

Another member noted that two balancing ponds were required on the site, with one being of a significant size. He had concerns regarding the future monitoring of the ponds as well as the safety of the ponds in respect of children from the proposed new dwellings.

The Committee were unanimous in their support of the local ward member, the parish council and the local residents who had objected to the application. Members voiced their concerns in respect of the application and put forward four reasons for refusal, namely: an unacceptable impact of surface water; the closure of the layby would not be in the interest of highway safety; an unacceptable Section 106 agreement in terms of the location of the play area; and the impact on the badger setts within the site.

The Planning Lawyer advised that Members needed to be satisfied that the reasons for refusal put forward could be supported by sound evidence in light of any potential appeal.

Councillor Matthews was given the opportunity to close the debate. He reiterated his opening remarks and requested that the application be refused.

## **RESOLVED**

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

- 1 The Council is not satisfied that the information supplied with the application demonstrates that the proposed mitigation measures would address the risk of flooding or the potential adverse impact on the dwellings and infrastructure in the locality in relation to surface water run-off. As such the proposal would fail to comply with the requirements of Policies DR4 and DR7 of the Herefordshire Unitary Development Plan. "**
- 2 The proposed highway improvements to the A438 (namely the partial closure of the existing layby) required to ensure satisfactory visibility when existing Breinton Lee onto the A438 would, when having regard to its siting, location and frequency of use, give rise to indiscriminate parking of on the highway to the detriment of visibility and ability for vehicles to manoeuvre safely. Consequently its loss would not be in the interests of highway safety and the proposal would therefore be contrary to Policy DR3 of the Herefordshire Unitary Development Plan.**
- 3 The proposed development fails to satisfactorily demonstrate that the identified protected species (Badgers) and their habitat can be retained or satisfactorily mitigated to ensure that there is not an adverse impact on the protected species or their habitat. As such the proposal would be contrary to Policies NCI, NC7 and NC8 of the Herefordshire Unitary Development Plan and requirements contained within Chapter 11 of the National Planning Policy Framework.**
- 4. The proposal fails to incorporate outdoor playing space and public open space in accordance with the requirements of Policy HI9 of the Herefordshire Unitary Development Plan. The proposed 'off site' contribution proposed is considered to be inappropriate and not reasonably related to the site and proposals due to the separation and distance from the site.**

- 5. The application is not accompanied by a completed section 106 agreement considered necessary to make the development acceptable and is therefore contrary to Policy DR5 of the Herefordshire Unitary Development Plan and the Supplementary Planning Document: Planning Obligations.**

**32. N123316/F - LOWER HENGOED, HUNTINGTON, KINGTON, HR5 3QA**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Miss Watson, representing some of the local residents, spoke in objection to the application and Mr Hammond, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JW Hope, the local ward member, commented on a number of issues, including:

- There had been 120 letters of objection and 50 letters of support for the application, however Huntington only had an electoral roll of 88.
- The National Planning Policy Framework supported sustainable economic growth; the expansion and diversification in agriculture; and also stated that the Council should seek to approve sustainable development.
- The Council's officers did not object to the application.
- There was no evidence to suggest that polytunnels affected tourism.

The debate was opened with a member noting that he was disappointed that the cherry trees had already been planted prior to planning permission being granted. He also noted the concerns of the local residents in response to comments regarding the lack of local employment opportunities, however he considered that in his experience with fruit farms in his area, local people did not apply for the jobs when they were advertised. In summing up he drew Members attention to the time limited nature of the application and considered that it should be approved.

Members discussed the application and voiced some concern in respect of the proposed landscaping condition. They noted that screening could take some time to mature and requested that mature screening be incorporated to reduce any impact on the neighbouring dwellings.

There was some debate in respect of the possible impact the application would have on tourism in the area. It was noted that tourism brought £412,000,000 into the Herefordshire economy in 2012 and that this should not be jeopardised through any development.

In response to the points raised, the Principal Planning Officer advised that the Transportation Manager had not objected to the applications and that workers were currently being transported from Ledbury to a neighbouring site, therefore traffic movements would not increase. He also advised that landscaping, as well as a 30m buffer zone, had been offered by the applicant. Members noted the condition and requested that any landscaping had to have an immediate effect.

Another Member of the Committee had concerns in respect of the application and its impact on the neighbouring bed and breakfast business. He asked Members to consider all of the local businesses that could be affected by the proposed polytunnels. He noted the Officer's comments but stated that there would be additional vehicular movements as

workers would still need to be transported between the two sites. He also expressed concerns regarding landscaping and questioned whether the polytunnels would ever be able to blend into the landscape.

Some further concern was expressed in respect of highway movements with members noting that the roads around the farm were very narrow with few passing points. Members noted that agricultural workers would be transported from Ledbury and had some concern regarding early morning and late night transportation. They therefore requested that a travel plan condition be added to the recommendation and also requested that consideration be given to passing points along the narrow roads.

In response to the points raised by the Committee, the Development Manager noted that the application was finely balanced and advised that a travel plan condition could address the concerns raised regarding vehicle movements. He also added that the applicant had offered additional landscaping but that this could be enhanced further through planning conditions if required. The Committee requested that time restrictions on movements and passing points be considered in the travel plan.

Councillor Hope was given the opportunity to close the debate. He reiterated his opening remarks and requested that the application be approved.

## **RESOLVED**

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

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. G10 Landscaping scheme**
- 4. G11 Landscaping scheme - implementation**
- 5. No polytunnel or associated development will be situated within 30 metres of the boundary of any residential curtilage of any dwelling house that is located outside of the application site. This land shall not be used in connection with the growing of cherries on site, including such uses as ancillary storage, servicing or for staff welfare facilities or congregating areas.**

**Reason: To safeguard the amenities of the occupiers of dwelling houses within the immediate vicinity and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.**

- 6. In the event of any polytunnel hereby permitted becoming redundant for the growing of cherries upon the application site, the poly tunnel which includes the supporting structure shall be removed off site within a period of 6 months of it being last used for cherry production.**

**Reason: To ensure that any structure that becomes redundant for fruit production does not remain on site and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.**

- 7. None of the poly tunnels hereby permitted shall be covered with polythene during the period from 1st October until April 1st in the following year.**

**Reason: To ensure that the visual impact of the development hereby permitted is limited to the growing season during leaf cover and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.**

- 8. None of the poly tunnels hereby permitted shall be lit with artificial lighting.**

**Reason: In the interests of the visual amenity and to comply with Policies DR2 and DR4 of the Herefordshire Unitary Development Plan.**

- 9. The polytunnels and any supporting infrastructure hereby permitted shall be removed off site within 20 years of the date of this planning permission and the land afterwards will be returned back to its original condition in accordance with a timetable to be submitted to the Local Planning Authority no later than 19 years of the date of this planning approval.**

**Reason: In consideration of the visual and amenity impact on the surrounding landscape and the life expectancy of the cherry crop and to comply with Policies DR2 and LA2 of the Herefordshire Unitary Development Plan.**

- 10. There shall be no raising of ground levels within flood zone 3, the 'high risk area' 1% annual probability floodplain, of the site.**

**Reason: To alleviate the increased risk of flooding and to comply with Policy DR7 of the Herefordshire Unitary Development Plan.**

- 11. Prior to any development on site, full details will be submitted to the Local Planning Authority and approved in writing with regards to implementation of a working method statement and a habitat enhancement scheme. This shall be based on the recommendations in the ecological report dated 9 October 2012 and include full details and timetables for the:**

- construction and habitat enhancement of the irrigation pond and associated works to the stream;**
- swale construction between the poly tunnels in Field 4 and land that is to remain as permanent pasture;**
- management of buffer strips alongside all boundaries and watercourses, and;**
- management of the remaining permanent pasture land, hedgerows, the River Arrow and the tributary stream.**

**Reason: In consideration of the ecological impact of the development and mitigation requirements and to comply with Policies NC1, NC4, NC6, NC7 and NC8 of the Herefordshire Unitary Development Plan in relation to nature conservation and biodiversity and to meet the requirements of The National Planning Policy Framework and the NERC Act 2006.**

- 12. H30 - Travel Plan condition**

**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 applicant is reminded that the adjacent public rights of way must be kept open and free from obstruction at all times.**
- 3. The local Planning Authority will be expecting an enhanced landscaping submission as required by condition number 4 to provide for landscaping to protect nearby residents.**

**33. S122524/F - FERRYMEAD, 14 VILLA STREET, HEREFORD, HR2 7AY**

The Chairman advised that agenda items 9 and 10 were neighbouring dwellings and that the applicants had both been submitted by the same person. He therefore agreed to consider both items together but took two separate votes and allowed separate public speaking times for both applications.

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mr Tillett, a neighbouring resident, spoke in objection to the application and Mr Ballantyne, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors AN Bridges and PJ Edwards, two of the local ward members, commented on a number of issues, including:

- The site visit had highlighted the issues at the site.
- The Transport Manager's comments were not agreed with.
- The dwelling was located on a popular route to and from Rivermead Primary School.
- The Council encouraged people to cycle yet this application impacted on the cycle route from Belmont to the City.
- The application should not have been granted for the original dwelling in 2002.
- There was a risk of flooding in the area.
- Could the 2 ½ storey dwelling be converted easily, would there be appropriate emergency access?
- Unrealistic to expect all of the dwellings to have just one car each.
- The third parking space was proposed to be between the two dwellings, how would this be controlled if one of the dwellings was sold?
- The Planning Inspector had upheld decisions to refuse planning permission in the area previously.
- The public access to the river would be blocked.
- The position of the strengthening wall would result in the back end of the vehicle being in the cycle lane.
- The application was contrary to S1, T11 and DR3 of the Unitary Development Plan.

The debate was opened with a Councillor speaking in support of the application. He was surprised that the dwelling had been empty since it was built in 2002 and was of the opinion that the application would bring an empty building back into use. He noted that there would be either 6 or 7 parking spaces on the two sites and considered this to be

sufficient. He did request an additional condition regarding a fence between the two dwellings in order to give a clear visual separation in respect of parking provision.

The issue of the dwelling being used as a house of multiple occupancy if the application was refused was discussed. It was noted that no planning permission would be required to use the house as an HMO. One member noted that a HMO was similar to a single household and would benefit from lower vehicular movements than the three separate households being created under the proposed application. He considered that the proposed application would result in an over intensification.

Members continued to discuss the application and had concern in respect of the application. It was considered that the increase in vehicular movements would not be acceptable.

Councillors Bridges and Edwards were given the opportunity to close the debate. They reiterated their opening remarks and made additional comments, including:

- There was no objection to bringing the dwelling back into use, however it had to be a suitable use.
- The proposed application would result in over intensification of the site.
- There were 1700 homes in Belmont and this dwelling was on the main cycle route into the city.
- There was poor visibility for vehicles pulling out of the drive.
- If the application was approved there should be secure cycle storage included.
- The application site was within the conservation area.
- Vehicles would be parked over a cycle lane.

A motion to approve the application in accordance with the case officer's recommendation was lost.

Members noted the concerns raised during the debate and moved that the application be refused. They considered that the application was contrary to UDP Policy H17; that the application would result in an over intensification of the Ferrymead site; and that the application would result in an unacceptable increase in the number of households.

**RESOLVED:**

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

- 1. The proposed subdivision of the dwelling would represent an unacceptable intensification of the residential use of the building that consequently would have an undue adverse impact upon the general character of the area, having particular regard to additional traffic movements and the nature of the highway. As such the proposal would fail to comply with Policy H17 of the Herefordshire Unitary Development Plan.**

**34. 131292/FH - THE HOLT, VILLA STREET, HEREFORD, HR2 7AY**

Due to the link between this item and the previous agenda item the Principal Planning Officer's presentation was combined.

In accordance with the criteria for public speaking, Mr Tillett, a neighbouring resident, spoke in objection to the application and Mr Ballantyne, the applicant, spoke in support.

**RESOLVED**



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

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**

**Informative:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework**

**35. 130541/O - THE PADDOCK OFF PERRYSTONE LANE, TUPSLEY, HEREFORD**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mrs McCarthy, a neighbouring resident, spoke in objection to the application and Mr Hooper, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor J Hardwick, the local ward member, commented on a number of issues, including:

- The detailed specification of the dwellings would be forthcoming when a full application was submitted.
- The applicant should be commended for submitting an application for solely affordable housing.

The debate was opened with a Member speaking in support of the application. She noted that the application was solely for affordable housing but stated that this should not mean low quality housing. She advised the applicant to investigate the possibility of sustainable features for the dwellings when the full application was submitted.

In response to a question regarding the possible adoption of the public highway, the Principal Planning Officer advised that the Council could not insist that the highway was adopted but that they could ask for the applicant to ensure that it was to an adoptable standard.

The Development Manager advised that the construction of the houses would be to code level 3 and that this would form part of the enhanced Section 106 agreement.

Councillor Hardwick was given the opportunity to close the debate. He chose to make no additional statement.

**RESOLVED**

**That subject to the completion of a Section 106 Agreement in accordance with the attached Heads of Terms, planning permission be granted subject to the following conditions:**

1. **The development shall not commence until approval of the 'reserved matters' has been obtained from the Local Planning Authority.**

**Reason: To enable the local planning authority to exercise proper control over these aspects of the development in order to secure compliance with policies DR1 and H13 of the Herefordshire Unitary Development Plan.**

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

**Reason: Required to be imposed in accordance with Section 92 of the Town and Country Planning act 1990.**

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

**Reason: Required to be imposed in accordance with Section 92 of the Town and Country Planning act 1990.**

4. **H03 Visibility splays**
5. **H06 Vehicular access construction**
6. **H18 On site roads - submission of details**
7. **H20 Road completion in 2 years**
8. **H21 Wheel washing**
9. **H26 Access location**
10. **H27 Parking for site operatives**
11. **G04 Protection of trees/hedgerows that are to be retained**
12. **G10 Landscaping scheme**
13. **G11 Landscaping scheme - implementation**
14. **I16 Restriction of hours during construction**
15. **I51 Details of slab levels**

**Informatives:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **HN08 Section 38 Agreement & Drainage details**

3. **HN10 No drainage to discharge to highway**
4. **HN04 Private apparatus within highway**
5. **HN01 Mud on highway**
6. **HN15 Affected street lighting or illuminated signs**
7. **HN28 Highways Design Guide and Specification**
8. **HN05 Works within the highway**

**36. 131071/F - LAND AT LEYS FARM, TARRINGTON, HEREFORD, HR1 4EX**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mr Coleman, the applicant, spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor J Hardwick, the local ward member, commented on a number of issues, including:

- A site visit would be beneficial.
- The site was close to a number of residential properties.
- There were health and environmental issues.
- Tarrington Parish Council had objected to the application.

The Committee agreed that a site visit would be beneficial and moved that a visit be undertaken on all three grounds as set out in the Council's constitution.

**RESOLVED**

**THAT a site inspection be undertaken on the following grounds:**

1. **The character or appearance of the development itself is a fundamental planning consideration.**
2. **A judgement is required on visual impact.**
3. **The setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.**

**37. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES**



# PLANNING COMMITTEE

17 July 2013

## Schedule of Committee Updates/Additional Representations

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

**S123592/O - PROPOSED OUTLINE PERMISSION FOR A RESIDENTIAL DEVELOPMENT OF 15 NO. DWELLINGS WITH ASSOCIATED INFRASTRUCTURE INCLUDING ALTERATIONS ON A438 + DRAINAGE AND LANDSCAPING WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS AT LAND OFF BREINTON LEE, KINGS ACRE ROAD, HEREFORD**

**For: Mr Wakeley per Foxley Tagg Planning Ltd, Normandy House, 305-309 High Street, Cheltenham, Gloucestershire, GL50 3SH**

### ADDITIONAL REPRESENTATIONS

**Breinton Parish Council have made the following comments:**

Most of the original points and concerns raised in previous correspondence have still not been adequately addressed in the additional and re-amended plans supplied by Foxley Tagg and RJ Fillingham Associates Ltd. Having discussed this application at our public meeting on 3<sup>rd</sup> July – which was observed but not contributed to in any way by a representative of the developer – I wish to confirm that Breinton Parish Council still objects most strongly to this planning application for the original reasons provided.

In particular, the Parish Council is of the opinion that the proposed development lacks sustainability, with regards to energy, sewerage, flooding, drainage, water supply and access as well as posing a real threat of ecological damage. The Parish Council responds to the letters from Foxley Tagg (latest dated 27 June 2013) and the additional information provided by them (including Planning statement addendum - 2<sup>nd</sup> scheme amendment and the Proposed foul water and surface drainage strategy addendum no 2) as follows:

#### **Land use**

1. While the Strategic Housing Land Availability Assessment (SHLAA) does consider the site as a suitable development site at some point and central government is pressing for further housing development; these are not sufficient reasons in our view. Until the planning framework changes definitively in Herefordshire, the site remains Greenfield and outside the settlement boundary, amongst the grounds for applications to have been rejected in past years.

2. Close inspection of the evidence strongly suggests that the site is not suitable for further housing development. The proposed site is grade 2 agricultural land and is therefore a nationally scarce resource. It is in the top 25% of most fertile soil and is therefore adaptable to a huge range of agricultural uses. The danger of piecemeal development using such land when other is available is emphasised by the NFU in its

current campaign for improved food security in the UK. Although the current owner has not chosen to farm this land, it has historically always been used for agriculture. It was previously a mature orchard used by Wyevale Nurseries – as shown in the historic photograph provided by the developers to support their application - whereas more recently the plot has been used for turning heavy agricultural machinery to access farmland beyond.

3. The provisions of the National Planning Policy Framework (NPPF) should be taken as a whole. In our view those parts which appear to support unsustainable development such as this one are over emphasised including the lack of a five year land supply. A simple examination of the 2011 Census indicates that this is not a problem of the magnitude frequently described. Paragraph 112 of the NPPF states “Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.” and should not be dismissed so lightly. Lower Grade agricultural land in the county, including around Hereford itself, should be considered for development prior to development of a site such as this.

4. Greenfield sites should only be used for housing development once existing brown field sites have been developed. Such sites exist in Breinton. The brown field site of the former Whitecross School on Baggallay Street elsewhere in Hereford is a prime example of available land for development and is a lot closer to the proposed play area on Westfaling Street than this site. It should be noted that such contributions to community infrastructure should this development proceed are of little or no value to Breinton residents and do not address local issues.

## **Drainage**

5. It is noted that the proposals in paragraph 8.12 of the original drainage report - to extend and re-profile the ditches along the south and west sides of the site (and bordering 2 properties in Breinton Lee) remain. However, as is evidenced by the experience of the residents in the properties along Breinton Lee (and evidenced by the report and photographs from Turnwater Ltd) the water run-off from the land to the south of the site does contain substantial amounts of sediment. This leads to the ditches becoming silted up very quickly during periods of rain, so these ditches, even if re-dug, will require regular maintenance which is not guaranteed in any of the papers provided.

6. It is this silt that forms the debris which settles in the existing drainage system and causes this system to block, as seen in the Turnwater report. This deposition of silt will continue to be an issue with the drainage system. Contrary to the comments at 4.4 of the R J Fillingham’s original report, the slope does provide for flash overland flood run-off following heavy rain. 2m high fences have been demolished as demonstrated by the photographs viewed by the Planning Committee on 5 June 2013.

7. Surface water regularly collects along the northern edge of the fields - on the boundary with Breinton Lee and the proposed development site.

8. It is the Parish Council’s view that the various reports provided make inadequate mention of who will have responsibility for the maintenance of these ditches. Indeed, following the original ditch being dug out in 2000, the landowner subsequently requested that it be filled back in again. It is our understanding that although the existing southern ditch is within the development site the proposed 50m extension and western ditches will not be on the applicants land or that of the existing residents of Breinton Lee. There are no guarantees or funds to ensure these ditches will be adequately maintained and remain effective in the future?

9. Para 2.6 of the original Planning Statement Addendum goes on to say that these “may not be hugely effective in exceptionally wet periods given the clayey nature of the sub-strata”. As the problem is the substrata of the land which is a fluvial plane, this fundamental situation will continue, even with the proposed ditching by the applicants.

10. The original surface water drainage report (R J Fillingham) describes a general lack of maintenance and repair of the ditches; pipework, gullies and culvert throughout the drainage system to the receiving ditch that on the opposite side of KAR between nos. 304 and 306a KAR. The Turnwater (Drainage) Report

refers to a sizeable difference in pipe levels beneath the property of 343 KAR, and as the 'upstream' pipe is below the 'downstream' pipe, there is always a level of water that cannot drain away. The report concludes that the issue of pipe levels must be addressed for it to function properly. The applicants are still not in any position to sanction redress of this situation despite proposing; second – a pipe underneath the road at Breinton Lee and now third - larger balancing ponds.

11. At para 2.8 of the same report, it is accepted that improvement of the drainage system relies on improvements in other areas not owned by the applicant. In which case the applicants cannot rely upon these third parties to carry out these further works, so cannot guarantee the effectiveness of the drainage system to prevent flooding of the proposed development site or properties in Breinton Lee. Any development will mean that the existing system will have to contend with a much greater volume of surface water passing through the system. The lack of guarantees means that any failure to ensure the upkeep of the drainage system will lead to flood damage on the proposed development site as well as the existing properties in Breinton Lee.

12. As there is a sizeable amount of impermeable ground being created by the proposed development, there is less ground for surface water to soak away, which will increase the pressure on the drainage system. Herefordshire Council records show that Amey already frequently repair the drainage system in this area of Kings Acre Road. Over the last 18 months, Amey have responded to the following incidents: - blocked culverts parallel to Breinton Lee; blocked gullies along Kings Acre Road (4 instances); blocked gullies outside 333 Kings Acre Road and the Breinton Lee turning. Residents have been forced to dig a trench to prevent flooding off the farmer's field and have requesting sandbags from the Councils emergency stores.

13. This is indicative of the difficulties in trying to maintain an adequate drainage system for the existing houses. The difficulties will be made much worse by further housing development in the area and the fact that drainage improvements to the nature reserve uphill from the proposed development site will actually increase the speed at which water flows to the site boundaries and possibly the volume as well.

14. The review into the 2007 flood disaster in Herefordshire, Gloucestershire and Worcestershire produced for the Government by Sir Michael Pitt repeatedly makes the point that a considerable amount of damage was caused on sites like this by inadequate drainage solutions and not by river floods. These lessons should not be forgotten so soon and small site specific schemes are not the answer. The drainage scheme proposed now does not provide a solution for the wider area as claimed in the letter from Foxley Tagg dated 27 June 2013. Until there is a comprehensive solution for drainage and sewerage can be funded across this part of Breinton and Stretton Sugwas parishes, the probability of flooding remains unacceptably high and, like many others locally this site is not developable as described in the SHLAA. There are no proposals for such comprehensive solutions in Welsh Water's recently announced investment plans.

15. The potential to change the water balance for the worse may affect Wye-Vale nurseries across the main road from the proposed development site. As the major local employer any concerns that they express should be taken extremely seriously.

16. The revised plans proposals to be considered by the Planning Committee in July are the developer's third attempt to convince elected members that drainage problems can be solved. However, close examination of the latest proposals by local residents including the calculations and assumptions indicate major weaknesses exist. The Parish Council fully supports the resident's objections contained in their letters to Herefordshire Council but, for reasons of space will not repeat them here.

### **Balancing ponds**

17. Based on our reading of the revised proposals it appears that one of the proposed balancing ponds remains is higher than the surrounding area, so this will not collect surface water from the lower ground surrounding it but from outside the development site. This appears to be no more than an excavated extension of the ditch with a restricted discharge back into it. There are doubts still if this will cope with the volumes of water involved as no doubt, local residents, letters will make clear.

18. Although enlarged from the original proposals, the balancing ponds capacity is limited, so in any prolonged periods of rain – as can be expected through climate change - the ponds will be full before any further surface water will have drained into them.

19. It remains likely that the balancing ponds will become filled with debris, agricultural chemicals, sediment and weeds so will require regular maintenance and dredging. The act of dredging will prevent any ecological benefit accruing from the existence of these water features. Foxley Tagg has advised that 'for the vast majority of time the ponds will be damp at worse with no significant standing water'. They will thus have little ecological water feature value.

20. The ponds will also provide a health and safety hazard to residents living in the area, and in particular to children not least as breeding grounds for mosquitoes and midges. In many residential areas such ponds have been prohibited due to the hazards they pose.

21. In short, bigger, deeper ponds require better fencing irrespective of the amount of water they contain and as there is no management or maintenance plan provided for these structures the Parish Council has no confidence that they will prove to be effective.

### **Access and road layout**

22. It is agreed the lay-by on Kings Acre Road, south of the junction to Breinton Lee is frequently used as a parking area for local residents and large lorries. To improve the visibility for traffic emerging from Breinton Lee, it is proposed to change the lay-by.

23. We repeat that there are currently accesses into 2 adjoining properties from the lay-by. It will be necessary to discuss any proposed changes with the owners of those properties that adjoin the lay-by before any alterations are made.

24. Contrary to the assertions in the FoxleyTagg letter dated 27 June 2013, it has never been claimed that the lay-by was provided to give allocated parking spaces for them. As the historic photograph provided by them shows, the lay-by is a long-standing one presumably needed when the former nursery was a flourishing business to keep deliveries etc off the road. What is clear is that reductions to the size of the lay-by as proposed will result in vehicles parking on the road itself. This will a) negate the hoped for improvement to highways safety (thus danger of collision remains), b) create a similar 'pinch-point' equivalent to that which already exists further down King's Acre Road by the sub post-office where smooth traffic flows along the A438 are already frequently disrupted. The proposed solution simply does not work and it is surprising that the Highways Authority and its technical advisers do not recognise this.

25. There are also visibility issues when people pull up opposite the post box to the north of the junction. With additional traffic emerging from Breinton Lee, there is more likelihood of collisions. These already happen as the existing junction is opposite the busy entrance to Wye-Vale nurseries and there is frequently glass / Perspex fragments in the gutter indicating damage to vehicles.

26. The drawings and reports regarding the access from Breinton Lee into the proposed development site make no mention of the separate gated entrances into Lambourne Gardens and Breinton Lee themselves. Cars waiting to enter Breinton Lee already block access to Lambourne Gardens while the key pad is operated (impossible while sitting in a vehicle). As the proposed entrance to the development is directly opposite the gates into Lambourne Gardens this pinch-point is further exacerbated and will cause problems for vehicles entering or leaving the proposed site. There are potential safety issues around this area, such as with the delays whilst vehicles enter and depart from those properties. Access for the emergency services and utility vehicles may be impeded by the layout of the access.

27. Herefordshire Councils own long-term plans seek to reduce car traffic flows down King's Acre Road, not least so that more sustainable transport measures can be introduced. This development adds to those flows. There is a park and share site across the A438 provided by Wye-Vale nurseries which has fewer places than the parking envisaged in the new development. It is simply not joined up policy making to approve developments that add vehicles direct opposition to other local policies designed to reduce car borne travel.

### **Biodiversity**

28. At para 4.5, the original report states: "We would not agree that the majority of the vegetation has been removed." This is demonstrably untrue - refer to the photos taken from Google Earth in 2000 and Schedule of Committee Updates



subsequent years. As previously stated at 2 above this was a mature fruit orchard planted in the 1930s as part of the nurseries and it was only removed by the applicant in the last couple of years prior to this application. The history is shown by the photograph provided by Foxley-Tagg. In more recent years the site has been degraded, presumably to reduce any environmental objections to development.

29. The application proposes that a fruit tree is planted in each of the gardens. Yet at para 4.9, it acknowledges that securing the longevity of habitat creation within residential gardens, cannot be guaranteed. This demonstrates a complete lack of respect and determination to take seriously the issue of biodiversity and is purely cosmetic.

30. There is an extensive family of badgers in the area, which are a protected species. The existing badger sett appears to be very close to the location of one of the proposed balancing ponds. What assurances are given to ensure the safety of the badgers and the sett? It is difficult to see how these will be protected with the current proposals to develop this site. If the development is approved and the appropriate licence obtained from the Government, the badgers will quite simply be killed.

31. The response in the Planning Statement Addendum to the ecologists comments on clearance of vegetation on the site is to say that "the majority of the trees... were either not native (e.g. leylandii) or not mature". The Parish Council stands by its original position i.e. that this statement is clearly untrue - please refer to the photographs taken from Google Earth (in 2000 and subsequent years) submitted in the previous submission to the Planning Officer and the historic one provided by Foxley-Tagg. These photos clearly show extensive and mature trees growing on the proposed site and, historically an orchard which was considered worth mapping by the People's Trust for Endangered Species.

### **Sustainability**

32. The proposals do specify certain amounts for off-site public amenities, but it is noted there are no amounts destined for sustainable transport - specifically to help support the bus service. This is considered inadequate by local people, particularly in evenings and weekends as shown by the parish Council's recent consultation exercise. Much is also made of a contribution towards the proposed cycleway along Kings Acre Road. This would show a commitment towards sustainable transport and help alleviate potential traffic problems resulting from any development. However this cannot be used in support of the sites sustainability as it has been de-prioritised by Herefordshire Council, removed from its plans and is unlikely to be build.

33. As the report states the use of SUDS is not appropriate due to the drainage problems on this site. The biodiversity and ecology of this site has been seriously devastated prior to this planning application and nothing in the plan indicates any commitment by the applicant to create a "sustainable" development. There are few jobs locally, no school, general shops, doctors or dentists within the Breinton. This is a development that relies on the substantial use of cars.

### **Conclusions**

34. Alternative brownfield sites include the nearby site of the former Whitecross School on Baggally Street as an alternative to this development and which has suffered significantly less flooding than the area surrounding Breinton Lee. There are potentially suitable brown field sites within Breinton.

35. This development is likely to increase flooding along King's Acre Road and to 304 King's acre Road in particular as a result of less field water being retained and water discharged from the development site itself. These are detailed in letters of objection from Wyevale and Mr Lane, the occupier of 304 King's Acre Road.

36. The earlier drainage report concludes that "the implementation of the above measures should ensure the existing flooding problems are alleviated as far as can be reasonably expected". It is simply not credible to say that the now we are on the third set of proposals that they 'will not lead to any off site flooding issues and that as far as is reasonably possible those issues would be rectified'. (Foxley-Tagg letter dated 27 June). Planning applications should not be determined on such a risky basis. What would have happened if everything went according to plan with approval of the first proposals which the developers also appeared to have full confidence in? The Parish Council remains to be convinced that there is any capacity in the system to accommodate anything other than regular conditions, enough to cater

for periods of prolonged, heavy rain, or adequate assurances that blockages of the system (of which there are many – see the evidence from Amey) will not occur. We believe there will continue to be flooding of properties, not only of properties in Breinton Lee and Kings Acre Road, but also on the proposed development site itself.

37. Should the application be approved it will be necessary to establish a Management Company to oversee and fund maintenance of the balancing ponds, as well as the ditches and drainage system throughout. However, it will be dependent on third parties carrying out certain works in respect of the drainage system. In our view it is unlikely that such a management system will be effective or active enough to maintain the drainage system particularly as the restricted discharge mechanisms proposed will be prone to clogging. Unless regularly maintained they are likely to be ineffective when actually required.

38. The reports provided to support the application make reference to other parties having the responsibility to ensure the drainage system is kept in good repair, one of whom is I E Developments, being the builders of the properties in Breinton Lee. I E Developments were given the option to build further properties, but declined to do so because of the flooding and drainage issues that beset the local area. The evidence suggests they were right in not attempting to develop the site further. Perhaps the applicants and Foxley Tagg may wish to reconsider their proposals.

For all the above reasons, Breinton Parish Council continues to object to this planning application.

If however; Herefordshire Council are minded to approve this application the points made in our earlier objection remain regarding S106 funds and the requirement for the imposition of conditions on the application. These should include an indemnity from either the developers or funded by Herefordshire Council itself to guard against the possibility that potential buyers will not be able to gain mortgages or insurance on floodable properties.

#### **Additional Neighbour Representations:**

The closing date for comments on the amended drainage Strategy was the 12<sup>th</sup> July 2013.

17 Additional letters of objection were received that reiterate many of the issues previously raised. Additional / new information can be summarised as follows:

#### **Flooding**

- Flooding remains the primary objection. Do not think that the proposals would be adequate to cope with the enormous volumes of water that run off the fields
- The use of ponds is a last resort and demonstrates rates the faults of the previous suggested schemes.
- One of the major causes in the silt build up – responsibility for this being passed to adjoining land owners.
- No evidence of any sort of management company / maintenance
- Report does not recognise properly the problems of surface water run off / increase
- The size of the pond will not cope with the existing and proposed situation and will cause flooding on the site
- The fact that the drainage has been adjusted discredits their previous proposals and schemes. There have been several 'knee jerk reactions' to concerns that have been raised.
- At present rainfall on the development site just soaks away into the ground. It is, therefore, certain that the creation of 2,880 square metres of impermeable surface will, at 5 l/s, ADD water to the existing ditches/culvert. It is totally unsustainable for the applicant to argue development will, because of a larger balancing pond, result in a 'status quo' position; quite wrongly, this has been accepted by the Planning Officer.
- This additional water will further adversely affect residents living south of Kings Acre Road(No. 304) and Wyevale Garden Centre
- It is essential to consider the effect of further rain when the surrounding fields are saturated and the balancing ponds will already be holding a quantity of water. The proposed pond attenuation system will obviously be far less effective at such times.

- In the above situation, only 12.5 mm (half inch) of rain will potentially generate some 1.8 MILLION litres of water from the agreed 14.2 Ha catchment area. In comparison, the 260,000 litre capacity of a properly maintained Pond A is a 'drop'.
- The consultants regularly refer to their proposed system coping with 1 in 100 year events. The problem is, as a minimum, in the years 2000 and 2012 this has actually happened i.e. 2 in 12 years!
- Neither the applicants nor Planning Officer detail how required essential, regular and costly maintenance work will be organised/paid for; nor, how the adjacent third party owner(s) of the ditches will be held responsible for proper maintenance of them (deemed essential by the drainage consultants).

The Planning Officer's Condition 7 states "The recommendations in the ecologist's report dated 19 June 2012 should be followed." In paragraph 5.23, this report refers to "creation of a pond habitat". However, the applicant has advised me "The ponds will only hold water in times of heavy and/or prolonged rainfall. For the vast majority of time, they will be damp at worst with no significant standing water. This is a major contradiction; instead, the ponds are much more likely to become lush weed patches with no ecological benefit.

The Planning Officer does not refer to the potential dangers to children posed by the two large ponds; nor, in view of (g) above, the 'wet' ponds becoming happy breeding places for mosquitoes and midges.

- All these points cast serious doubt on the rigour of the proposals put forward by the applicant to cope with an area which often sees significant quantities of flood water; together with risks faced by future house owners, development can only exacerbate these problems unless there is enlargement of the culverts and subsequent disposal of the water direct to the Yazor Brook.
- It is proposed that the overflow from the two holding ponds will be released and what is claimed will be controlled rate, via a culvert under Kings Acre road and into the adjacent ditches at 304 Kings Acre Road. The Council fails to appreciate that the ditch on my property terminates at the end of the garden and that there isn't anywhere for it to go. It is not part of a watercourse, so therefore, even if the floodwater is released at a controlled rate onto my property there isn't anywhere for this to go, thus leading to a greater accumulation and increasing the flood risk. Building on the site will displace water that would have been harmlessly held, and will significantly increase the changes of serious flooding of property (304 Kings Acre Road)

## Highways

- Layby is the only parking available for residents at 222 Kings Acre Road and is used by visitors and residents, as well as trades and lorries overnight.
- Traffic counts are three years out of date and not realistic.
- Kings Acre Cycleway is no longer a priority and does not have funding
- If the layby is not there then vehicles will just park on the highway.

## Environment and Biodiversity

- Concern about comments from Ecologist
- Concern over lack of management plan being provided
- Very active badger sett on site.

## Leisure and Countryside

- Concern about lack of detail in respect of Management Company and its function / role.
- Ponds would bring mosquitos / smells / chemical silt laden water

## Other

- Noise levels from vehicles entering and leaving the site are also considered to be unacceptable.

## CHANGE TO RECOMMENDATION

None

**N123316/F - ERECTION OF POLYTUNNELS TO COVER CHERRY ORCHARD AND CONSTRUCTION OF A BALANCE POND AT LOWER HENGOED, HUNTINGTON, KINGTON, HR5 3QA**

**For: Mr RC Hammond, Lower Hengoed, Huntington, Kington, Herefordshire, HR5 3QA**

**CORRECTION TO COMMITTEE REPORT**

Paragraph 1.9 refers to the height of poly tunnels as between 3.4 and 6,4 metres high. This should read between 3.4 and 4.65 metres high.

**CHANGE TO RECOMMENDATION**

None

**S122524/F - CHANGE OF USE OF DWELLING INTO 3 NO APARTMENTS AT FERRYMEAD, 14 VILLA STREET, HEREFORD, HR2 7AY**

**For: Mr Ballantyne per Mr Daniel Forrest, Court Cottage, Bartestree, Hereford, HR1 4DA**

**ADDITIONAL REPRESENTATIONS**

One additional letter of support has been received which states that Villa Street goes all the way to Golden Post and that the most dangerous part is the blind bend / corner at Villa Street, Vaga Street. Vehicles often reverse back around the corner and comparatively Ferrymead will be no problem at all.

**CHANGE TO RECOMMENDATION**

None

**131292/FH - PROPOSED ALTERATIONS TO DRIVEWAY AT THE HOLT, VILLA STREET, HEREFORD, HR2 7AY**

**For: Mr Ballantyne per Mr Daniel Forrest, Court Cottage, Bartestree, Hereford, HR1 4DA**

**ADDITIONAL REPRESENTATIONS**

6 letters of support have been received that make the following comments:

- Changes will make things safer.
- An opportunity for enhanced safety for pedestrians and cyclists

3 letters of objections have also been received that make the following comments:

Blocking garage reduces the number of parking spaces to 1 which is too low for a family house. Not enough space for visitors or a second car/

Extra vehicles will be reversing over 100 m towards Wallis Avenue and hoping to park in an area which has a shortage of parking spaces.

This area of Villa Street has only about 6 on-road parking spaces and eight house without off-road spaces. This situation already leads to drives being obstructed and hedges damaged. This can also lead to disputes.

Proposal will lead to danger to pedestrians and cyclists. Villa Street is an important thoroughfare for pedestrians and cyclist and is promoted as such by the Council.

The application increases the risk of insufficient parking spaces being available and of vehicles being forced to reverse the length of this narrow pavement less carriageway.

### **CHANGE TO RECOMMENDATION**

None

**131071/F - PART RETROSPECTIVE CHANGE OF USE OF REARING OF GAME BIRDS, COLD STORAGE OF ASSOCIATED EQUIPMENT, STORAGE OF ANIMAL FEEDS AND AGRICULTURAL CHEMICALS, SEED AND FERTILISER, INCLUDING THE ERECTION OF 2 FEED SILOS AT LAND AT LEYS FARM, TARRINGTON, HEREFORD, HR1 4EX**

**For: Mr Coleman per Mr Alexander Clive, 8A High Street, Ledbury, Herefordshire, HR8 1DS**

### **ADDITIONAL REPRESENTATIONS**

#### *Conservation Manager*

There is no landscape objection to the reuse of this building. The introduction of the two feed silos, almost 7m high, will have a visual impact, however when seen against the existing agricultural frame building on higher ground immediately to the south they will be of a similar height. It would be useful to know the proposed colour and finish of these, as a dark green or brown would blend in with the background more suitably than a light colour which would stand out as an intrusive element to this historic setting.

The site is adjacent to the boundary of Stoke Edith Grade II Registered Park and Garden. I am concerned that this application does not address the cumulative impact of many changes surrounding the application building. This is a sensitive landscape and the spread of development should be restricted. It is clear that the use of pens are linked to the business necessities and are suitably located adjacent to the existing buildings, however it would be particularly useful to have a site plan showing the land where these structures will be limited to. In particular if there were to be spread any further west this would be within the boundary of the registered parkland, where many historic parkland features have already been lost and further degradation would not be acceptable.

There is also an opportunity to provide landscape enhancement, through additional hedgerow and tree planting to the site boundaries. The historic maps show that there would have been many more mature trees around the site and the land immediately to the south was previously two fields including an orchard. There appears to be scope for mixed native hedgerow planting along the access drive, at the base of the earth mounds. Mixed native hedgerow, with oak tree planting, would also be particularly welcome along

the boundary with the public footpath and on the far west boundary at the end of the temporary pens. Any native tree and hedgerow planting would be welcome to increase biodiversity, enhance the landscape character and to reflect the historic parkland.

## **OFFICER COMMENTS**

A condition can be added to the recommendation to control the colour of the silos. The other elements referred to in the second and third paragraphs above, as previously set out in the body of the report, 6.2, do not require planning permission. Any further conditions would therefore be ultra vires.

## **CHANGE TO RECOMMENDATION**

Additional condition

**Within 3 months of the date of this permission, the silos shall have been painted in accordance with details to be submitted to and approved in writing by the local planning authority.**

**Reason: In the interests of visual amenity to comply with policy DR1 of the Herefordshire Unitary Development Plan.**