

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>18 SEPTEMBER 2013</b>
<b>TITLE OF REPORT:</b>	<p><b>131631/F - ERECTION OF 3 RESIDENTIAL DWELLINGS AND ASSOCIATED LANDSCAPING AND ACCESS WORKS INCLUDING A SCHEME OF LANDSCAPE ENHANCEMENT AND THE REINSTATEMENT OF A PUBLIC FOOTPATH AT LAND AT THORNY ORCHARD, COUGHTON, ROSS ON WYE, HEREFORDSHIRE</b></p> <p><b>For: GB Garages per Hunterpage Planning, Thornbury House, 18 High Street, Cheltenham, Gloucestershire, GL50 1DZ</b></p>
<b>WEBSITE LINK:</b>	<a href="http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131631&amp;NoSearch=True">http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131631&amp;NoSearch=True</a>

**Date Received: 14 June 2013**

**Ward: Kerne Bridge**

**Grid Ref: 359879,220884**

**Expiry Date: 28 August 2013**

Local Members: Councillor J G Jarvis

## **1. Site Description and Proposal**

- 1.1 Planning permission is sought for the erection of three detached dwellings on land at Thorny Orchard, Coughton near Ross-on-Wye. The application site is a triangular parcel of land that extends to 0.6ha. It comprises sloping land on the south-east side of the Coughton - Howle Hill road, and is a prominent hillside position in open countryside within the Wye Valley Area of Outstanding Natural Beauty; a landscape that should be afforded the highest level of protection.
- 1.2 In 2004 planning permission was granted by the then Southern Area Planning Sub-Committee for the *“Erection of a building for the storage and repair of agricultural, horticultural and automotive plant and machinery” (DCSE2004/0220/F)*. This planning permission has been implemented and is extant. Significant and visually prominent ground-works have been undertaken. The approved buildings, although not yet started, could therefore be built in accordance with this permission. This fall-back position is a material consideration in the determination of this application.
- 1.3 In executing the work necessary to form the approved access pursuant to DCSE2004/0220/F, footpath WA50 was undermined and made unsafe. It has remained closed since February 2008.
- 1.4 Following the 2004 permission the site was sold and the new owner applied in 2008 for planning permission to erect a retaining wall to enable reinstatement of the footpath (SE2008/1992/F). The applicant went bankrupt, the work was never undertaken and the site was once again put up for sale. The footpath remained closed.

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479

- 1.5 The current applicant purchased the site in the belief that the extant 2004 planning permission had the effect of authorising his intended use of the site as a garage workshop and MOT test centre. Against this backdrop the applicant submitted an application for a new garage workshop, MOT test centre with associated office space and new retaining wall to support the public footpath – DMS120480/F. This application has attracted a significant level of opposition and a decision has been held in abeyance. Opposition centred on the principle of development within the AONB and the level of traffic associated with a garage workshop and MOT test centre. Correspondents observed that the 2004 permission was intended to allow the relocation of a local agricultural contractors business, not the establishment of a new garage in an unsuitable location in open countryside within the AONB.
- 1.6 The Council's position, having secured legal advice, is that it can be argued that the 2004 permission does not establish a lawful use of the site that would enable a commercial garage/MOT Centre to be carried on. The applicant has a contrasting legal opinion but neither has been formally tested but in either context the extant 2004 permission allows for significant earthworks and the construction of a storage/workshop building with no planning control over external storage within the AONB.
- 1.7 The current proposal is thus put forward as an alternative to the garage workshop/MOT test centre and the extant planning permission and alongside three detached dwellings includes a scheme to restore the public footpath and degraded landscape. The application acknowledges that the site is in the open countryside and would not ordinarily be considered appropriate for housing development, but relies instead on the specific circumstances surrounding this case; principally the damaging effect of the 2004 permission on the intrinsic natural beauty on the AONB.
- 1.8 In the context of what is a complicated legal position, the application is considered a means by which an acceptable conclusion to the planning history associated with this site can be found. It would enable the harm to the nationally important landscape to be minimised and the landscape insofar as possible restored. Furthermore the contentious garage workshop proposal would be avoided.

#### The Current Proposal

- 1.9 In recognition of the local opposition to the garage workshop proposal and evident frustration at the harm to the protected landscape caused by partial implementation of the 2004 permission, the applicant has proposed the erection of three detached dwellings on the site within the red line area associated with the 2004 permission. The submitted Design and Access Statement describes the site as terraced, prominent and visually unattractive. The twin objectives of the scheme are described as the reinstatement of the footpath with a viable scheme that repairs the nationally important landscape through appropriate re-grading and planting.
- 1.10 The proposal is for three detached four-bed dwellings with integral garages. The bulk of the units are at the lower level with a narrow pitched roof structure above. Facing materials are stone at the lower level with timber cladding to the upper floor, all under a slate roof. At the rear of the units the footpath is reinstated via a timber crib wall, which is planted so that it greens over with time. Beyond Plot 3 the land is re-graded to something approaching its original level. The existing vehicular access is narrowed and a bell-mouth junction with the public highway is formed. Owing to the manufactured levels that exist, the lower floor of the dwellings will not be visible in public views from the west.
- 1.11 The application is accompanied by the following documents:-
- Design and Access Statement
  - Planning Statement

- Landscape and Visual Impact Assessment
- Preliminary Ecological Appraisal
- Badger Survey

## 2. Policies

### 2.1 Herefordshire Unitary Development Plan

- S1 - Sustainable development
- S2 - Development requirements
- S7 - Natural and historic heritage
- H7 - Housing in the countryside outside settlements
- DR1 - Design
- E8 - Design Standards for employment sites
- LA1 - Areas of Outstanding Natural Beauty
- LA2 - Landscape character and areas least resilient to change
- LA5 - Protection of trees, woodlands and hedgerows
- LA6 - Landscaping schemes
- T6 - Walking
- NC1 - Biodiversity and development
- NC8 - Habitat creation, restoration and enhancement
- NC9 - Management of features of the landscape important for flora & fauna

### 2.2 National Planning Policy Framework

### 2.3 Herefordshire Local Plan – Core Strategy 2011 – 2031 (draft)

- SS1 - Presumption in favour of sustainable development
- SS6 - Environmental quality and local distinctiveness
- RA2 - Herefordshire's villages
- RA3 - Herefordshire's countryside
- MT1 - Traffic management, highway safety and promoting active travel
- LD1 - Landscape and townscape
- LD2 - Biodiversity and geo-diversity
- LD3 - Green infrastructure
- SD1 - Sustainable design and energy efficiency

### 2.4 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

## 3. Planning History

- 3.1 DCSE2003/1002/F Proposed building for the storage and repairs of agricultural, horticultural, automotive and plant machinery - Withdrawn 22.10.03
- DCSE2003/2157/F Retention of existing replacement hay barn, hardstanding and terrace – Approved 5<sup>th</sup> November 2003
- DCSE2004/0220/F Proposed building for the storage and repairs of agricultural, horticultural, automotive and plant machinery - Approved 13<sup>th</sup> May 2004
- DCSE2006/1861/S Building for hay storage (extension to existing): Prior Approval not Required 18<sup>th</sup> April 2006

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DCSE2008/1992/F Construction of retaining wall: Approved 12<sup>th</sup> November 2008

DMS120480/F Proposed new garage workshop, MOT test centre with associated office space and new retaining wall to support the public footpath: Received 28<sup>th</sup> May 2012.

#### 4. Consultation Summary

##### 4.1 Conservation Manager (Landscapes):

Principle: There are three matters of principle that I would like to clarify in relation to the existing site condition, the previous permissions and the extent of development.

- 1) The site is visible as a scar on the hillside from Coughton and further away. It has a negative landscape impact. The adjacent public footpath is unsafe due to the steep gradient of cut on the boundary. The concrete block wall at the entrance is particularly unsightly.
- 2) The previous permissions on the site are for a large shed for storage and repairs, a second building for hay storage and construction of a retaining wall. These would have some landscape impact, not in-keeping with the location.
- 3) The permitted building footprints did not extend further north than the overhead power lines. Residential development within the red line of the previous permissions could therefore be suitable, provided it allowed for landscape enhancement of the remaining site. In landscape terms there is no justification in extending built form across the site (proposed plot 3), into land that was never intended to be built on. Although this north-west area has had some ground levels changes, they are less severe and therefore more likely to regenerate naturally.

LVIA: The submitted LVIA is welcome and follows recommended guidance. It identifies the correct landscape character issues, particularly in reference to the Wye Valley AONB and the local type of Principal Wooded Hills (I disagree that the site has anything in common with principal settled farmlands). The visual assessment covers a good number of viewpoints and picks up the key public viewpoints, particularly from the network of surrounding public footpaths.

Landscape masterplan: This is a clear, well presented drawing.

- The upper area provides a transition zone of open grassland between the woodland and the site. This will not be split into garden areas, other than the demarcation of post and wire fence.
- The hedge along the access road will help to soften views of this hard surfacing and provide some screening of the lower building levels. There is no indication of the intended height for this hedge.

Existing trees: It is accepted that the existing trees are likely to have adapted to the existing ground levels, therefore as stated in the proposals, it is preferable to retain the ground levels within the root areas as existing. The LVIA text states that the Leyland cypress trees along the roadside boundary will be removed, to be replanted with native species. This is welcome.

Management: *If the application is to be approved then a landscape and biodiversity management plan should be provided.* This should particularly include the grazing details, maintenance of communal areas, establishment and long term care for the crib wall planting (which is key to softening the visual impact of the development).

Overall landscape impact: The three buildings will significantly extend built development beyond that previously permitted. The buildings will be visible from surrounding public footpaths, with a medium visual impact as identified in the LVIA. External lighting will be restricted, but the glazed elevations will be visible on the hillside after dark. The introduction of two dwellings, designed as proposed to meet the site constraints and with the associated sensitive landscape design set out here, would be noticeable in views and out of character with the hillside woodland setting, but would not necessarily be conspicuous. Two dwellings could therefore offer an improvement over the existing site conditions and be more subtle than the agricultural buildings previously approved. The spread of development though the third dwelling will have to be weighed against other planning issues.

#### 4.2 The Traffic Manager: No objection subject to conditions.

In terms of number, vehicle movements associated with this proposal will be less than the extant planning permission. There is also less likelihood of large, slow moving vehicles stalled in the highway whilst attempting the turn into the site. This is considered a benefit given the nature of the highway.

In response to the Parish Council proposal to reposition the access downhill, I would comment that due to the land fill and the level difference between the road and the site, it is difficult to see any alternative to the existing access.

The access onto the u70416 is substandard in visibility and has the potential to be improved. From a 2.4m 'x distance' visibility is currently 25m in either direction. This must be improved to the maximum achievable, which is calculated at approximately 55 metres in each direction. A condition should be imposed on any forthcoming permission.

The internal layout is for three properties and the access drive does not require adoption. If desired there is scope to reduce the carriageway to a shared private drive as per the Council's Highways Design Guide yet still provide for parking, turning and access for deliveries, refuse and removals.

The parking ratio is low, 2 parking spaces per property does not comply with HC Design Guide. Given the rural location and lack of bus service serving the site, there is a dependence on cars and a need to accommodate visitor parking. This should be incorporated into the Shared Private Drive layout which could be designed to accommodate visitor parking. If the integral garages are to be used for parking numbers, the internal dimensions of the garages must be 6m x 3m minimum per space to allow for other use such as cycle parking and storage.

Any works adjacent to the public highway will need to be to HC Specification for works in the highway.

#### 4.3 Public Rights of Way Manager:

Further detail of the dimensions of the reinstated footpath as part of this development should be provided. A drawing previously provided during informal discussions by Coombes Everitt Architects (Draw No. 006 Date 11.12.2012) showed a usable path width of 3.0m which reflects the previously available width and would be acceptable. We understand that the construction of the retaining wall will now be a timber crib wall rather than a gabion design. The design and construction detail of the wall and safety fence will have to be approved separately by Herefordshire Council following its Approval in Principle processes.

Subject to those details we have no objections to the proposals but would request that conditions or equivalent are placed on any permission to the following effect:

1. That construction of the retaining wall and reopening of the footpath is completed at an early stage of the development, certainly prior to occupation of any of the proposed houses.
2. That responsibility for the future maintenance of the retaining wall and associated safety fence clearly lies with the owners of the site and their successors in title.

#### 4.4 Conservation Manager (Ecology):

The site is in a sensitive area and is bounded to the south east by native, broad-leaved woodland which is also designated as a Local Wildlife Site. There is a large and active badger sett along the roadside boundary that will need to be retained and protected during and post construction, subject to temporary closure of part of the sett during construction; a licence from Natural England will be required for this.

External lighting is an important concern, especially given the existence of local populations.

If this application is to be approved, I recommend the inclusion of the following conditions:

*The recommendations set out in the ecologist's reports dated 03 April 2013 and 13 June 2013 should be followed. Prior to commencement of the development, a full working method statement and habitat protection scheme should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved. This should include details of external lighting and avoid light-spillage to woodland areas.*

*Prior to commencement of the development, a habitat enhancement and management scheme should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.*

*An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.*

#### Reasons:

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan

To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

- 4.5 Land Drainage Engineer: No objection subject to a condition requiring final agreement of soakaway designs.

## 5. Representations

### 5.1 Walford Parish Council:

Many Parish Councillors felt uncomfortable that they were being encouraged to comment favourably on an application which would not have been acceptable if it had been submitted outside of the historical context, but which was being promoted as a means of resolving failings of previous planning decisions and the actions of Herefordshire Council officials.

However, The Parish Council has resolved to make the following comments:

Walford Parish Council did not support the application; their decision was based on a majority of 5 votes to 4.

- 1) The original decision (DCSE2004/0220/F) championed and pushed through by the Ward Councillor at the time was clearly contrary to existing planning policy and was a bad decision. At the time Ross Town Council was also asked by HC to provide a view and they supported it on the grounds of provision of employment for local people, a factor that was known to carry weight at the time, but has clearly never been realised.
  - *The original decision was wrong.*
- 2) There are plenty of Market properties of the proposed size available for purchase in this area. There is no need for more in this Parish. If any development for accommodation takes place then it might have some justification if it was for affordable homes.
  - *Building more Market properties of the proposed size is not justified.*
- 3) It is important that decision-making bodies are consistent. An application last year in a nearby location to create a dwelling out of an existing structure was turned down by HC on the grounds that:

“The building is located in an unsustainable open countryside location within an Area of Outstanding Natural Beauty. The proposed use would individually and cumulatively have a detrimental impact upon the character and amenity of this protected landscape area.”

  - *Granting of this application would be inappropriate on the grounds that this application clearly transgresses these criteria.*
- 4) The dramatic loss of indigenous flora and fauna in the UK is well documented. Loss of habitat is the biggest factor. The latest figures point to a 95% decline of natural meadows since the 1930s. This loss has to be countered and organisations such as Parish Councils and District Councils must take a role in trying to redress the environmental imbalance. Whatever happens they should not be making it worse.
  - *Parish and District Councils should be trying to prevent the loss of wildlife habitat, not make the situation worse, which this development would.*
- 5) In 2006 this PC published a Parish Plan. After extensive consultation with the community the overriding wish expressed by the local people and reflected in the Plan was that the natural beauty and rural character be protected and not diminished in any way. We do not believe that this requirement has changed and the PC would be going against its own endorsed Plan in supporting this application as well as ignoring the heartfelt wishes of our community.
  - *The development goes against what our community has stated as its highest priority, the protection of the Parish’s natural beauty.*

Should the application be given consent by Herefordshire Council Planning Committee (against the wishes of the Parish Council) they wish to make the following comments:

Particular concerns were raised about the existing access to the site, by both Councillors and members of the public. In the creation of the existing access, the original entrance was moved up Sharman Pitch and is now adjacent to a blind bend, on a narrow and busy road, which also has a steep gradient. There is a strong view that the entrance design should be re-visited, in order to make access safer, by moving the existing access down Sharman Pitch, to its original position.

5.2 Six letters of objection has been received. The content is summarised as follows:

- The proposal is contrary to Section 11 of the NPPF in that it promotes a sizeable residential development within the AONB. On this basis the proposal is also contrary to saved UDP policies LA1 and S7;
- The application over-emphasises the visual impact of the original ground-works, which are now largely 'greening over'. The negative impact of the current site should not be used to justify a new development;
- The proposal is contrary to saved UDP policy H7 and paragraph 55 of the NPPF in that it promotes isolated housing in the countryside;
- The development is not needs led and the properties are larger than those envisaged by emerging Core Strategy policies RA2 and RA3;
- The footpath restoration should be sought independently and not used as a bargaining tool;
- Access to the site is too near the bend and an accident is inevitable;
- The impact on the large badger sett must be considered.

5.3 The Planning and Design and Access Statements accompanying the application review the planning history and confirm that the applicant purchased the site in the belief that the extant permission would allow him to carry on a commercial garage enterprise from the site. However, this position has been reviewed in the light of local opposition to the undetermined application DMS120480/F and the current application is promoted as a more satisfactory alternative; albeit one that is contrary to adopted policies. It is confirmed that the scheme has been designed to deliver low-density high quality housing that will blend into the landscape, enable restoration across the rest of the site and make the reinstatement of the public footpath economically viable. The scheme would also substantially reduce the number of vehicular movements to and from the site by comparison with the proposed garage/workshop proposal.

It is concluded, therefore that the outcome will be more sympathetic to the AONB landscape than either the fulfilment of the 2004 permission or the garage/workshop proposal (S120480/F) and in this manner more consistent with UDP policy LA1 and guidance set out in the National Planning Policy Framework at paragraphs 109, 111 and 116 – all of which refer to development in AONBs.

5.4 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

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

[www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage](http://www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage)

## 6. Officer's Appraisal

The principle of development and the materiality of the 'fall-back' position

6.1 The application is for the erection of three dwellings in an open countryside location within the Area of Outstanding Natural Beauty (AONB). Planning permission exists for the erection of a building for the storage and repair of agricultural, horticultural and automotive plant and machinery. The legacy of this decision remains in the shape of the significantly degraded landscape and undermined footpath WA50. However, and irrespective of the merits of that decision, planning permission exists and the building approved under that permission could be constructed; the Council having confirmed that the permission has been implemented.

6.2 Therefore, although officers have some sympathy with the view that this decision and the subsequent closure of the public footpath should not be used as justification for residential development, this disregards the fact that a fall-back position exists and potentially it might successfully be argued as permitting the establishment of a commercial car workshop, garage



and MOT test centre in what is locally considered an inappropriate location. Moreover, fulfilment of the 2004 permission will not address the harm to the AONB landscape that has been caused already, but will compound the harm through the erection of a large, isolated and uncharacteristic agricultural building.

- 6.3 There is no doubt that the current application is contrary to adopted planning policies. Saved UDP policy H7 only permits residential development in the open countryside where one or more of the exceptions criteria are met. This is not the case here. Likewise, emerging Core Strategy policy RA3 sets out the instances where development can take place beyond the identified settlements. The current proposal does not satisfy any of those criteria and is also contrary to the advice given at paragraph 55 of the National Planning Policy Framework (NPPF), which advises local planning authorities to avoid new isolated homes in the countryside unless one of the special circumstances identified exists. In this case the proposal does not satisfy any of the special circumstances and the applicant does not seek to argue that this is a sustainable housing site that would help meet the acknowledged housing land supply deficit.
- 6.4 As such, if having regard to the provision of the Development Plan in accordance with S38(6) of the 2004 Act, the principle of development is unacceptable. As such, it is necessary to consider whether there are any material considerations that warrant a departure from policy.
- 6.5 In this case, the fall-back position (i.e. the ability to exercise a planning permission that might be considered less desirable than the current proposal), is a material consideration to which weight may be attached. The likelihood of the 2004 permission being fulfilled has to be taken into account when apportioning weight. In this case, officers consider the likelihood of the fall-back position being relied on to be linked to the outcome of this application; with the probability of the fall-back being taken up increasing if this application is refused. In this context officers understand the Parish Council's perspective at being asked to comment favourably on something that is obviously contrary to adopted planning policies; but such is the legacy of the 2004 permission and the commercial reality of the situation. The applicant has made an investment in acquiring the site and if unsuccessful with this application is bound to examine the fall-back position as an option or place the site back on the market. It is clear that reinstatement of the footpath could be enforced via the existing enforcement notice served under the Highways Act and that this is not dependent upon the grant of planning permission for three dwellings. Although true this would not conclude the planning history on the site and the debate as to whether the 2004 permission does act to allow a commercial garage operation. As such, the decision before Members can be taken in the knowledge that the reinstatement of the footpath can be enforced separately and the decision can thus be expressed as a choice between the fulfilment of the 2004 permission (with the consequent harm to the landscape and attendant doubt around the lawful use of the site) and the current proposal for three dwellings.

#### Landscape and Visual Impact

- 6.6 The Parish Council comments in relation to the original decision are noted at 5.1 above. The officer recommendation was for refusal on the basis that the proposal was inconsistent with landscape protection and employment policies. The development that has been initiated as a consequence of the 2004 permission is difficult to equate to landscape protection policies within an AONB and the landscape is de-graded. Completion of the development, irrespective of the eventual end use, would do nothing to ameliorate this harm.
- 6.7 The Conservation Manager (Landscapes) concludes that the existing situation is a scar on the landscape with the block wall at the entrance particularly unsightly. It is also considered that the building permitted in 2004 was not in keeping with the character of the area. Concern is expressed in relation to the spread of development northwards via the third dwelling. It is not the case, however, that the third dwelling is beyond the 2004 application site; rather the

boundary to plot 3 is coincidental with the original red line. The Conservation Manager also recognises the positive benefit of replanting the roadside boundary with native species and the potential for this to shield from view the lower level of the proposed dwellings. The re-grading of the northern area of the site and forming an open area of grassland for the transition from woodland to site without unnecessary demarcation is also considered beneficial.

- 6.8 Although concern is expressed at the third dwelling, the Conservation Manager is satisfied that the design of the houses is appropriate to the context and more 'subtle' than the agricultural appearance of the approved building. On balance, officers agree that the proposal is more responsive to the prevailing landscape character than the fulfilment of the 2004 permission would be. The re-grading to more natural contours of the previously excavated land is considered a significant benefit, as is the intended retention of the footpath via a timber crib wall, the cavities of which are planted so that the 'face' of the wall greens over in time. The long-term management of this will require the formulation of a management plan.
- 6.9 The design of the houses is also such that the greater bulk of the lower-level will be screened by the existing bund and proposed planting. Although the glazed element of the upper storey will be visible from below the site, the houses are designed to reduce this impact by presenting a comparatively narrow gable to the west. The use of timber cladding and natural slate on the upper parts of the dwellings is also considered appropriate against the woodland backdrop.
- 6.10 Overall, officers consider that relative to the fulfilment of the 2004 permission, the current proposal represents an opportunity for enhancement of the landscape quality of the site and a development that is more appropriate within its context than the 2004 scheme. The proposal also offers further opportunity to secure additional landscaping and revisit the reinstatement of the footpath. In this manner officers consider that by comparison with the 2004 permission, the current proposal is more consistent with the objectives of saved UDP policy LA1 and paragraph 109 of the NPPF insofar as it presents the opportunity to enhance the quality of the landscape and remediate and mitigate the currently despoiled and degraded landscape.

#### Ecology

- 6.11 The Council's Ecologist has assessed the submitted ecological appraisal and badger survey. Subject to compliance with the recommendations of each, no objection is raised. Insofar as badgers are concerned, the retention of the northern third of the site as undeveloped land will allow for foraging routes to be unaffected, although temporary closure of the main sett entrances and use of active annexe sett will be required under licence from Natural England. The likelihood of impacts upon protected species is considered low, particularly with retention of all existing trees to the northern boundary and supplementary planting of native species hedgerow along the western boundary. The recommendations also include provision of bird and bat boxes within the development. The scheme is considered to accord with the NPPF requirement to enhance biodiversity, a principle also expressed in saved UDP policies NC8 and NC9. On this issue, officers consider that by comparison with the 2004 permission, the scheme is beneficial as regards the provision of wildlife habitat.

#### Traffic

- 6.12 The extant permission moved the point of vehicular access uphill. The visibility from this entrance is described as substandard but capable of significant improvement. In the context of the extant permission, a relocation of the access cannot be insisted upon and is not, according to the Traffic Manager, feasible given the change in level between the highway and the site itself – this being a consequence of the earthworks already undertaken.
- 6.13 The reduction in the number of vehicle movements associated with the current proposal is also material to the issue of highway safety. Fulfilment of the 2004 permission or the 2012 proposal would each lead to significantly higher traffic volumes than the current proposal,

which given the narrowness of the road is highly undesirable. In addition, the likelihood of larger vehicles accessing the site, during day and night, is remote by comparison to an agricultural contractor or garage use.

- 6.14 Officers conclude that subject to conditions to maximise achievable visibility and the redesign of the shared drive in line with the Traffic Manager's comments the proposal is in accord with saved UDP policy DR3, NPPF guidance and emerging Core Strategy policy MT1.

#### Design

- 6.15 In the context that residential development at this location is contrary to adopted UDP policy and inconsistent with the NPPF presumption in favour of sustainable development, the design approach is critical. In this respect the landscape masterplan and architectural design of the dwellings is considered appropriate within the context. Whilst not considered innovative or exceptional, officers consider the design approach to be well-considered. The orientation of the dwellings is such that the massing and prominence of the upper floor has been reduced. There are no near neighbours to be affected by overlooking or loss of privacy and the layout within the site results in satisfactory living conditions for future occupiers. Officers consider the proposal to represent good design and a unified approach to landscaping and the built environment. In terms of its design the proposal is considered consistent with saved UDP policy DR1, emerging Core Strategy Policy SD1 and guidance set out at Chapter 6 of the NPPF.

#### Conclusions

- 6.16 The application for residential development at this location is contrary to policy. The five year housing land supply notwithstanding, development at this site is not considered to represent sustainable development as envisaged by adopted and emerging policy and nor does the site conform to the Council's interim protocol concerning the release of housing land to meet the identified deficit.
- 6.17 Against this, however, officers conclude there are significant material considerations that weigh in favour of the proposal. These are as follows:
- The proposal would replace the implemented 2004 permission with a scheme that by comparison is more appropriate in the AONB context;
  - The proposal offers the ability to revisit the comprehensive landscaping of the site and restore some of the harm caused to the AONB as a consequence of earlier ground-works;
  - The proposal results in a more appropriate use within the context by addressing the doubt that persists regarding the lawful use of the site;
  - The proposal would result in far fewer vehicular movements on a relatively narrow but busy unclassified road;
  - The proposal represents an opportunity to enhance biodiversity relative to the fulfilment of the 2004 permission;
  - The proposal would result in a more visually appealing development within the AONB.
- 6.18 Whilst the perspectives of the Parish Council and individual objectors are noted, the points raised overlook the materiality of the fall-back position. Planning permission exists and it is, in your officer's opinion, unrealistic to suppose that enforced reinstatement of the footpath will conclude the planning history on this site. In this context an architecturally designed, low density housing scheme is considered acceptable and beneficial to the long-term appearance of this part of the AONB landscape.
- 6.19 Having regard to the materiality of the fall-back position and the benefits of this scheme relative to the fulfilment of the 2004 permission or the undetermined 2012 application, officers recommend the application for approval subject to conditions.

## **RECOMMENDATION**

That planning permission be granted subject to the following conditions:

1. **A01 Time limit for commencement (full permission) (12 months)**
2. **B03 Amended plans**
3. **C01 Samples of external materials**
4. **F14 Removal of permitted development rights**
5. **Prior to the first occupation of any of the houses hereby approved, Public Footpath WA50 shall be reopened in accordance with a scheme to be submitted to and approved in writing by the local planning authority.**

**Reason: To secure the re-opening of the footpath.**

6. **H03 Visibility splays**
7. **H06 Vehicular access construction**
8. **H11 Parking - estate development (more than one house)**
9. **H13 Access, turning area and parking**
10. **H20 Road completion in 2 years**
11. **H21 Wheel washing**
12. **H27 Parking for site operatives**
13. **H29 Secure covered cycle parking provision**
14. **The recommendations set out in the ecologist's reports dated 03 April 2013 and 13 June 2013 should be followed. Prior to commencement of the development, a full working method statement and habitat protection scheme should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved. This should include details of external lighting and avoid light- spillage to woodland areas.**

**Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan.**

15. **Prior to commencement of the development, a habitat enhancement and management scheme should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.**

**Reason: To comply with Policies NC8 and NC9 of Herefordshire's 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.**

**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. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.
  
- 3. **HN01 Mud on highway**
  
- 4. **HN05 Works within the highway**
  
- 5. **HN10 No drainage to discharge to highway**

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.

