

MEETING:	PLANNING COMMITTEE
DATE:	23 APRIL 2014
TITLE OF REPORT:	P140531/O - RESIDENTIAL DEVELOPMENT COMPRISING 20 OPEN MARKET HOMES AND 10 AFFORDABLE HOMES. AT QUARRY FIELD, COTTS LANE, LUGWARDINE, HEREFORDSHIRE, HR1 4AA For: Mrs Seymour per Mr James Spreckley, Brinsop House, Brinsop, Hereford, Herefordshire HR4 7AS
WEBSITE LINK:	https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140531

Date Received: 21 February 2014 Ward: Hagley Grid Ref: 354582,240964

Expiry Date: 27 May 2014

Local Members: Councillor DW Greenow

1. Site Description and Proposal

- 1.1 Planning permission is sought in outline for the erection of thirty dwellings on land known as Quarry Field, Cotts Lane, Lugwardine. The application is a revised proposal following the refusal of application S131964/O on 20 November 2013. The decision notice is appended to this report. The site area, number of dwellings proposed and means of access are consistent with the earlier application.
- 1.2 All matters with the exception of the means of access are reserved for future consideration. The site is an open field down to pasture bounded to the east by properties fronting the A438 Hereford to Ledbury Road, which passes through Lugwardine and Bartestree; both of which are identified as main villages in the Unitary Development Plan (UDP).
- 1.3 Cotts Lane passes to the north of the site and there is an existing field gate into the site from this highway. To the west and south the site is bounded by parkland associated with the Grade II* New Court country house, which lies to the north-west.
- 1.4 There is a mature landscape belt to much of the site's periphery, but particularly along the southern and western perimeters. Site levels descend from Cotts Lane to the north at a fall of approximately 1:20. With the exception of some trees and hedgerow along the northern boundary there are no landscape features within the site itself. The site is traversed by overhead power lines and a mains sewer running on a north-south alignment.
- 1.5 Vehicular and pedestrian access is proposed through the alteration of an existing route direct from the A438 passing between the dwellings Green Croft and Croft Cottage and takes the form of a 5.5m wide estate road with 1.8m footways either side. The submitted layout is indicative only but suggests that the open market units are all detached properties, the 10 affordable dwellings being arranged as two pairs of semi-detached and two terraces of three. Provision is

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also made for a footway/cycle link onto Cotts Lane with a 2.0m footway along the site's northern boundary with the lane.

- 1.6 The site extends to 1.74ha and the density equates to a comparatively low 17 dwellings per hectare.
- 1.7 The site is outside but immediately adjacent the settlement boundary for Lugwardine as defined by 'saved' policy H4 of the Unitary Development Plan.
- 1.8 The application site was subject to assessment under the Strategic Housing Land Availability Assessment but rejected because the potential for access direct from the A438 was not known at the time of assessment.
- 1.9 It is proposed that foul drainage be connected to the mains, with surface water dealt with via soak-away.
- 1.10 The application is accompanied by a Planning Statement, Landscape and Visual Impact Assessment, Ecological Appraisal and draft Heads of Terms; the latter being appended to this report.
- 1.11 In response to the four reasons for refusal of S131964/O, the application is also accompanied by a Phase 1 Desk Study (contamination) and Heritage Impact Assessment.

2. Policies

2.1 National Planning Policy Framework

The following sections are of particular relevance:

Introduction	–	Achieving sustainable development
Section 6	–	Delivering a wide choice of high quality homes
Section 7	–	Requiring good design
Section 8	–	Promoting healthy communities
Section 11	–	Conserving and enhancing the natural environment

2.2 Herefordshire Unitary Development Plan

S1	–	Sustainable development
S2	–	Development requirements
S3	–	Housing
DR1	–	Design
DR3	–	Movement
DR4	–	Environment
H4	–	Main villages: settlement boundaries
H7	–	Housing in the countryside outside settlements
H10	–	Rural exception housing
H13	–	Sustainable residential design
H15	–	Density
H19	–	Open space requirements
HBA4	–	Setting of Listed Buildings
T8	–	Road hierarchy
LA2	–	Landscape character and areas least resilient to change
LA3	–	Setting of settlements
LA5	–	Protection of trees. Woodlands and hedgerows

- LA6 – Landscaping schemes
- NC1 – Biodiversity and development
- NC6 – Biodiversity Action Plan priority habitats and species
- NC7 – Compensation for loss of biodiversity

2.3 Herefordshire Local Plan – Draft Core Strategy

- SS1 – Presumption in favour of sustainable development
- SS2 – Delivering new homes
- SS3 – Releasing land for residential development
- SS4 – Movement and transportation
- SS6 – Addressing climate change
- RA1 – Rural housing strategy
- RA2 – Herefordshire’s villages
- H1 – Affordable housing – thresholds and targets
- H3 – Ensuring an appropriate range and mix of housing
- OS1 – Requirement for open space, sports and recreation facilities
- OS2 – Meeting open space, sports and recreation needs
- MT1 – Traffic management, highway safety and promoting active travel
- LD1 – Local distinctiveness
- LD2 – Landscape and townscape
- LD3 – Biodiversity and geodiversity
- SD1 – Sustainable design and energy efficiency
- SD3 – Sustainable water management and water resources
- ID1 – Infrastructure delivery

2.4 Neighbourhood Planning

Bartestree and Lugwardine Parish Council has designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council will prepare a Neighbourhood Development Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy.

2.5 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 S131964/O – Residential development comprising 20 open market houses and 10 affordable homes. Refused 20th November 2013. The decision notice is appended to this report.

4. **Consultation Summary**

Statutory Consultees

- 4.1 Welsh Water: No objection subject to conditions
- 4.2 English Heritage: (Previous Comments) No objection but recommend that the planting belt on the western boundary is intensified and the site examined for potential archaeological deposits.
- 4.3 Natural England: (Previous Comments) No objection

Natural England and the Environment Agency have signed a Statement of Intent (SOI) to develop a Nutrient Management Plan (NMP) for the River Wye SAC. The SOI provides an interim

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agreement for development management, and states that development can be accommodated where discharges to mains are within existing consents at the receiving sewage treatment works.

Natural England notes that the Council has screened the proposal to check for the likelihood of significant effects. Natural England agrees with the conclusion that the development is not likely to generate significant effects.

Given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on this site and advise your authority that the SSSI does not represent a constraint in determining this application.

Internal Council Advice

4.4 Traffic Manager

Whilst falling below the recommended 50 dwelling threshold, this application is supported by a Transport Statement of limited scope to justify the acceptability of the access and the proposed footway improvements along A438 to improve the accessibility of the site.

Visibility Splays

The Drawing titled 'Visibility Splay to North' in Appendix C of the Transport Statement submitted with the application indicates two visibility splays – one of 2.4m x 43m and a second of 2.4m x 90m. The visibility splay of 2.4m x 43m is achievable on site to edge of road and is representative of the value for 30mph in Table 7.1 of Manual for Streets.

The 2.4m x 90m splay, equating to DMRB for 30mph and our Design Guide Table B value for 30mph (and the Table A value for measured speed of 37mph (60kph) to edge of road is not achievable, not due to the boundary wall, but due to the fact that the line of sight between points at the visibility eye height of 1.05m is then obstructed by the existing raised verge and footway fronting High House.

The anomalies in transposing values from the ATC data to the report have already been raised in my original comments, but the ATC data value of 37.4mph was used in my visibility assessment. The ATC survey data indicates the 85%ile speed of approaching vehicles from the east to be 37.4mph, for which Table 7.1 of Manual for Streets gives a required value of 59m. This value is achievable to the north to nearside wheel-track (1m from edge of road as Paragraph 10.5.3 of Manual for Streets 2).

A wet weather correction was considered to be non-applicable and this was confirmed in my original comments on the application. No adjustment was applied to the 85%ile ATC values.

Stopping Sight Distances

The formula in Manual for Streets 2 Section 10 Paragraph 10.1.5 enables calculation of values for Stopping Sight Distance. For the ATC 85%ile speed of 37.4m this would equate to 88m. Manual for Streets 2 in Paragraph 10.1.13 also indicates that above 60kph (37.5mph) TD 9/93 values should be used and Table 3 gives a Desirable Minimum Stopping Sight Distance of 90m. A Stopping Sight Distance in excess of 90m is available to southbound drivers approaching a stationary right turning vehicle.

The geometry of A438 to the north east of the proposed site access is a short length of straight which enters a right hand bend around 70m from the proposed access and which includes junctions with Cotts Lane to the northwest and Lugwardine Court Orchard to the south east. Whilst there are no actual physical features preventing south west bound drivers on A438 overtaking, due to the bend with junctions on both sides and without forward visibility, overtaking would be extremely unlikely to occur through the (to them) left hand bend, more so as it is within a 30mph limit. Therefore it is considered reasonable to take the 90m visibility splay to centreline of road as outlined in Paragraph 10.5.5 of Manual for Streets 2. Should a driver consider

overtaking as they leave the bend onto the straight past the proposed access, their vehicle would remain within the available visibility from the proposed access.

Therefore, whilst a conventional 2.4m x 90m visibility splay to the north east to nearside edge of road (or 1m into road) is not achievable, I am of the view that in this situation, achievable visibility of 90m to centreline means that satisfactory visibility would be available to enable safe operation of the access. This formed the basis of my recommendation as to acceptability of the access in the initial part of my comments dated 18th March 2014.

Footway Improvements

It is acknowledged that the proposed footway widths along A438 would not meet desirable standards, but increases in width are proposed and are what the applicant considers can be achieved within the available highway land. These widths would still fall short of the desirable widths outlined in DMRB, our Design Guide and Inclusive Mobility.

The deliverability of such works to achieve limited increased width is also not certain, particularly based on the limited information submitted with the application.

The desirability of such changes will also need careful consideration, not least in terms of the likely need for retaining walls, and pedestrian guard railing, which even with Visirail or similar railing may have north east visibility implications for the proposed access junction.

Therefore until such time as the proposed works can be confirmed as acceptable and deliverable, the application must be considered in terms of the existing footway provision along the A438 and the proposed link to Cotts Lane.

The current width along A438 is usable by sole pedestrians but the narrowness over some sections would make use by those with walking sticks difficult, as it would for those with pushchairs and for pedestrians to pass would require waiting at a wider section. Therefore I would agree that this route is sub-optimal in its current form.

Recognising the deficiencies of the route along A438, the applicant has proposed a footway link onto, and part way along, Cotts Lane. This would provide an alternative route for wheelchairs, pushchairs and pedestrians, but onto a road without a footway or street lighting. The road is just over 4.1m wide at the point that the footway link would join and widens slightly to 4.5m by the limits of the site frontage and further to around 6.0m by the public house. A footway is available beyond the public house and on the east side of Cotts Lane for the final 25m to the junction with A438. Pedestrians would therefore have to walk on road for just in excess of 100m. The lane could be widened along the site where the footway is proposed to achieve two way traffic width as part of the proposals, but this may be undesirable as it may speed up traffic by allowing free two way flow - to the detriment of pedestrians on or joining the route. Therefore I would agree that the pedestrian connectivity and its impact on travel by sustainable modes, remains a concern.

Sustainability

The site is adjacent to the settlement boundary of Lugwardine which is classified as a main village in the UDP and is also identified as a main village in Policy RA 1 of the emerging Core Strategy. The village is served by 476 bus service which runs between Ledbury and Hereford at hourly intervals, which is good for Herefordshire.

The village facilities are within 2km walking distance and the outskirts of Hereford and Bishops School is similarly 2km, colleges at just under 3km and the city centre under 5km, all of which are acceptable distances for commuter cycling in LTN 2/08 Cycle Infrastructure Design. St Marys RC School is around 500m from the site. Therefore I disagree with the statement that level of accessibility to sustainable modes is poor.

Conclusion on transport issues

It is considered that the visibility and stopping sight distances achievable from the proposed junction are acceptable and that the network has sufficient capacity to accommodate traffic generated by this proposal. Although footway links are not to standard, it will have to be determined as to whether the overall impacts on pedestrian safety are sufficient to weigh against the scheme benefits in the overall planning balance.

4.5 Housing Development Manager

Expresses concern that the indicative layout does not demonstrate that the affordable and open market housing is properly integrated and that the affordable housing is 'tenure blind'. The correct tenure split and mix of housing can be incorporated in the S106 agreement.

4.6 Conservation Manager (Landscapes): (Previous Comments) The landscape scheme that has been provided is a fully detailed planting plan. This includes a native hedgerow to the proposed west boundary. The other species are all suitable to a new residential development.

The landscape scheme does not include hard landscape details or existing / proposed levels, particularly the need for retaining walls or banks that will have a significant impact on the landscape framework.

The two indicative areas of central open space will help to break up the impact of the development, however no details have been provided on how this may be maintained / managed.

4.7 Parks and Countryside Manager

Lugwardine does not have an existing play area and as far as I am aware there are no plans to create one although the Parish Council may have plans through the neighbourhood planning process. If this is the case we would review the level of contribution.

A contribution towards improving access via the public rights of way network (in accordance with the Public Rights of Way Improvement Plan) is sought. Based on the 20 market housing (5 x 3 and 15 x 4 beds) and in accordance with the SPD the level of contribution would be £7,375.

Sport England Requirement:

In the absence of any suitable and compliant investment projects being identified a Sport England contribution towards indoor sport cannot be justified.

4.8 Environmental Health Officer

As recommended previously, the application is now accompanied by a *'Phase 1 Desk Study Report'*. This recommends an intrusive investigation be carried out to more fully assess uncertainties identified. As such it is recommended a condition be appended to any planning approval.

4.9 Conservation Manager (Ecology)

The National Planning Policy Framework 2012 states that "The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity wherever possible". It goes on to state that "when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity" and "opportunities to incorporate biodiversity in and around developments should be encouraged".

The ecological report states that the development proposal “offers opportunities to obtain significant ecological enhancements” including establishment of hedgerows and tree planting to complement the adjacent parkland BAP habitat.

If this application is to be approved, I recommend the inclusion of non standard conditions.

Habitat Regulations Assessment

The development is to link to mains sewer drainage for disposal of foul water which will alleviate any significant risk to the SAC. However, the site is less than 200 metres from the R. Lugg part of the R. Wye SAC and in order to safeguard the SAC it will be necessary to submit a Construction Environmental Management Plan.

4.10 Land Drainage Engineer: No objection subject to the completion of percolation tests.

4.11 Conservation Manager (Historic Buildings): (Previous Comments)

The historic centre of Lugwardine is located to the east of the application site and is covered by a conservation area designation. However there are a number of listed buildings and buildings of local interest along the A438 which form an historic entrance to the village when approaching from the west. Add to these built environment, heritage assets, the locally important landscapes of Lugwardine Court and New Court and the entry to the village becomes visually routed in the history of the area.

The proposed housing scheme would place a significant number of new houses behind the current buildings lining the village road. It would have a single entry point to the development located half way up a hill on the A438. This entry appears to be a wider version of an existing access route between Croft Cottage and Green Croft.

The existing appearance of the access, devoid of any greenery and with hardstanding abutting Croft Cottage and the close boarded fence of Green Croft, does not enhance the village character and gives a feel of the proposed character of this entrance once developed. In its current form it is not considered acceptable in design terms as it is cramped and constricted and therefore does not enable any appropriate soft landscaping to help assimilate the scheme into the village character.

The housing development would adjoin the west boundary of Rose Cottage, The Malt House and also The High House, all grade II listed buildings fronting onto the main road. The development would be within the setting of these listed buildings and would therefore have a visual impact. The topographic survey indicates that the housing would be roughly on a level with the listed buildings but is likely to be visually of larger scale which could adversely affect the setting. This would be contrary to Policy HBA4. An outline application is not considered sufficient detail to properly assess the impact of a development on a listed building.

4.12 Schools organisation and capital investment officer

The comments acknowledge the capacity issue at Lugwardine Primary School, with four year groups presently over capacity. In order to address this capacity issue a financial contribution in accordance with the Planning Obligations SPD is sought.

5. Representations

5.1 Bartestree & Lugwardine Parish Council: Objection.

A considerable number of the residents in Bartestree and Lugwardine are of the opinion that the villages would lose their current rural feel if further large developments were to take place beyond

the considerable number that have taken place in the previous two plan periods. The group parish currently holds the position of the third largest village in Herefordshire. They are also incensed that Herefordshire Council has failed to protect them from the present/imminent development by not being able to demonstrate the five-year housing supply required by the National Planning Policy Framework and thus rendering the saved Unitary Development Plan policies H1 and H4 ineffective. Historically, whilst Lugwardine was listed as a main village under Unitary Development Planning policy H4, this plot of land has not had a Strategic Housing Land Availability Assessment (SHLAA) of none or low/minor constraints and therefore does not meet the criteria adopted by Herefordshire Council in July 2012 to allow exemption to policy H7. Whilst a new access has been identified, there is no evidence that the constraints have been revised nor would site integration of the entire site appear to have been overcome.

Traffic/Access

In current policy terms, this outline planning application, whilst meeting the basic access criteria, fails to take into account the volume of traffic using the A438 travelling at speeds regularly in excess of the 30mph speed limit and where there are bends at the limits of splay criteria in both directions. In 2013 the excessive speeds were confirmed by the West Mercia Safer Roads Partnership from the data collected from the Speed Indicator Devices located throughout the village. This resulted in the A438 through Lugwardine and Bartestree being designated an area of concern and triggered the implementation of a speed camera in the area. The proposed access joins the A438 where the A438 is on a steep hill. Stopping distances are therefore greater than those recommended assuming a level road. Westbound traffic coming down the hill has a tendency to speed and HGV's, in particular, have greater difficulty in stopping in an emergency. Residents are already concerned about the volume of traffic using the A438 in both directions between 7.30am – 9.30am on weekdays. This varies from 900 to 1200 vehicles daily in that period and any increase in that number as a result of a building development would be of further concern.

Residents who live in properties along the nearby section of the A438 already experience delays when attempting to exit their driveways on to the main road. A further 60 vehicles would add to the problems.

The only vehicular access into the site from the A438 is still considered to be inadequate in width and therefore dangerous for both drivers and pedestrians. In order to attain a width of 9.1metres (footway 1.8m + road 5.5m + second footway 1.8m), the eastern footway would only be centimetres away from the adjacent cottage, Greencroft. This is an unacceptable situation for a country dwelling.

Footway along the A438

The proposed widening of the footway alongside the A438 back into the village by retaining the existing retaining wall and extending the width of the tarmac area above it would only serve to allow and in fact encourage, pedestrians to walk nearer to the edge of the bank above the busy A438 and to increase the risk of slipping over the edge - a sheer drop of 1.4 m at its maximum - on to the highway. The plan-view drawings submitted with the application are deceptive, as they do not indicate the height of the path above the road. The footway leading from the access to the site and away from the village towards Hereford is equally hazardous and completely disappears so that there is no footway at all over part of the narrow, listed bridge over the River Lugg.

Cotts Lane pedestrian/cyclist access

Cotts Lane is an unclassified, single-track road with passing bays for most of its length. The proposed pedestrian/cyclist access to/from the site into the unclassified Cotts Lane is a footway to nowhere. To consider building a footway between the access gate to the proposed site to the eastern edge of the site within the site boundary, while commendable, simply takes pedestrians a about 25 metres and then delivers them back on to the roadway (Cotts Lane). It is already a very busy road for its size. A recent survey carried out by local residents between 7.30am – 9.00am on weekdays indicated that an average of 200 vehicles used the road. The busiest period was

between 8.30am – 8.50am when an average of 85 vehicles were counted. Vehicles leaving/entering Newcourt Farm via a gate on the very sharp bend have to remain parked on the road while the gate is opened and closed. In the afternoons the A438 end of the lane is further congested by 'school parking'. There is also concern regarding the potential for further heavy traffic on Cotts Lane, which is already in a poor state of repair. Should this development proceed it is considered highly likely that Cotts Lane will be used as a rat run for traffic to the local schools. Also the proposed pedestrian access is an area where there have been a number of collisions in recent years. There are several Public Rights of Way on Cotts Lane, which generates a fair amount of pedestrian traffic.

Setting

The character of this area of Lugwardine is that of the old traditional Herefordshire village. The south-eastern edge of the site abuts and is at a lower level to the gardens at the rear of several listed properties which front on to the A438. The site then slopes upwards to Cotts Lane, a factor that would increase the visual impact of the proposed development on existing properties. Whilst some more modern bungalows have been added along Cotts Lane, it is very difficult to see how a modern development of 30 dwellings could be integrated into the overall area with satisfaction.

Water and Sewerage

Although Welsh Water will have the final say, there are concerns that the current infrastructure would not support the development in terms of water supply, sewerage and surface water disposal. Correspondence with Welsh Water in relation to another proposed housing development in the Group parish would indicate that those responsible for giving the go-ahead for these schemes are not fully cognisant of the many difficulties faced by residents in terms of low water pressure, sewage blockages and overflows. Properties close to the sewage ejector already report regular problems occurring through lack of capacity.

Consultation

The developer made an attempt to consult with the local people in a way that could be described as both cynical and just 'going through the motions'. Notice of the exhibition to be held in the Village Hall was very short, three or four days, was inadequately advertised and poorly managed with any interactive initiative coming from the residents not the developer.

Cumulative Effect

The Parish Council suggests that the cumulative impact of this application should be considered in light of the fact that a refused application for 50 houses is to be taken to appeal and two other applications for major developments in the group parish of 60 and 52 dwellings respectively have sought pre-application advice and are expected to be received imminently. In a very short period of time, Bartestree and Lugwardine could face the prospect of a potential increase of 192 dwellings, which would be increasing the number of properties by something approaching 25%. Whilst there are other areas of concern with the site, they fall within the realms of the reserved matters application. For the reasons outlined above, this Council considers that the application should not be supported.

5.2 85 letters of objection have been received from local residents. The content is summarised as follows:

- The access passes between two dwellings before emerging onto the busy A438. Visibility is limited in both directions.
- Stopping distances are inadequate when the gradient is considered. Traffic waiting to enter the site will shorten the stopping distances, which is considered dangerous in the context of significant levels of HGV traffic.
- Bartestree and Lugwardine have a primary and secondary schools. At drop-off and pick up times traffic congestion can be severe, with queues on the A438 and surrounding roads.

Additional traffic in this context is considered a threat to highway and pedestrian safety on a road identified as a road for concern by the Safer Roads Partnership.

- Pavements in the vicinity of the application site are narrow and elevated above the carriageway. The alternative onto Cotts Lane relies on pedestrians sharing the carriageway with vehicles, which is also unsafe on a recognised 'rat-run' to and from the Worcester Road.
- Increasing the width of the footway along the A438 will remove the existing verge and encourage people to walk closer to the highways edge. This is unsafe. It remains the case that the site cannot demonstrate suitable pedestrian connectivity to the remainder of the village.
- The narrow Lugg Bridge is without pavement, which deters people from walking or even cycling into Hereford.
- Although the bus service is better than many, it is not sufficient to induce people to shift from cars to public transport.
- There are relatively few amenities in Lugwardine beyond the pub and church. The Bartestree stores are a mile walk away along the main road, mostly uphill and requiring pedestrians to cross the road on three occasions; only one crossing being signal controlled.
- There is no employment locally, meaning that the village is increasingly a commuter village for Hereford and employment opportunities further afield.
- The application site is an important open space forming a transition between historic properties fronting the A438 and the parkland associated with New Court. The loss of this space would represent an irrecoverable adverse impact on the setting of the village.
- Water pressure is already low, storm drains at capacity and sewers known to back up. These conditions represent a threat to the water quality of the River Lugg/Wye SAC, which is known to be failing in part.
- The site is thought to be part of the former quarry and in-filled with material that may be prejudicial to human health, water quality and land stability.
- The submitted ecological survey is not fully representative of the flora and fauna interests associated with the site. Bats, barn owls and other birds are regular visitors to the site.
- The development is simply too large to integrate effectively with the existing village.
- The development will adversely impact on the setting of adjoining listed buildings.
- The development is made in outline and it is difficult to properly assess the full impact of the scheme upon the character and appearance of the village and wider landscape.
- The primary school is at capacity and cannot extend further without compromising the play space.
- The development is likely to put additional pressure on Cotts Lane as a secondary means of access into Hereford via the Worcester Road. Cotts Lane is narrow and with limited passing opportunities.
- The scheme could be a precursor for a larger development. Although specified as 30 dwellings, the density is comparatively low and could be increased without exceeding density guidelines.
- The acknowledged adverse impacts outweigh the limited public benefit that accrues from the 10 affordable homes.
- There was no meaningful pre-application consultation with the community.
- The impact of the vehicular access on neighbours living on either side will represent an unacceptable loss of amenity.
- There are more appropriate sites in Bartestree, particularly in terms of the accessibility to the goods and services that do exist within the parish e.g. shop, playing fields and primary school.
- Applications such as this are opportunistic in seeking to exploit a policy vacuum, but remain contrary to the principles set out at Paragraph 17 of the NPPF, which include the empowerment of local people in shaping the places where they live.
- The submitted Phase 1 Desk Study does nothing to resolve the contamination issues, but merely confirms the requirement for further intrusive investigation.
- Will bus services be increased to accommodate the predicted extra demand?
- The road conditions are appalling and additional traffic will make things worse at a time when road repair budgets are already stretched.

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- The Heritage Impact Assessment does not contest the view that the setting of the listed buildings locally would be affected.
- To suggest that Cotts Lane is suited to additional pedestrian/cycle traffic is ridiculous. Local surveys have quantified the heavy use of Cotts Lane, particularly as school pick-up/drop-off times. Over 100 vehicles were recorded as using Cotts Lane in the half-hour period between 15:20-15:50pm, with similar number in the AM peak.
- Additional traffic will further reduce the likelihood of residents walking on the basis that the roads will become even more hazardous.

5.3 Two letters of support have been received. These cite the need for affordable housing in the parish.

5.4 River Lugg Internal Drainage Board has no objection subject to the conclusion of percolation tests that demonstrate soak-aways will be feasible.

5.5 The application is accompanied by a Planning Statement, the key aspects of which are summarised below:-

- The application site is not subject to any landscape designation. It does not form part of the historic parkland associated with New Court and nor are there any Tree Preservation Orders on site;
- The site is well removed from Lugwardine Conservation Area and the Scheduled Ancient Monument associated with the moated site west of Old Court Farm;
- Lugwardine and Bartestree are sustainably located relative to Hereford, have a good range of village amenities and are comparatively well served by public transport;
- The villages are identified for proportionate growth (approximately 117 dwellings) over the Local Plan period to 2031;
- There are no identified or allocated alternative sites in Lugwardine;
- This revised application makes provision for cycle and pedestrian links onto Cotts Lane and the provision of a footway across the site frontage with Cotts Lane;
- The application also makes provision for improvements to the footway on the A438;
- This application is also accompanied by a Phase 1 desk study into potential contamination and detailed Heritage Impact Assessment, which concludes no significant impact on designated heritage assets.

5.6 The Traffic Manager's comments at 4.4 respond to the "Highways Objection Report submitted on behalf of one of the local objectors.

5.7 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

6. Officer's Appraisal

6.1 The application seeks outline planning permission for the erection of 30 dwellings on land outside but immediately adjacent the settlement boundary for Lugwardine (Policy H4 of the UDP). The application, in common with many considered by Planning Committee recently, is submitted against the backdrop of a published absence of a 5-year housing land supply as required by the National Planning Policy Framework (2012). The application is a resubmission of an application refused on November 20th 2013.

- 6.2 In response to the acknowledged deficit of housing land the Council introduced an interim protocol in July 2012. This recognised that in order to boost the supply of housing in the manner required it would be necessary to consider the development of sites outside existing settlement boundaries. The protocol introduced a sequential test, with priority given to the release of sites immediately adjoining settlements with town or main village status within the UDP. For proposals of 5 or more, the sites in the first rank in terms of suitability would be those identified as having low or minor constraints in the Strategic Housing Land Availability Assessment (SHLAA).
- 6.3 The position as regards the scale of the housing land supply deficit is evolving. Following the Home Farm decision it remains the case, however, that for the purposes of housing delivery the relevant policies of the UDP can be considered out of date. As such, and in accordance with paragraph 14 of the NPPF the Council should grant permission for *sustainable* housing development unless:-
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.*
- 6.4 In the context of a housing land supply deficit there can be no legitimate objection to the principle of development outside the UDP defined development boundary; UDP Policy H4 being out of date.
- 6.5 There remains a requirement for the development to accord with other relevant UDP policies and NPPF guidance; paragraph 14 makes it clear that the balance between adverse impacts and benefits should be assessed against the policies in the NPPF as a whole.
- 6.6 As well as consideration of the principle of developing a green-field site the application raises a number of material considerations requiring assessment against saved UDP policies and guidance laid down in the NPPF. Firstly there is the assessment as to whether the development would represent sustainable development. The NPPF refers to the social, environmental and economic dimensions of 'sustainable development'. In this case the site is considered to represent a sustainable location for development. Although officers recognise that the village does not provide the range of goods and services necessary to sustain a typical household, it should be recognised that Lugwardine is the closest main village to the county's main centre of population (Hereford) and the goods, services and employment opportunities located there. As such, it is considered that access to these goods, services and employment opportunities in terms of journey time and distance, is better in Lugwardine than main villages that are more remote from main service centres. This is reflected in the requirement of emerging Core Strategy policies that indicate main villages in the Hereford Housing Market Area should achieve 18% growth over the plan period, compared with 14% and 15% in the housing market areas associated with the market towns.
- 6.7 Officers understand the concerns expressed by local residents in terms of the reliance upon the private motor car to access goods and services, but this argument was not upheld on appeal at Kingstone, which by comparison is more remote from a main population centre and with equivalent public transport provision.

Vehicular and pedestrian access

- 6.8 The point of vehicular access into the site passes between Croft Cottage and Green Croft at a point where the A438 ascends in the Ledbury direction towards the centre of the village. Vehicular access direct from the unclassified Cotts Lane has been discounted. Approaching the site entrance from the north-east the highway descends and there is a long left-hand bend just after the junction with Court Orchard. This bend is at the end of the achievable visibility splay, which the Traffic Manager confirms meets the requisite visibility standard for vehicles leaving the

site and also an adequate stopping distance for vehicles approaching that may encounter vehicles waiting to turn into the site against the flow of on-coming traffic from the Hereford direction.

- 6.9 The visibility for vehicles approaching from the north-east will be maximised by ensuring maintenance of the visibility splay associated with Court Orchard. Although officers are conscious of the objections based on the safety of the proposed junction, the geometry and available visibility splays meet the requisite standards, even when taking into account the highway gradient and associated impact on stopping distances. Likewise, whilst mindful of objections based on the impact of additional traffic, the A438 is a main arterial route. As such officers are advised that objection based on the inability of the network to accommodate the traffic generated could not be sustained. On balance, and having regard to the wider context of housing land supply, officers consider the proposed vehicular access acceptable in accordance with 'saved' UDP Policy DR3.
- 6.10 Officers have also given detailed consideration of the objections based on the lack of integration between the site and the existing village. As well as criticism of the proposed indicative layout, concern has been expressed at the inadequacy of existing footway links. Whilst there is a continuous footway from the site entrance into the village, the limited width of the footway is a cause for concern. Whilst the footpath could potentially be widened, the elevation above the A438 is likely to require the erection of replacement retaining structures and a pedestrian guard rail. No detailed scheme has been worked up and any improvements would require Approval in Principle from the Highway Authority prior to grant of any planning consent.
- 6.11 Taking the impact of improvement works on the setting of adjoining listed buildings and the operation of the A438 into account, officers are of the view that notwithstanding its narrowness, the existing footpath could remain unaltered. In response to this issue the application now proposes a pedestrian/cycle link onto Cotts Lane, with a 2.0m footway installed across the site's frontage with the lane. Whilst this does not afford continuous off-road access onwards towards the public house and bus stop on the main road, the route would require pedestrians to walk on carriageway for approximately 100m at a point where the carriageway affords the passage of two-way traffic and is subject to the 30mph speed limit. Although Cotts Lane is recorded as being heavily used at peak times, this route is considered viable during off-peak periods.

Impact upon landscape character and visual amenity

- 6.12 The application is accompanied by a landscape and visual impact appraisal (LVIA) that concludes that the visual impact of the development, subject to detailed consideration of the scale, layout and architecture, is unlikely to be significant. The application site sits between a row of predominantly period properties and the parkland associated with New Court. It is an attractive open space and yet enclosed for much of its perimeter by mature planting. Although officers accept that development of this site would be visible from the A438 and Cotts Lane, topography, existing planting and existing buildings combine to provide an effective visual screen. Viewpoints submitted with the LVIA reflect the limited number of views into the site from middle and long-distance views, the main impact being glimpsed views from the A438 to the east and Cotts Lane to the north.
- 6.13 The LVIA proposes additional landscaping to the site periphery and landscaping is a Reserved Matter. Having regard to the discrete nature of the site, additional planting proposed and ability to further consider scale, appearance and design at the Reserved Matters stage, officers are satisfied that the proposal would not have an unacceptable adverse impact upon the setting of the village. Officers are satisfied that with due regard to layout, scale and design at the Reserved Matters stage, there should be no unacceptable adverse impact on the setting of the adjoining listed buildings. English Heritage do not object to the proposal in terms of its relationship to the adjoining unregistered park and garden, but recommend additional landscaping on the site perimeter, which as above, can be controlled via condition and at the Reserved Matters stage.

On this basis the scheme is not considered contrary to 'saved' policies LA2, LA3, LA4 and HBA4 or guidance laid out in the NPPF. If harm to landscape character, the setting of Lugwardine and listed buildings is identified, the significance of this harm must be weighed against the benefits of the scheme in exercise the 'planning balance'. In this case, officers are satisfied that the harm to landscape character, the setting of Lugwardine and the listed buildings is capable of mitigation at the Reserved Matters stage such that having regard to NPPF guidance, the application can be recommended positively.

Impact upon residential amenity

- 6.14 The impact upon the living conditions of nearby residents is considered acceptable. Although the submitted layout is illustrative only, and not necessarily reflective of the detailed proposal that may come forward at the Reserved Matters stage, it does demonstrate that thirty dwellings can be laid out on site without requiring undue proximity to the nearest affected dwellings; those lining the A438. Officers are content that in this regard the scheme would comply with 'saved' policy H13 and guidance laid out in paragraph 17 of the NPPF.
- 6.15 The most significant impact on residential amenity arises from the position of the vehicular access relative to Croft Cottage and to a lesser extent Green Croft. Croft Cottage is to the immediate south of the access and the proposed footway adjacent the access road would pass immediately outside the front door to this property. The provision of the footway will also require realignment of the garden fence and relocation of some drainage infrastructure associated with the dwelling. Although both Croft Cottage and Green Croft are within the applicant's ownership, this does not lessen the requirement to consider the relationship. The proposal would result in a noticeable change to the living conditions of residents at this property, imposing a footpath immediately outside the front door alongside an estate road serving 30 dwellings. By comparison with the existing situation, officers acknowledge that the resultant relationship between these properties and access into the development is less desirable. However, in the context of the presumption in favour of sustainable development, the existing impact of passing vehicular and pedestrian traffic on the living conditions at Croft Cottage and Green Croft is not considered severe enough to warrant refusal of the application.

Drainage

- 6.16 Concern has been expressed at the impact of the development on foul drainage infrastructure, water pressure and land drainage. However, the statutory undertaker (Welsh Water) has no objection subject to the separation of foul and surface water run-off. A condition is recommended in the event that outline permission is granted to require the formulation of a SUDs scheme to control surface water and land drainage run-off.

Contamination

- 6.17 The original application was refused on the basis that no investigation had been undertaken into potential contamination on site arising from historic infilling referenced by objectors. A Phase 1 Desk Study Report has been submitted. This identifies potential sources of contamination arising from historic land-use and references the suspected in-filling of part of the site with industrial material. As before, the Environmental Health Officer recommends a condition be imposed requiring the submission, prior to commencement, of a desk study report to assess the likelihood of such material being present and necessary remediation. This condition is reproduced in full in the recommendation.

Ecology

- 6.18 As pasture land adjoining a main settlement the application site has an obvious visual appeal and a significant proportion of objectors have also identified concern at the loss of habitat for a variety of flora and fauna. However, the site is not subject to any statutory nature conservation

designation and the submitted Ecological Survey confirms that the site does not directly support any European Protected Species. The Council's Ecologist is content with these findings but recommends conditions requiring the provision of bird nesting opportunities on site and a further walkover survey of the off-site pond for the presence of Great Crested Newts. On this basis the proposal is considered to accord with the provisions of 'saved' UDP policies and guidance laid out in Chapter 11 of the NPPF.

Affordable housing provision

- 6.19 The Housing Development Officer is content with the number of units provided, but confirms that the housing mix and tenure type will have to be agreed formally via the S106 agreement. Concern is expressed that the indicative layout does not result in acceptable integration of the affordable and non-affordable elements. Officers accept that this is the case insofar as the indicative layout is concerned, but this can be addressed at the Reserved Matters stage. Nonetheless, the provision of 10 affordable units, in the context of current unmet need, is a material consideration to which weight should be attached. The affordable housing would be allocated on the basis of local connection to Lugwardine and Bartestree in the first instance as per the draft Heads of Terms attached to this report.

Neighbourhood Planning

- 6.20 Concern is expressed that this proposal, together with other large-scale schemes being promoted within Bartestree and Lugwardine, is prejudicial to the formulation of a Neighbourhood Plan and also that schemes of this scale are too large for local infrastructure to accommodate. There is, however, no objection from Welsh Water in terms of the capacity of the foul system or the ability to supply water. Whilst concern at the ability of the local primary school to deal with additional demand is acknowledged, the S106 contribution is in line with the requirements of the Planning Obligations SPD. Moreover, in the context of paragraph 47 of the NPPF, officers do not consider that potential conflict with an emerging Neighbourhood Plan would warrant refusal of this application.

School capacity

- 6.21 Lugwardine Primary School is found on Barnaby Avenue, Bartestree. The school is at capacity and without obvious means of expansion. The Schools Capital and Investment Officer has confirmed that admission to non-catchment based pupils is characteristically high and that the Council may have to revert to a policy of giving priority to pupils resident within the catchment area. It is the case that 29% of pupils presently at Lugwardine Primary live outside catchment.
- 6.22 The NPPF identifies the importance of ensuring a sufficient choice of school places for existing and new communities and recognises that local planning authorities will need to work proactively in order to meet this requirement (paragraph 72). In this context the tension is obvious, but on balance, it is considered that the single issue of school capacity is not sufficient to warrant refusal of the proposal.

Conclusion

- 6.23 The consultation process has identified numerous concerns with this application, which are summarised at section 5 above. Officers acknowledge these concerns but note also that Lugwardine is an established main village and is likely to remain as such in the emerging Core Strategy. The site is immediately adjacent the settlement boundary (H4) and Lugwardine is identified as a main village in Policy RA1 of the emerging Core Strategy. The site is considered sustainable in terms of its location and although not previously developed, the principle of development can be accepted in the context of the housing land supply deficit. There are no site specific constraints to suggest conflict with the over-arching thrust of the NPPF so far as housing

land supply is concerned and no identified significant and demonstrable adverse impacts outweighing the benefits associated with the scheme. The recommendation is one of approval subject to the completion of a S106 agreement and the conditions set out below.

RECOMMENDATION

That subject to the completion of a S106 agreement, officers named in the scheme of delegation to officers be authorised to grant planning permission subject to the following conditions. If the S106 agreement is not completed before 27th May 2014, officers named in the scheme of delegation be authorised to refuse the application under delegated powers on that date unless otherwise agreed in writing.

- 1. A02 Time limit for submission of reserved matters (outline permission)**
- 2. A03 Time limit for commencement (outline permission)**
- 3. A04 Approval of reserved matters**
- 4. A05 Plans and particulars of reserved matters**
- 5. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:**

a. a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice

b. if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors c. if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

2. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason:

- 6. The recommendations set out in the ecologist's report dated May 2013 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

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 Herefordshire Unitary Development Plan.

- 7. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to carry out a walkover survey immediately prior to commencement of works and to oversee any ecological mitigation work which may be necessary.**

Reasons: To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006.

- 8. Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise and vibration arising from the demolition and construction process. The Plan shall identify potential impacts on the River Wye (River Lugg) Special Area of Conservation and be implemented as approved.**

Reason:

- 9. H03 Visibility splays**
- 10. H05 Access gates**
- 11. L01 Foul/surface water drainage**
- 12. L02 No surface water to connect to public system**
- 13. L03 No drainage run-off to public system**
- 14. I20 Scheme of surface water drainage**
- 15. H18 On site roads - submission of details**
- 16. H19 On site roads - phasing**
- 17. H21 Wheel washing**
- 18. H27 Parking for site operatives**
- 19. G10 Landscaping scheme**
- 20. I16 Restriction of hours during construction**
- 21. I55 Site Waste Management**

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. **Non Standard**
- 3. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
- 4. **N11C General**
- 5. **HN10 No drainage to discharge to highway**
- 6. **HN08 Section 38 Agreement & Drainage details**
- 7. **HN04 Private apparatus within highway**
- 8. **HN28 Highways Design Guide and Specification**
- 9. **HN05 Works within the highway**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

**Proposed Planning Obligation Agreement
Section 106 Town and Country Planning Act 1990**

Planning Application 140531/O

**Residential development comprising 20 open market and 10 affordable homes at
Quarry Field, Cotts Lane, Lugwardine, Herefordshire**

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of :

£ 2,845.00 (index linked) for a 2 + bedroom apartment / flat open market unit
£ 4,900.00 (index linked) for a 2 / 3 bedroom house / Bungalow open market unit
£ 8,955.00 (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced educational infrastructure, youth service infrastructure, early years childcare insufficiency solutions and the Special Education Needs Schools. The sum shall be paid on or before first occupation of the 1st open market dwellinghouse (or phasing to be agreed), and may be pooled with other contributions.

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

£ 1720.00 (index linked) for a 2 bedroom open market unit
£ 2580.00 (index linked) for a 3 bedroom open market unit
£ 3440.00 (index linked) for a 4+ bedroom open market unit

The contributions will provide for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1st open market dwellinghouse and may be pooled with other contributions if appropriate.

The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:-

Safe Routes for Schools

Improvements to sustainable transport facilities

Traffic Calming

Cycling and walking routes

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

£ 235.00 (index linked) for a 2 bedroom open market unit
£ 317.00 (index linked) for a 3 bedroom open market unit
£ 386.00 (index linked) for a 4 / 4+ bedroom open market unit

To be used as be used in consultation with the local community and Parish Council for the improvement of public open space and rights of way.

The sums shall be paid on or before the occupation of the 1st open market dwelling. The monies may be pooled with other contributions if appropriate.

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of

£120.00 (index linked) for a 1 bedroom open market unit
£146.00 (index linked) for a 2 bedroom open market unit
£198.00 (index linked) for a 3 bedroom open market unit
£241.00 (index linked) for a 4/4+ bedroom open market unit

The contributions will provide for enhanced Library facilities in Hereford. The sum shall be paid on or before the occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of *£120 (index linked) per open market dwelling*. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.
6. The developer covenants with Herefordshire Council that 10 of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations. Of those Affordable Housing units 5no. shall be for social rent and 5no. for intermediate tenure.
7. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
8. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
- 8.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
- 8.2 satisfy the requirements of paragraph 12 of this schedule
- 8.3 The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-
- a local connection with Lugwardine and Bartestree
 - Cascading to the surrounding parishes of Hampton Bishop, Holmer, Mordiford and Dormington or Withington.
9. In the event there being no person with a local connection to any of the above parishes any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 10.3 above.

10. For the purposes of sub-paragraph 11.3 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - is or in the past was normally resident there; or
 - is employed there; or
 - has a family association there; or
 - a proven need to give support to or receive support from family members; or
 - because of special circumstances
11. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
12. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
13. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4, 5 and 6 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
14. The sums referred to in paragraphs 1,2,3,4,5 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council
15. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
16. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

April 2014

TOWN AND COUNTRY PLANNING ACT 1990

Planning and Compensation Act 1991

REFUSAL OF PLANNING PERMISSION

Applicant:

Mrs E Seymour
c/o Agent

Agent:

Mr James Spreckley MRIC FAAV
Brinsop House
Brinsop
Hereford
HR4 7AS

Date of Application: 16 July 2013

Application No:131964/O

Grid Ref: 354597:240961

Proposed development:

SITE: Quarry Field, Cotts Lane, Lugwardine, Hereford,
DESCRIPTION: Residential development comprising 20 open market homes and 10 affordable homes.

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts that PLANNING PERMISSION has been REFUSED for the carrying out of the development described above for the following reasons:

- 1 The proposed means of vehicular access to serve the development is taken directly from the A438 Hereford to Ledbury Road. At this specific location there is a significant downhill gradient on the westbound carriageway and the speed survey submitted with the application confirms the 85th percentile speed for westbound traffic at this point is 37 mph. Likewise the 85th percentile speed for eastbound traffic is also in excess of the 30 mph speed limit at 34.5 mph. Having regard to the speed data, carriageway width, gradient and approach visibility of stationary right-turning vehicles, the Council is not satisfied that the proposed means of access promotes a safe or attractive pattern of movement into or out of the site. The application is considered contrary to 'saved' Herefordshire Unitary Development Plan Policies S2 and DR3 and guidance contained in paragraph 32 of the National Planning Policy Framework, which requires the provision of safe and suitable access to the site for all people. The Council concludes that the development cannot demonstrate safe and suitable access, and that the adverse impacts of approving the development are significant and demonstrable and outweigh the benefits arising from the development such that paragraph 14 of the National Planning Policy Framework should not take precedence.
- 2 The application site is not well served in terms of pedestrian access to village facilities and is considered likely to increase reliance on the private motor car for access to local schools, recreation facilities and shops. The footway back into the village is narrow and in part elevated above the adjoining A438 carriageway and is not an attractive or suitable pedestrian link having regard to its likely nature of usage by future occupants of the proposed development. Improvements to the footway leading back towards

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

Lugwardine are likely to necessitate engineering works including retaining structures and pedestrian guard rails. Such work would be prejudicial to the setting of the adjoining listed buildings and the prevailing character of this historic approach to the village. The proposal is thus not considered to reduce the need to travel by private motor car and is contrary to 'saved' Herefordshire Unitary Development Plan Policies S1, DR1, DR3, H13 and HBA4.

- 3 The application proposes the erection of thirty dwellings to the rear of the predominantly historic properties, including three individually listed dwellings, lining the A438 on the historic approach into Lugwardine. The application site provides a rural backdrop to these historic properties and provides a buffer between the historic edge of the village and the historic parkland associated with the Grade II* listed New Court country house. The Council concludes that the loss of this important green space would be detrimental to the setting of the village and the listed buildings and would represent a pattern of development that is inconsistent with the prevailing linear settlement pattern and therefore contrary to 'saved' Herefordshire Unitary Development Plan Policies DR1, H13, HBA4, HBA9, LA2 and LA3 and not representative of sustainable development. This significant and demonstrable harm is considered to outweigh the benefits arising from the development such that the presumption in favour of sustainable development enshrined in the National Planning Policy Framework should not apply.
- 4 In the absence of an intrusive site investigation the Council is not satisfied that the site can be developed for housing without undue threat to human health and the potential for ground water pollution. The absence of a site investigation on land which is suspected to be contaminated is contrary to the requirements of 'saved' Herefordshire Unitary Development Plan Policy DR10 and guidance set out in paragraph 120 of the National Planning Policy Framework.

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 and by identifying matters of concern with the proposal and clearly setting these out in the reasons for refusal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

Planning Services
PO Box 230
Hereford
HR1 2ZB

Date: 20 November 2013

DEVELOPMENT MANAGER

YOUR ATTENTION IS DRAWN TO THE NOTES OVERLEAF

NOTES

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within 6 months of the date of this notice, using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Right to Challenge the Decision of the High Court

Currently there are no third party rights of appeal through the planning system against a decision of a Local Planning Authority. Therefore, if you have concerns about a planning application and permission is granted, you cannot appeal that decision. Any challenge under current legislation would have to be made outside the planning system through a process called Judicial Review (JR).

The decision may be challenged by making an application for judicial review to the High Court. The time limits for bringing such challenges are very strict, and applications need to be made as soon as possible after the issue of the decision notice. So, if you think you may have grounds to challenge a decision by Judicial Review you are advised to seek professional advice as soon as possible.

These notes are provided for guidance only and apply to challenges under the legislation specified. If you require further advice on making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000). For further information on judicial review please go to <http://www.justice.gov.uk>

The Council has taken into account environmental information when making this decision. The decision is final unless it is successfully challenged in the Courts. The Council cannot amend or interpret the decision. It may be redetermined by the Council only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.